



Laga Newsflash

Parliament adopts Act on feasible and flexible work

On 23 February 2017, the parliament adopted the Act on feasible and flexible work (***the so-called Peeters Act***).

With this Act, the government takes an additional and important step towards a modernised labour law and a more flexible organisation of the labour market. The Peeters Act specifically aims at job creation, flexible work for everyone and social innovation.

Below is an overview of the most relevant measures that will soon come into force.

The basis ("de sokkel")

The following measures will be automatically applicable, without any required intervention at company or industry level.

Working time annualisation

Currently, it is possible to introduce a so-called "small flexibility" scheme through a collective bargaining agreement or work regulations. Within this scheme, a company faced with fluctuations of calm and busy periods has the possibility to alternate working time schedules for these peak and off-peak periods. In the working time schedules for peak periods, the employee can work 2 extra hours per day (without exceeding 9 hours per day) and 5 extra hours per week (without exceeding 45 hours per week); these hours would not be considered as overtime work. However, the average working time should be respected, **during a reference period that can be set at 1 year maximum.**

The Peeters Act now provides that this reference period will **always be 1 year**. As a transitory measure, existing small flexibility schemes can further provide for shorter reference periods. The annualisation of working time is thus limited to small flexibility schemes, and the impact is expected to be very limited.

Internal limit set at 143 hours

Going forward, the internal limit for determining whether the employee should be granted compensation rest will be uniformly set at the current maximum of 143 hours. This number can be increased through a collective bargaining agreement ratified by Royal Decree.

Voluntary overtime work (100 hours)

Employees will be allowed to opt for a quota of 100 hours of voluntary overtime work (industries can increase this number to maximum 360 hours).

This 100 hours quota has a specific status:

- Voluntary over time work will be performed at the employer's request *without* legal ground for overtime work.
- 25 out of these 100 hours are not included in the internal limit of maximum 143 hours (industries can increase the number of 25 to maximum 60 hours)
- The remaining 75 hours of the quota should *not* be compensated through compensation leave.

Overtime salary will be due under the current conditions.

The employee's request to opt for this quota should be certified in a document that should be renewed every 6 months and confirms the employee's request to perform overtime work.

Employee training

The current inter-professional objective to spend 1.9% of all wages on staff training is replaced by the following new objective:

- As from 1 January 2017: 2 training days on average per FTE per year;
- Implementation at industry level of a "growth track" to ultimately reach 5 training days on average per FTE per year.

Companies with less than 10 FTE's will be excluded from this objective.

For companies with 10 to 20 employees, a different mechanism can be implemented by Royal Decree.

Occasional telework

A legal framework for "occasional telework" is created to respond to situations in which an employer allows an

employee to work from home to deal with any difficult or unexpected situation.

The employee is not granted an absolute right to occasional telework. The employer can decide to refuse but each refusal should be duly justified in writing.

The employer can create a framework through a collective bargaining agreement or working regulations. If available, such framework should at least govern the following elements: eligible functions and activities, the application procedure, available devices and technical support, as well as the reimbursement of costs.

The menu (“het menu”)

The following measures will not be automatically applicable, and should be activated in advance at company or industry level.

Expansion “plus minus conto”

At present, it is possible within the automobile industry to spread the calculation of average working time over several years (maximum 6). This possibility is now expanded to other industries upon meeting certain conditions, one of which is being exposed to heavy international competition.

A collective bargaining agreement should be concluded at industry level to activate this measure.

Open-ended temporary agency work

As soon as the joint committee of the temporary work industry agrees on this measure’s legal framework, it will be possible to conclude open ended contracts for temporary agency work, covering multiple assignments with employment agency clients. It should be noted that temporary agency work in itself remains subject to existing restrictions, meaning it is only allowed in one of the permitted temporary work cases.

Reform of the “employers’ group” scheme

The employers' group scheme allows several individual employers to collectively recruit one or more employees. Several aspects of the current framework are revised. For example, the number of employees that can be collectively employed will be limited to 50 (this number can be increased by Royal Decree for larger groups). The authorities will also have the possibility to grant authorisations for an indefinite duration.

Part-time work simplification

The requirement to include all applicable work schedules in the work rules will disappear. The objective is to decrease the administrative burden for employers without prejudice to employee rights or existing safeguards against social fraud.

The obligation to include the agreed (part-time) working schedules into the employment contract is maintained.

Career-savings account (“loopbaansparen”)

Employers and industries will be able to establish a framework that offers employees the possibility to accumulate *time* in order to take additional leave at a later moment during employment. Once implemented, each employee decides individually whether to participate or not. If the employee chooses to do so, but his/her employment contract ends before having exhausted the account, the employee can opt for a transfer of the time left to a new employer (if within the same industry) or for pay-out.

Flexible timetables (“glijdende werktijden”)

Employees will be allowed to individually determine the beginning and end of a working day, within certain limits. Employers that currently apply a similar scheme can maintain it, provided that they conclude a collective bargaining agreement in this respect or formally integrate the existing system in their work rules.

With this measure, wide-spread practice will be formally legalised.

Grant of conventional leave

Employees will have the possibility to donate anonymously some or all of their conventional vacation days (i.e. vacation days beyond the 20 day statutory leave). The donation can be done to a colleague with a seriously ill child and who has exhausted all legal and conventional vacation days. It should be noted however, that the option to donate conventional leave has to be activated by a collective agreement at company or industry level, or by including it in work regulations.

New exception for night shifts in the large e-commerce industry

A new exception to the prohibition of night shifts will be introduced for the completion of all logistic and support services linked to e-commerce.

The existing procedures do remain applicable, meaning that employers aiming to call upon this new exception have to follow the procedure in order to modify their working regulations.

Breakfast seminars

Laga’s Employment, pensions and benefits team will organise breakfast seminars covering the Peeters Act. Details on these sessions will be communicated in due time.

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¹ The Peeters Act enters into force on the 10th day following publication.



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