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Labor and social law
decoded



OGB•L
— THE TRADE UNION

intro

Every day, the experts of the OGBL Information, Advice and Assistance Service as well as the OGBL Professional Unions endeavor to respond as best as possible to the interests of our members, to answer their questions and to resolve their problems, whether in the workplace or with a public institution. The aim of this dossier is to provide answers to many general questions and you will find a broad overview of the provisions of labor and social law.

of the person concerned, it is clear that this brochure can only be a first aid.

If you need specific advice, as an apprentice, student, employee or pensioner, do not hesitate to contact our competent structures and we will be fully committed to you..

Nora Back, president of the OGBL

However, given that many of our members' concerns are very specific and based on the personal situation

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Family benefits

Family benefits were reformed on August 1, 2016. Only at the level of family allowance itself, there is a difference between children for whom allowances were received before August 1, 2016 and those for which the right to the allowance only started from August 1, 2016.

The children's bonus has been abolished, while it has been integrated into the various amounts. The family group has also been abolished, so that the same amount is due for each child regardless of the number of children. As of January 1, 2022 (retroactive to October 1, 2021), the family allowances are again adjusted to the price development (index). However, this only applies to the family allowance itself, not to the other allowances.

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Birth allowance

The birth allowance consists of three tranches at € 580.03 each:

In order to receive the prenatal allowance, the mother must undergo 5 medical examinations and 1 dental examination. The mother must have her legal domicile in Luxembourg or she must be affiliated herself in Luxembourg at the time of the last medical examination;

For the birth allowance itself, the mother must undergo 1 postnatal examination by a specialist in gynecology and obstetrics. The child must be born viable (gestation of at least 22 weeks) and the mother must have her legal domicile in Luxembourg or she must be affiliated herself in Luxembourg at the time of birth.

These two allowances are reserved for the mother, linked to pregnancy and therefore paid to the mother only once each, even in the event of multiple births.





Family allowances

In families with at least 2 children for which family allowances were paid in July 2016, the total amount including the child bonus has been divided by the number of children in order to obtain a single amount per child. This amount will be preserved until the end of the right to family allowance. The Children's Future Fund (Caisse pour l'Avenir des Enfants - CAE) has communicated these amounts in writing to the families concerned.

Single children, as well as those for whom the right to the allowance is only acquired from August 1, 2016, are entitled to a monthly family allowance of **€ 299,86** (index 944,43 on 01.09.2023).

Cross-border workers are only entitled, if applicable, to a differential allowance.

The family allowance is granted up to the age of 18 and can be extended, under certain conditions, up to the age of 25.

Age increase

The family allowance is increased by **€ 22,67** for children over 6 years of age and by **€ 56,57** for children over 12 years of age (index 944,43 on 01.09.2023).

Back-to-school allowance

The back-to-school allowance is paid once a year, in August. It is set at € 115 for a child over the age of 6 and € 235 for a child over the age of 12.

Additional special allowance

This allowance is intended for children suffering from one or more conditions resulting in a permanent deficiency or loss of at least 50% of their physical or mental capacity compared to a child of the same age without disability. It is set at € 200 and can be paid, like the family allowance, up to the age of 25.



Long-term care insurance

Long-term care insurance is a compulsory insurance based on the same principle as health insurance. Coverage includes the insured person as well as her family members. The contribution amounts to 1.4% of the gross total income of the insured, reduced by a quarter of the minimum social wage and deducted from net income.

Note that cross-border workers can also benefit from long-term care insurance according to the terms and conditions laid down in bilateral agreements.



Leave



Recreational leave

The right to recreational leave begins after a period of 3 months of uninterrupted work with the same employer. All employees, regardless of their age, are entitled to a statutory annual recreational leave of 26 working days, the week being counted at the rate of 5 working days.

All persons recognized as disabled workers by the Disabled Workers Service are entitled to an additional 6 working days' leave.

The leave is in principle fixed according to the wishes of the employee. The collective leave must be fixed by mutual agreement between the employer and the staff delegation during the first quarter of the year in question. Leave not yet taken at the end of the year may be postponed under certain conditions.

