

**EUROPEAN EMPLOYMENT
AND
INDUSTRIAL RELATIONS GLOSSARY:
LUXEMBOURG**

**EUROPEAN FOUNDATION
FOR THE IMPROVEMENT OF LIVING AND
WORKING CONDITIONS**

**EUROPEAN EMPLOYMENT
AND
INDUSTRIAL RELATIONS
GLOSSARY:
LUXEMBOURG**

BY

GUY THOMAS

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USER'S GUIDE

This guide is designed to help readers use the Glossary by providing an explanation of the contents and some of the conventions adopted.

This volume of the Glossary contains the following sections:

1. *Foreword*

Written by the Director and Deputy Director of the European Foundation for the Improvement of Living and Working Conditions, the Foreword sets out the Foundation's aims in publishing this series of Glossaries.

2. *Series Preface*

A Preface to the series has been prepared by Professor Tiziano Treu and Professor Michael Terry in their capacity as General Editors. It serves as a background introduction to the Glossaries, explaining the origination of the material and the method of compilation and translation.

3. *Note on Language Use in Luxembourg*

This explains the different uses of Luxembourgish (Lëtzebuergesch), French and German and the decision to present the Glossary in French.

4. *List of Abbreviations*

This list comprises all the principal abbreviations used in the text.

5. *List of Entries*

For cross-referencing purposes, the entries have been listed alphabetically in both French and English, with their relevant number in the text.

6. *Introduction*

The introduction provides a commentary and analysis of national characteristics, and highlights particular features giving an historical perspective to the background information.

7. *Glossary*

All the main entries are numbered and appear in **bold** upper case. They are arranged alphabetically in French with appropriate English translations.

Cross-references are indicated in the text by e.g. “see”, “see also”, etc., and also appear in **bold** upper and lower case.

Each letter of the alphabet starts on a new page. The running heads refer to the first and last main entry to appear on each double page.

8. *List of Legislation*

This list comprises all the major Luxembourg statutes and grand ducal enactments referred to in the text.

9. *Tables*

A selection of tables is included showing employment trends and other statistical factors.

10. *Bibliography*

A selective Bibliography of suggested further reading and source material has been compiled by the editorial team for each volume. The titles of all references appear in French, but other details have been translated where appropriate.

11. *Index*

The Index comprises two parts: an alphabetical index in English, followed by an alphabetical index in French.

All Index terms refer to the numbers of the relevant entries in the Glossary text.

FOREWORD

The Foundation believes that social dialogue at international level should provide, for all those taking part in it, a better understanding of the different contexts – for example, legal frameworks and traditions – in which dialogue about employment and industrial relations takes place. An essential prerequisite for such improved understanding is an awareness of the precise meaning of the terms used to describe the features of industrial relations systems in each Member State of the Community. This series of glossaries sets out to provide clear explanations of terms and the context in which they are used.

The Foundation hopes that the series will be of value to a wide spectrum of users. Non-experts in the field of employment and industrial relations will welcome a guide to the working of the system in their own country, whilst experts will seek the distinguishing characteristics of systems operating in Member States other than their own. By providing an “international” edition for each Member State, the Foundation believes it is offering an important aid to international understanding in the complex field of employment and industrial relations.

Clive Purkiss
Director

Eric Verborgh
Deputy Director

European Foundation for the Improvement of Living and Working
Conditions, Dublin

PREFACE TO THE SERIES

The idea to write a series of glossaries dealing with the industrial relations, labour markets and employment laws of the then 12 EC Member States emerged gradually, out of the experience of expert academics and practitioners aware of the need to systematize and codify experiences in this important area. The development of a social dialogue, and the ever-increasing need for debate and discussion between the Member States, employers and unions, spurred by the prospect of full European economic integration in 1992, gave a fresh impetus to the need for clarity and mutual understanding in this vital subject. But these glossaries are not intended only as resources for such formal settings. Throughout Europe there are thousands of potential users of the glossaries: national and international administrators, academics and researchers, trade unionists and managers, and specialized journalists, among others. All these groups will increasingly need to communicate across borders in different languages, about a whole range of industrial relations-related topics. For them too, the need for greater understanding and clarity has become more urgent. The glossaries should become the standard tools for persons involved in meetings, formal and informal, of a whole range of interested economic and social actors.

