

11 April 2018

New notice periods during the first 6 months of employment

(A) Introduction

Prior to 2014, it was possible for parties to agree on a probationary clause when entering into an employment contract under Belgian law. However, this possibility was abolished by the Belgian Law on the unified status between white and blue-collar employees as from 1 January 2014.

In the bill on the economic recovery and the strengthening of social cohesion of 16 March 2018, the notice periods that an employer must provide if he wishes to terminate the employment contract of an employee with less than 6 months' length of service are modified as of 1 May 2018.

(B) Overview of new notice periods

By way of compensation for abolishing the probationary clause, reduced notice periods apply for employers who wish to terminate an employee's employment contract during the first 4 months of service.

Subsequently, the notice periods gradually increase. In this respect, an employer must provide a notice period of 5 weeks once the employee has reached 5 months of service (whereas currently a notice period of 4 weeks would suffice).

As of 6 months' length of service, the notice periods that should be provided by the employer who wishes to terminate the employment contract of an employee remain the same.

Furthermore, the notice period that should be provided by an employee who wishes to terminate the employment contract during the first 6 months of employment remains unchanged as well.

The new notice periods can be summarized as follows:

Length of service	Notice provided by the employer	
	New: as from 1 May 2018	Current regime
Less than 3 months	1 week	2 weeks
Between 3 and less than 4 months	3 weeks	4 weeks
Between 4 and less than 5 months	4 weeks	
Between 5 and less than 6 months	5 weeks	

(C) Entry into force

The new notice periods enter into force on 1 May 2018.

For notice periods that have been notified and have entered into effect prior to 1 May 2018, the old rules remain applicable. This implies that the new notice periods apply in the following situations:

- Termination of an employment contract with a notice period served by a bailiff as of 1 May 2018;
- Termination of an employment contract with a notice period notified by registered mail that was sent after 26 April 2018 (as a registered letter is only deemed to be notified 3 working days after the sending thereof);
- Immediate termination of an employment contract with payment of an indemnity in lieu of notice as of 1 May 2018.

(D) How can Van Bael & Bellis assist you?

An employer must see to it that all employment law documentation referring to certain notice periods to be observed by the employer are updated, e.g. the mandatory work rules.

Further, the new legislation should be taken into account when calculating the notice period to be observed by the employer when he wishes to terminate an employment contract.

Van Bael & Bellis' employment law team can assess whether certain documentation should be updated to take account of this new legislation and can calculate the notice periods and determine the other formalities that should be complied with in case of a termination of an employment contract.

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