The number of days off can be substantially increased by collective bargaining agreements.

Absence for reasons of force majeure

The law of August 15, 2023 introduces the right of the employee to be absent for reasons of force majeure without having to resort to his or her recreational leave. This extraordinary leave is limited to one day in a twelve-month employment period and can be taken for reasons of force majeure related to urgent family reasons in the event of illness or accident of a family member making the immediate presence of the employee indispensable. The employee must prove the urgent family reason for which the leave is requested by providing the employer with a medical certificate.

Extraordinary leave

Employees are legally entitled to extraordinary leave for personal reasons of:

- 1 working day after the death of a 2nd degree relative or ally (grandfather, grandmother, grandson, granddaughter, brother, sister, brother-in-law, sister-in-law)
- 1 working day when declaring the employee's partnership
- 2 working days in the event of a move over a period of three years of occupation with the same employer, unless the employee has to move for professional reasons
- 3 working days upon the death of the spouse, the partner or a 1st degree relative or ally (father, mother, stepfather, mother-in-law, child, son-in-law, daughter-in-law)
- 3 working days for the employee's wedding
- 5 working days in the event of the death of a minor child (child born within the marriage, outside the marriage or adopted)
- 10 working days for the spouse in the event of the birth of a child or in the event of the arrival of an adopted child of under 16 years of age, except in the event of receiving adoption leave

Under the law of July 29, 2023, leave for the birth or fostering of an adopted child is now extended to any person recognized as an equivalent second parent under the applicable national legislation, as well as to self-employed persons. This means that same-sex couples can now also benefit from the ten days of leave. The days of leave are defined by the same law as eighty hours, which can be split, with provision for pro rata in the case of part-time work.



In many cases, both recreational and extraordinary leave have been increased by collective bargaining agreements.

Please note: Extraordinary leave must be taken at the time of the event.

Parental leave

Conditions:

The applicant must:

- be compulsorily affiliated to Luxembourg social security on the basis of an employment contract at the time of birth and without interruption for at least twelve continuous months immediately preceding the beginning of parental leave.
- be employed by means of one or more employment contracts with a total duration of at least 10 hours per week or by means of an apprenticeship contract for the duration of parental leave.

The limited age of the child for which the second parental leave is requested is fixed at 6 years. If adopted, the age limit is 12 years.

Durations:

If all the conditions are met, the employer is obliged to grant full-time parental leave of 6 months, respectively 12 months in the event of multiple births. Part-time or split parental leave is subject to the agreement of the employer and to be defined in a parental leave plan which must be submitted, with the application, to the Children's Future Fund (CAE).

Part-time or split parental leave is not possible for applicant parents with a total working time of between 10 and 20

hours per week or with an apprenticeship contract.

Part-time parental leave consists of a 50% reduction in working hours and no longer a reduction of 20 hours. The split can be one day a week for 20 months or 4 separate months for a period of 20 months.

Compensation:

The compensation is provided by a replacement income, which is subject to social and tax charges, calculated in relation to the contributory income for the 12 months preceding the beginning of parental leave. The lower limit corresponds to the minimum social wage (€ 2.570,93 on 01.09.2023) and the upper limit corresponds to 5/3 of the minimum social wage (€ 4.284,88 on 01.09.2023). These amounts correspond to full-time employment contracts and are prorated in the case of part-time employment contracts.

Leave for family reasons

Each employee with a dependent child requiring in the event of serious illness, accident or other compelling health reason the presence of one of his/her parents, can claim leave for family reasons.

A child born within or outside a marriage and an adopted child who requires the physical presence of one of the parents is considered a dependent child.

Leave for family reasons can be split and parents cannot take it at the same time.

It is possible to extend the duration with the assent of the Social Security Medical Control.

Leave for family reasons amounts to:

- 12 days in total for the 0-4 year age group
- 18 days in total for the 4-13 years age group
- 5 days in total for the 13-18 age group and if the concerned child is hospitalized

These numbers of days are doubled if the child in question is beneficiary of the additional special allowance.

The days of leave for family reasons taken before 01/01/2018 are deducted from the remaining right of the age group concerned.