The European Foundation for the Improvement of Living and Working Conditions immediately recognized the importance and usefulness of the proposal to compile a series of glossaries, and provided the funding for the first three: those dealing with Italy, Spain and the United Kingdom. Later, it was to agree to provide additional funding for volumes for the then remaining nine states and, subsequently, for the three additional Member States, i.e. Sweden, Austria and Finland. It was agreed that the Foundation should provide resources for the translation of all the glossaries into English, for publication as a uniform series. The translated glossaries are now also to be available in electronic database form (EMIRE), which will enhance the speed and flexibility with which they may be used and during 1998 became accessible at the Internet address **HYPER-LINK** <http://www.eurofound.ie/>. Most are also available in their original languages, published domestically. In some cases these “domestic” glossaries differ slightly in content from the English editions, since they have been designed as domestic as well as international sources of reference and may contain material of little immediate relevance to the foreign reader.

Professor Tiziano Treu was appointed international co-ordinator, and he, in turn, worked to set up national teams consisting of experts in all the disciplines involved in industrial relations, each team under its own co-ordinator. These teams were under instructions to provide comparable glossaries, covering the same range of

topics. The intention was to produce volumes that would provide both definitions of several hundred terms of particular importance, and an insight into their relevance to the country concerned. The combined experience of all those involved in the project (academics, practitioners and others) was that simple translations of terms were insufficient, since they fail fully to communicate the substantive importance of the institutions and processes described. The products are designed to be of direct use both to the practitioner and to the academic student of the subject, so the glossaries have to be both technically correct and informed by relevant policy debate. They are intended to serve the practical needs of a diverse readership, of varying levels of knowledge and need, and to serve as an immediate reference or translation source or a starting-point for in-depth research. The audience will be a broad and diverse one; our researches have confirmed that the glossaries will be of interest to national, European and other international readers, given the worldwide interest currently expressed in European industrial relations.

Inevitably, we have had to be selective in our choice of terms. It was not the intention to produce an encyclopaedia, but rather an annotated guide to key issues and concepts. In order to achieve this we sought both a degree of commonality in the terms to be covered (in order to ensure above all that the key concepts were dealt with in all the volumes) and a degree of differentiation, reflecting the national idiosyncracies that remain important aspects of the European scene. Our descriptions have had to be less than encyclopaedic; the entries do not provide all the detail with regard to specific pieces of legislation, for example. Readers who need further precision will be able to make use of the reference works cited in the concluding bibliographies.

All the glossaries share the same basic format. An introductory essay covers the key features of the national system: the political-economic environment, the key actors, the role of law, and the current state of labour relations. This is meant to help the average user of the glossary (it is not particularly designed for a specialist audience) and it has been written in such a way as to be understandable to an international audience, and therefore to be as clear and “candid” as possible. The main body of entries follows, and the volumes conclude with sets of tables showing trends in labour markets, collective bargaining coverage, unionization and industrial conflict, with a brief guide to further reading. The “international”, i.e. English, editions also contain an additional index in the original language and, in some cases, a list of the relevant national legislation.

Certain conventions have been adopted in the translation. Wherever possible we have used English translations whose meaning is clear and which involve no specialized “jargon”. But there are two other cases. First, where no English term in common usage exists and we have created our own translation. Here we have

enclosed the English term in double inverted commas, to indicate that it is not common English usage but simply an accurate translation. Second, in a few cases we have been unable to find a translation of less than a sentence for particular terms. Here we have left the term in the original language, and readers in English will need to read the entry to discover its meaning.

The process of writing and translating these glossaries has convinced the participants of the usefulness of the exercise. The European Foundation has, in its usual way, sought the views of the social partners in the countries concerned, and their response has also been enthusiastic. The exercise has also revealed that beneath the superficial similarities of some terms there may lie significant differences of meaning and interpretation, but that, deeper still, lie important patterns of similarity and convergence and, above all, a keen interest in the consequences of an increasingly integrated and united Europe. We are confident that we have produced an instrument that will help forge a clearer understanding and, in its turn, a greater co-operation, in this vital area of social activity.

Acknowledgements

Many people have co-operated closely in the preparation of this series. This co-operation has been under the general direction of Hubert Krieger, the Foundation's manager for the project, and of Tiziano Treu and Michael Terry, the General Editors.

The series is based on the dedicated efforts of the national teams, who have had the task of reducing formidable amounts of material to manageable proportions.

The task of editing the international (English-language) version has been particularly onerous. It is only fitting to acknowledge the exceptional contribution of Rita Inston, the reviser (of Cave Translations Ltd).