The employer must be informed of the absence, the same day by the beneficiary or by an intermediary, either orally or in writing. A medical certificate attesting the duration of the leave beneficiary's absence must be given to the employer.

Family hospice leave

All employees are entitled to a leave of five working days per case and per year to accompany a parent in the first degree in an ascending or descending direct line (mother, father, daughter or son) or in the second degree in a collateral line (sister, brother), spouse or partner who suffers from a serious terminal illness.

This leave can be split. In agreement with the employer, it can be taken part-time. The accompanying leave ends on the

date of death of the person at the end of life.

The absence relating thereto must be attested by medical certificate and the beneficiary is obliged to inform her/his/her employer at the latest on the first day of her/his/her absence.

Caregiver leave

This leave was introduced by the law of August 15, 2023, and provides for five days of leave during a twelve-month employment period to provide personal care or assistance to a family member or a person living in the same household as the employee who requires substantial care or assistance for serious medical reasons that reduce his or her capacity and autonomy, rendering the family member or the aforementioned person incapable of compensating for or coping autonomously with physical, cognitive or psychological impairments or disabilities, or psychological impairments or health-related constraints or needs, and which is certified by a doctor.

Other leaves

Besides the leaves listed above, the Labor Code also provides for other special leaves, such as training leave, linguistic leave ... Please contact the OGBL Information, Advice and Assistance Service for further information.



Working time

By working time is meant the time during which an employee is at the disposal of his or her employer. The legal working hours are set at 8 hours per day and 40 hours per week.

This duration cannot, in principle, be exceeded. However, the law provides for the possibility of introducing a reference period of up to 4 months and/or a sliding timetable. Since the terms and conditions may vary considerably, please contact one of our agencies.

Overtime can be compensated for by paid time off or, if applicable, by a transfer to a time-savings account (*compte épargne-temps*) at the rate of 1.5 hours per overtime hour. Employees can be paid a supplement of 40%. Young people under 18 years of age receive a 100% supplement. However, the provision of overtime by young people is permitted only under restrictive conditions and only if the employer cannot use an adult employee.

The law prohibits the employment of employees on Sundays and public holidays; however, there are a few exceptions allowed. A supplement of 70% is due for work performed on a Sunday by an adult employee; youth under 18 years of age are entitled to a 100% supplement. Working on a public holiday is to be remunerated with a 100% supplement.

In companies where night work (10:00 p.m. - 6:00 a.m.) is

customary, a supplement is only due if the company has a collective bargaining agreement. The minimum supplement is then set at 15%.

All the rates listed above may be increased by collective agreement.

Only night work in the HoReCa sector (on-trade sector) is regulated by law. In this case, each hour of night work between 1:00 a.m. and 6:00 a.m. is increased by 25%, either in free time, or in cash.



Unemployment benefit

Unemployment benefit is granted to the involuntarily unemployed domiciled on Luxembourg territory, registered with the Agency for the Development of Employment (ADEM), employed for 26 weeks (182 days) during the 12 months preceding his/her registration and with a working time of at least 16 hours/ week.

Unemployment benefit is in principle 80% of the average gross salary for the 3 months preceding the unemployment. However, it may not exceed the following amounts:

- from the 1st to the 6th month: 250% of the social minimum wage
- from the 7th to the 12th month: 200% of the social minimum wage

from the 13th to the 24th month: 150% of the social minimum wage

The duration of unemployment benefit is 6 to 12 months depending on the number of months worked in the 12 months prior to registration. It may be extended by a further 6 months for reasons of age, disability (depending on age and

degree of disability), or assignment to employment measures, respectively between 9 and 12 months for workers over 50 years of age in the case of social security affiliation over 20 years, but may not exceed a total of 24 months of compensation.

Young people between the ages of 18 and 21 who leave school receive compensation equal to 70% of the minimum social wage. Young people between 16 and 17 years of age leaving school are entitled to an indemnity of 40% of the minimum social wage.

Entitlement to these benefits is available only after 39 weeks of registration as a job seeker and if the said registration is made within one year of the completion of studies. Under certain conditions, the waiting period can be reduced to 26 weeks and the age limit can be extended to 28 years.

Dismissal



The permanent employment contract may be terminated by registered letter, subject to the following notice periods:

Seniority of service	Employer's notice period	Employee's notice period
less than 5 years	2 months	1 month
5-10 years :	4 months	2 months
more than 10 years:	6 months	3 months

The notice period begins on the 15th of the current month, if the dismissal was notified before this date, and it begins on the 1st of the following month, if the dismissal was notified after the 14th of the current month.

The employer can exempt the employee from working during the notice period. This must be notified in the termination letter or by a separate letter.

The employee may request by registered letter, within one month of notification of the dismissal, the reasons for his/her dismissal. The employer is then required to state the reasons within one month with precision and by registered letter. In the absence of written reasons within one month, the dismissal is considered unfair. The action for

compensation for unfair dismissal must be brought within three months.

In addition, the law recognizes that the person dismissed with notice has the right to the following severance payments:

Seniority of service	indemnité de départ
5 years and more:	1 month salary
10 years and more:	2 months salary
15 years and more:	3 months salary
20 years and more:	6 months salary
25 years and more:	9 months salary
30 years and more:	12 months salary

When a company employs less than 20 employees, the employer can opt either for the payment of severance pay or for an extension of the notice period. In this case, he/she must indicate his/her choice in the dismissal letter.

Collective bargaining agreements may provide for different notice periods and severance payments; these must in any case be more favorable than the law.

Pensions

In principle, the reform of the pension system has not changed the following indications. However, the calculation of pensions has been revised. Until now, the theoretical gross monthly pension amount is shown on the annual statement of membership from the insured person's 55th birthday. You can also request a simulation (for information purposes) of the pension from the National Pension Fund.

Old Age Pension

Every insured man and woman with at least 120 months of insurance, including those for an activity in a country with which Luxembourg is bound by a bi- or multilateral instrument of social security, is entitled to the normal old-age pension at the age of 65. If the insured, at the age of 65, does not meet the above-mentioned condition, the contributions actually paid into his account, with the exception of the State's share, are reimbursed on request, taking into account the adjustment to the index the cost of living.

An insured person is entitled to the early retirement pension:

- at the age of 60 if he or she has 480 months of insurance coverage
- at the age of 57 if he or she has 480 months of insurance coverage¹

on condition that he or she ceases any professional activity other than insignificant or occasional and if the related income, spread over a full calendar year, does not exceed one third of the social minimum wage per month.

Each person who has not yet reached the age of 65, who has worked for at least 12 months during his or her lifetime, having stopped working for family reasons and being in good health, may subscribe to a voluntary pension insurance. In addition, the current legislation provides for the possibility of buying back of missing pension periods.

The different survivor's pensions

The persons who may be eligible for a survivor's pension are as follows:

- the surviving spouse²
- the divorced spouse
- parents and allies in the direct line and parents in the collateral line up to the second degree
- the insured's children and any dependent children.

Conditions for granting survivor's pensions

As the attribution of the different survivor's pensions is linked to qualifying conditions and conditions of allocation, please contact, in case of doubt, one of the agencies of the OGBL's Information, Advice and Assistance Service.

Disability Pension

Each insured, having 12 months of insurance to his/her credit during the 3 years preceding the date of disability, can apply for a disability pension. This qualifying condition is not necessary, if the invalidity is the result of a work accident or an occupational disease. The disability pension is granted to the insured as long as the incapacity to work persists. It should be noted that is considered as invalid in the sense of by law, an insured who, as a result of prolonged illness, infirmity or attrition, has suffered a loss of capacity for work such that he or she is prevented from engaging in his/her last or any other occupation corresponding to his/her strengths and aptitudes.

Minimum pension

The insured person is entitled to a minimum pension of €2.219,71 (index 944,43 on 01.09.2023) if he or she can claim 40 years of insurance. If the insured does not reach this threshold, but can justify at least 20 years of insurance, the pension is reduced by one fortieth for each missing year. The surviving spouse is entitled to the same amount, orphans to €605,77 (index 944,43 on 01.09.2023). It should be noted that the legislation also provides for non-cumulation provisions.