With regard to general aspects of publication, the Foundation is grateful for the co-operation of the publishers and for advice from the Office for Official Publications of the European Communities, for the services of the Commission and those of Solon Consultants (UK).

Throughout the project there has been close co-operation between the research, information and translation services of the Foundation.

Tiziano Treu
Michael Terry

NOTE ON LANGUAGE USE IN LUXEMBOURG

Given the history and geographical situation of the Grand Duchy of Luxembourg, three different languages play a part in national life. Both French and Luxembourgish are widely used, and German is also recognized as an official language.

Luxembourgish (Lëtzebuergesch), a German-Moselle-Frankish dialect, is the spoken language and was pronounced the national language by a Law of 24 February 1984. In philological terms it may be called *koine*, as the product of a slow reciprocal process between the country's different local dialects. French is the written language of legislation, as also established by the 1984 Law on language use, and is generally used in all administrative and judicial matters, although the authorities are required, wherever possible, to answer correspondence from the public in the language used by the individual concerned. German is the written language of commerce and, in particular, the press, because many people read German more easily, but is otherwise used less widely nowadays than before the Second World War.

This background is reflected in, for example, the forms of name used for the various trade unions that appear in the Glossary. The use of terms in more than one language for the entry headings was considered. A precedent for this in the series exists in the volume for Belgium (and in the volume for Greece transliterated forms were also shown). It was, however, decided that Luxembourg presents a different case: in view of its dominant use in the formal life of the country, French has been taken as the controlling language of the volume.

Rita Inston

LIST OF ABBREVIATIONS

ABBL	Luxembourg Bankers' Association
ADEM	Employment Service
ALEBA	Luxembourg Banking and Insurance Employees' Union
ASTI	Association for the Support of Immigrant Workers
AVI	Old-Age and Invalidity Insurance Institution
BIT	International Labour Office (ILO)
CAS	Social Insurance Code
CES	European Trade Union Confederation (ETUC)
CES	Economic and Social Council
CGFP	General Confederation of Civil Servants
CGT	Luxembourg General Confederation of Labour
CMA	Agricultural Sickness and Maternity Insurance Fund
CMEA	ARBED White-Collar Workers' Sickness and Maternity Insurance Fund
CMEP	White-Collar Workers' Sickness and Maternity Insurance Fund
CMFEC	Local Government Civil Servants' and Public Servants' Sickness and Maternity Insurance Fund
CMFEP	Civil Servants' and Public Servants' Sickness and Maternity Insurance Fund
CMO	Manual Workers' Sickness and Maternity Insurance Fund
CMOA	ARBED Manual Workers' Sickness and Maternity Insurance Fund
CMPI	Sickness and Maternity Insurance Fund for the Self-Employed
CPA	Agricultural Pension Fund
CPACI	Craft Trades, Commercial and Industrial Pension Fund
CPEP	White-Collar Workers' Pension Fund
CSV	Christian Socialist Party (Luxembourgish initials – see also PCS)
DP	Democratic Party (Luxembourgish initials – see also PD)
EMFCL	Luxembourg Railways Medical Insurance Association
FCPT	Christian Transport Workers' Union (also referred to as Syprolux)
FEDIL	Federation of Luxembourg Industrialists
FEP-FITC	Federation of Private-Sector Staffs/Independent
	Federation of Employees and Managers
FGFC	Local Government Civil Service Union

FLTL	Luxembourg Printing Workers' Federation
FNCTTFEL	National Federation of Railway and Transport Workers, Civil Servants and White-Collar Workers
FNS	National Supplementary Benefits Fund
HOESCA	National Federation of Hotel, Restaurant and Café Employers
ITM	Labour and Mines Inspectorate
LAV	Luxembourg Workers' Union
LCGB	Luxembourg Confederation of Christian Trade Unions
LSAP	Luxembourg Workers' Socialist Party (Luxembourgish initials – see also POSL)
NGL	Neutral Union of Luxembourg Workers
n.i.	index number (cost-of-living index/retail prices index)
OGB-L	Independent Trade Union Confederation of Luxembourg
OIT	International Labour Organization (ILO)
ONC	National Conciliation Service
OPC	undertaking for collective investment in transferable securities (UCITS)
PCS	Christian Socialist Party (French initials – see also CSV)
PD	Democratic Party (French initials – see also DP)
POSL	Luxembourg Workers' Socialist Party (French initials – see also LSAP)
RMG	guaranteed minimum income
SNAS	National Agency for Social Measures
SSM	minimum wage
SSMR	reference minimum wage
Syprolux	alternative acronym for the FCPT, <i>q.v.</i>
UCM	Union of Sickness and Maternity Insurance Funds
UEBL	BLEU (Belgo-Luxembourg Economic Union, 1921)
UNICE	Union of Industries of the European Community

NUMBERED ALPHABETICAL LIST OF ENTRIES IN FRENCH

FRENCH	ENGLISH
1. abattements d'âge	age-based reductions
2. ABBL	ABBL
3. absentéisme	absenteeism
4. accident de trajet	accident <i>en route</i>
5. accident du travail	accident at work
6. accident professionnel	industrial injury
7. accord collectif	single-employer agreement
8. accord d'entreprise	works agreement
9. actions positives	positive action
10. activité féminine	female employment
11. adaptation automatique des rémunérations aux variations du coût de la vie	automatic cost-of-living adjustment of pay
12. ADEM	ADEM
13. administrateurs représentant le personnel	board-level employee representatives
14. Administration de l'Emploi	Employment Service
15. adolescent	juvenile
16. adoption	adoption
17. aide à la création d'emplois d'utilité socio-économique	aid for the creation of jobs classed as socially and economically useful
18. aide à la création d'entreprises	enterprise start-up grant
19. aide au réemploi	re-employment support
20. aides à la mobilité géographique	geographical mobility allowances
21. aides et primes de promotion de l'apprentissage	apprenticeship subsidies and awards
22. ALEBA	ALEBA
23. allaitement	breastfeeding
24. allocation d'éducation	parental allowance
25. allocation de famille	dependent-family weighting
26. allocation de maternité	maternity allowance
27. allocation de naissance	childbirth grant
28. allocation familiale	child benefit
29. ancienneté de services	length of service
30. annonces de places vacantes	job vacancy advertisements
31. appel contre les décisions des Tribunaux du travail	appeal against Labour Tribunal decisions
32. appointements	pay/salary
33. apprenti	apprentice
34. ARBED	ARBED
35. arbitrage	arbitration
36. artisanat	small and medium-sized enterprise sector
37. assemblée plénière du personnel	mass meeting of the workforce
38. assesseurs aux Tribunaux du travail	Labour Tribunal assessors
39. Association des Banques et Banquiers Luxembourg	Luxembourg Bankers' Association
40. Association Luxembourgeoise des Employés de Banques et d'Assurances	Luxembourg Banking and Insurance Employees' Union
41. Assurance contre la Vieillesse et l'Invalidité (Établissement d')	Old-Age and Invalidity Insurance Institution
42. Assurance contre les Accidents Professionnels (Association d')	Industrial Injuries Insurance Association
43. assurance maladie-maternité	sickness and maternity insurance

44. assurance pension	pension insurance
45. astreinte	periodic penalty payment/stand-by
46. autorisation de travail	employment authorization
47. avantages en nature	benefits in kind
48. avantages extra-légaux	fringe benefits
49. bureau de bienfaisance	welfare office
50. bureau de placement public	employment office
51. cadre supérieur	senior executive
52. caisse de maladie	sickness and maternity insurance fund
53. caisse de pension	pension fund
54. Caisse Nationale des Prestations Familiales	National Family Benefits Office
55. carte de sécurité sociale	social security card
56. catégories de salariés	employee categories
57. célibat (clause de)	marriage clause
58. Centre Commun de la Sécurité Sociale	Central Office of Social Security
59. certificat de travail	certificate of employment
60. certificat médical	medical certificate
61. cessation de plein droit du contrat de travail	<i>ipso jure</i> termination of the contract of employment
62. cessation des affaires de l'employeur	cessation of the employer's business
63. cession des rémunérations	transfer of earnings
64. CGFP	CGFP
65. CGT	CGT
66. Chambres Professionnelles	Chambers of Labour and Trade
67. charges sociales	employment-related costs
68. chèque-repas	meal voucher
69. chômage	unemployment
70. chômage accidentel ou technique involontaire	involuntary layoff
71. chômage complet	unemployment
72. chômage-intempéries	layoff due to extreme weather conditions
73. chômage partiel	short-time working
74. chômage-sinistres	layoff due to natural disasters
75. chômage technique	layoff
76. chômeur indépendant	self-employed person registered as unemployed
77. clause de non-concurrence	covenant in restraint of competition
78. clauses dérogatoires et complémentaires	derogation and supplementary clauses
79. Codes des Assurances Sociales	Social Insurance Code
80. Code du Travail	Labour Code
81. cogestion	co-determination
82. col blanc	white-collar worker
83. Comité de Coordination Tripartite	Tripartite Co-ordination Committee
84. Comité d'Entreprise Européen	European Works Council
85. comité mixte d'entreprise	joint works committee
86. Comité Permanent de l'Emploi	Standing Committee on Employment
87. commission d'orientation et de reclassement professionnel	disablement assessment and resettlement panel
88. Commission Nationale de l'Emploi	National Employment Commission
89. commission spéciale de réexamen	special review board
90. commun accord (résiliation d'un)	termination by mutual agreement
91. concertation	social concertation
92. conciliation	conciliation
93. Confédération du Commerce Luxembourgeois	Confederation of Luxembourg Commerce
94. Confédération Générale de la Fonction Publique	General Confederation of Civil Servants