¹ will be taken into account exclusively the insurance periods actually worked.
² according to the provisions of the law of July 9, 2004 on partnership, persons living as a couple are assimilated.



Child-raising pension

The child-raising pension is a benefit allocated to a parent who has dedicated himself or herself to the education of one or more children, if his or her pension does not take into account the periods of education of these children.

Adoptive parents are entitled to the child-raising pension if the child was under four years of age at the time of the adoption. In this case, the child-raising pension is allocated to the person who took care of the child's education instead of the parents.

If, due to exceptional circumstances, the parents were living abroad at the time of the birth of the child, an exemption from the residency requirement may be granted.

The gross amount of the child-raising pension is € 86,54 per child per month.

The child-raising pension is due from the age of 65 years, if the interested person requests it.

Work accident allowance

In the event of incapacity for work following an accident at work, the injured employee receives an indemnity from the National Health Fund (CNS) identical to the amount of the sickness benefits. In the event of an accident at work recognized as such, this benefit is paid in the name and on behalf of the Accident Insurance Association (Association d'assurance accidents, AAA). It is limited in all cases to 78 weeks during a reference period of 104 weeks.

A work accident allowance can be claimed in case of temporary total incapacity for work or permanent partial incapacity for work.

If the accident results in the death of the insured person, the surviving dependent persons receive an indemnity and the survivor's pension.

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Sickness benefits

Health Insurance

Since January 1, 2009, employees in the event of illness are entitled to have their salary maintained by the employer until the end of the month in which the 77th day of incapacity falls during a reference period of 18 successive months. As of the following month, coverage is provided by the National Health Fund (CNS). Coverage is again the responsibility of the employer the month following the month in which the above-mentioned 77-day condition is no longer met. Entitlement to cash sickness benefits, including the above-mentioned salary maintenance, is limited to 78 weeks during a reference period of 104 weeks.

Voluntary Health Insurance

Every person residing in the Grand Duchy can take out insurance on a voluntary basis. In this case, benefits in kind are only granted after a 3-month internship.

Continued health insurance

Upon termination of employment, health insurance coverage will continue for the current month and the

following 3 months, provided the employee has been insured for the previous 6 months. For illnesses under treatment at the time of termination of affiliation, the health insurance can be extended for a further 3 months. If the inability to work is due to an accident at work, the health insurance can be extended by 9 months. These conditions count only for health care benefits. However and under certain conditions, payment of cash benefits may also be continued. In this respect, we recommend that those concerned take advice from our agencies, preferably before the end of the employment relationship. The employee may, within a period of 6 months, take out continued insurance with the National Health Fund (CNS).

Maternity leave

The law prohibits the occupation of a pregnant woman or a woman who has given birth for 8 weeks before and 12 weeks after birth, respectively. During this period, the National Health Fund (CNS) grants maternity leave identical to the benefit in case of illness, provided that the woman concerned has worked for at least 6 months in the year preceding the beginning of the maternity leave.

Maternity protection

Legislation on the protection pregnant women, women who have recently given birth or are breastfeeding, includes a number of provisions such as:

- the right to exemption from work, without loss of pay, in order to attend prenatal examinations provided for by law
- definition of a number of works that are hazardous to the health or safety of pregnant or breastfeeding women
- prohibition for the most dangerous works; provision for other works
- other assignment with maintenance of the previous salary in the event that, following the opinion of a physician of the competent occupational health service, it is not possible to eliminate the risks; if a change of assignment is not technically or objectively possible, the employee must be exempted from work
- prohibition of dismissal during pregnancy and up to 12 weeks after childbirth; if pregnancy is declared during the trial period provided for in a permanent contract, the trial period is suspended until the end of the period during which dismissal is prohibited
- prohibition of overtime work by pregnant and breastfeeding women
- prohibition of work for 8 weeks before and 12 weeks after childbirth.

In addition, breastfeeding mothers are entitled, after resuming work, to a breastfeeding break of either twice 45 minutes or 90 minutes (e.g., if the usual work break is less than one hour) at the beginning and/ or end of their workday.



Protection of young workers



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The legal provisions on the employment of young employees apply to all young people up to the age of 18. In principle, they prohibit overtime, night work, work on Sundays and public holidays, piecework and line work. It also stipulates that school hours are to be considered working hours and that young employees (up to the age of 21) must undergo periodic medical examinations.

Salaire social minimum

The legal provisions relating to the minimum social wage apply to all employees without exception. The minimum social wage is set at:

since 01.09.2023	index 944,43
from 15 -17 years old (75 %)	€ 1.928,2
from 17 -18 years old (80 %)	€ 2.056,74
over 18 years old (100 %)	€ 2.570,93

In case of adaptation after publication of this document,

please refer to our social parameters available at our agencies and on our websites. The hourly rate of the social minimum wage is calculated by dividing the monthly social minimum wage by 173.

since 01.09.2023	index 944,43
from 15 -17 years old (75 %)	€ 11,15
from 17 -18 years old (80 %)	€ 11,89
over 18 years old (100 %)	€ 14,86

Note: For employees with a professional qualification corresponding to the workpost, the minimum social wage is increased by 20% (= € 3.085,11 index 944,43). The rates for young employees as well as the minimum wages can be substantially improved through collective bargaining agreements.

Income for Social Inclusion - REVIS

The Income for Social Inclusion is a lower income limit and has been adjusted as of January 1, 2019. The new REVIS has two components. On the one hand, the inclusion allowance, which is intended to make up the difference between the maximum amounts defined by law and the sum of the resources available to the domestic community. On the other hand, the activation allowance is intended to support a person participating in an activation measure.

The applicant must meet the following conditions:

- officially and effectively reside in the Grand Duchy of Luxembourg,
- be at least 25 years old,
- have insufficient resources for his/her domestic community,
- be registered with the Agency for the Development of Employment (ADEM) and actively looking for a job,
- be ready to exhaust all possibilities to improve his or her situation.

A person under the age of 25 can benefit from the REVIS if:

- he or she is raising a child for whom he or she receives child benefit,
- she is pregnant (from 8 weeks before delivery),
- she is unable to earn a living;
- is a caregiver for a person benefiting from long-term care insurance.

Applicants from outside the EU must prove effective residence in Luxembourg for 5 years within the last 20 years.

Applicants from an EU country, who are newly arrived in the country, are not entitled to the REVIS during the first 3 months of their stay in Luxembourg.

Please note: Cannot benefit from the REVIS the person:

- who has voluntarily abandoned or reduced his/her professional activity,
- who was dismissed for serious misconduct,
- who is on unpaid leave or part-time,
- who is pursuing higher education,
- who does not respect the collaboration agreement with ADEM or who refuses to take part in a measure proposed by ADEM,
- who refuses to collaborate with the National Office for Social Inclusion (*Office national d'inclusion sociale - ONIS*),
- from which unemployment benefit has been withdrawn,
- who has made an incomplete or inaccurate declaration to the National Solidarity Fund (*Fonds national de solidarité - FNS*).

Inclusion allowance amounts (from 01.09.2023):

- per adult € 901,94
- per child € 280,03
- increase per child in a single-parent household € 82,74
- flat rate for common expenses per household € 901,94
- surcharge for communal expenses per household with children € 135,34.

The application must be submitted by form to the FNS (National Solidarity Fund).

Special allowance for severely disabled persons

The law relating to the special allowance for severely disabled persons was repealed by the law of 19 June 1998 concerning long-term care insurance, except for persons benefiting from this allowance until 31.12.1998.

Severely disabled income

A person who meets all of the following conditions is eligible for the severely disabled income:

- is at least 18 years of age
- have a reduction in working capacity of at least 30% as a result of a physical, mental, sensory or psychological impairment and/or psychosocial difficulties that aggravate the impairment; the impairment must be acquired before the age of 65 years
- have a medical condition that makes any work effort contraindicated, or whose work skills are so diminished that it is impossible to adapt a workstation in a regular or protected environment to his or her needs
- have the authorization to reside on the territory of the Grand Duchy, be domiciled there and actually reside there.

The amount of income for severely disabled persons corresponds to **€ 1.803,87** (ind. 944,43) for an adult and is also managed by the National Solidarity Fund (FNS).

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