95. Confédération Générale du Travail du Luxembourg	Luxembourg General Confederation of Labour
96. conférences tripartites	tripartite meetings
97. conflit collectif du travail	industrial dispute
98. congé annuel (de récréation)	annual holiday
99. congé collectif d'entreprise	fixed works holidays
100. congé culturel	cultural activities grant
101. congé d'accueil en cas d'adoption	adoption leave
102. congé de formation des délégués du personnel	training leave for employee committee members
103. congé de maternité	maternity leave
104. congé-éducation	educational leave
105. congé extraordinaire pour convenances personnelles	leave for personal reasons
106. congé payé	paid leave
107. congé politique	time off for public duties
108. congé postnatal	postnatal leave
109. congé pour la recherche d'un nouvel emploi	time off for job search
110. congé prénatal	antenatal leave
111. congé spécial (services de sauvetage)	special time off for voluntary emergency services
112. congé spécial d'éducation	special childcare leave
113. congé sportif	time off for amateur sportsmen and sportswomen
114. congé supplémentaire	supplementary holiday
115. congédiement	dismissal
116. Conseil Arbitral des Assurances Sociales	Social Security Tribunal
117. conseil d'arbitrage	arbitration panel
118. conseil de prud'hommes	manual workers' tribunal
119. conseil d'usine	works council
120. Conseil Économique et Social (CES)	Economic and Social Council (CES)
121. Conseil Supérieur des Assurances Sociales	Higher Social Security Tribunal
122. consultation	consultation
123. contrat à durée déterminée	fixed-term contract
124. contrat à durée indéterminée	contract of indefinite duration
125. contrat collectif	collective agreement
126. contrat d'apprentissage	apprenticeship contract
127. contrat de louage de services	contract of service
128. contrat de mise à disposition	contract for the provision of labour
129. contrat de mission	contract for a specific task
130. contrat de travail	contract of employment
131. contrat saisonnier	seasonal employment contract
132. Contrôle Médical de la Sécurité Sociale	Social Security Medical Control Board
133. contrôle médical des étrangers	medical screening of aliens
134. contrôleur de l'Inspection du Travail	employment inspector
135. convention collective de travail	collective agreement
136. cotisations sociales	social security contributions
137. Cour d'Appel	Court of Appeal
138. Cour de Cassation	Supreme Court
139. création d'emplois d'utilité socio-économique	socially and economically useful job creation
140. création d'entreprises	enterprise creation
141. crédit d'heures	time-off rights
142. cumul d'emplois salariés	multiple jobholding
143. décès de l'employeur	death of the employer

144.	décès du travailleur	death of the employee
145.	déclaration d'obligation générale	extension of collective agreements
146.	déclarations obligatoires à l'Administration de l'Emploi	compulsory notification of the Employment Service
147.	décompte des salaires ou traitements	itemized pay statement
148.	délaï de préavis	period of notice
149.	délégation centrale	enterprise employee committee
150.	délégation divisionnaire	departmental employee committee
151.	délégation du personnel	employee committee
152.	délégation principale	establishment employee committee
153.	délégation unique	combined employee committee
154.	délégations parallèles	parallel employee committees
155.	délégué à la sécurité	safety representative
156.	délégué des jeunes travailleurs	young workers' representative
157.	délégué du personnel	employee committee member
158.	délégué libéré	full-time employee committee member
159.	délit d'entrave	interference
160.	demandeur d'emploi	job-seeker
161.	démision	resignation
162.	dépôt des conventions collectives de travail	registration of collective agreements
163.	devoir de paix	peace obligation
164.	discrimination	discrimination
165.	dispense de service	release from work
166.	dispense de travail	departure before notice expires
167.	Division d'Auxiliaires Temporaires	Youth Employment Scheme
168.	dommages et intérêts	damages
169.	dossier personnel du travailleur	personal file
170.	droit de grève	right to strike
171.	droit d'intervention des syndicats	union right to appear in court
172.	droit d'organisation	right to organize
173.	droit de la sécurité sociale	social security law
174.	droit du travail	labour law
175.	droits syndicaux dans l'entreprise	union rights in the workplace
176.	durée du contrat de travail	duration of the contract of employment
177.	durée du travail	working hours
178.	durée normale du travail	normal working hours
179.	échelle mobile des salaires et traitements	sliding pay scale
180.	égalité de rémunération entre les hommes et les femmes	equal pay for men and women
181.	égalité de traitement des salariés engagés à durée déterminée	equal treatment for temporary workers
182.	égalité de traitement entre les hommes et les femmes	equal treatment for men and women
183.	élève	schoolchild
184.	employé de l'État	non-established civil servant
185.	employé privé	white-collar worker (private sector)
186.	employé privé au service de l'État	public employee
187.	employé public	public servant
188.	employé statutaire	public servant
189.	enfant	child
190.	Entraide Médicale de la Société Nationale des Chemins de Fer Luxembourgeois (EMFCL)	Luxembourg Railways Medical Insurance Association (EMFCL)
191.	entreprise	enterprise
192.	entreprise de travail intérimaire	temporary-employment agency
193.	entretien préalable au licenciement	pre-dismissal interview
194.	essai	probation

195. étranger	alien
196. étudiant	student
197. examen d'apprentissage	apprenticeship examination
198. faillite de l'employeur	bankruptcy of the employer
199. faute grave	serious misconduct
200. Fédération des Artisans	Federation of Small and Medium-sized Enterprises
201. Fédération Chrétienne du Personnel du Transport (FCPT)	Christian Transport Workers' Federation (FCPT)
202. Fédération des Employés Privés/Fédération Indépendante des Travailleurs et Cadres (FEP-FITC)	Federation of Private-Sector Staffs/Independent Federation of Employees and Managers (FEP-FITC)
203. Fédération des Industriels Luxembourgeois (FEDIL)	Federation of Luxembourg Industrialists (FEDIL)
204. Fédération Générale des Fonctionnaires Communaux (FGFC)	Local Government Civil Service Union (FGFC)
205. Fédération Luxembourgeoise des Travailleurs du Livre (FLTL)	Luxembourg Printing Workers' Federation (FLTL)
206. Fédération Nationale des Cheminots, Travailleurs du Transport, Fonctionnaires et Employés Luxembourgeois (FNCTTFEL)	National Federation of Railway and Transport Workers, Civil Servants and White-Collar Workers (FNCTTFEL)
207. Fédération Nationale des Hôteliers, Restaurateurs et Cafetiers (HORESCA)	National Federation of Hotel, Restaurant and Café Employers (HORESCA)
208. FEDIL	FEDIL
209. femme enceinte	pregnant woman
210. FEP-FITC	FEP-FITC
211. FNS	FNS
212. fonctionnaire	established civil servant
213. Fonds National de Solidarité (FNS)	National Supplementary Benefits Fund (FNS)
214. Fonds pour l'Emploi	Employment Fund
215. formation professionnelle	vocational training
216. forme du contrat de travail	form of the contract of employment
217. fractionnement des congés	segmentation of annual holidays
218. garantie des créances du salarié en cas de faillite de l'employeur	guarantee of the employee's claims in the event of the employer's bankruptcy
219. gratification	special bonus
220. grève	strike
221. heures supplémentaires	overtime hours
222. immigrant	immigrant
223. incapacité de travail	incapacity for work
224. indemnité compensatoire de préavis	pay/compensation in lieu of notice
225. indemnité d'apprentissage	apprenticeship allowance
226. indemnité de chômage	unemployment benefit
227. indemnité de congé payé	holiday pay
228. indemnité de départ	severance pay
229. indemnité funéraire	death grant
230. indemnité pécuniaire de maladie	sickness benefit
231. indemnité pécuniaire de maternité	maternity benefit
232. indice des prix à la consommation	retail prices index
233. indice du coût de la vie	cost-of-living index
234. insertion des jeunes dans la vie active	introduction of young people into working life
235. insertion et réinsertion professionnelles des demandeurs d'emploi	integration and reintegration of job-seekers into employment
236. insolvabilité de l'employeur	insolvency of the employer

237.	Inspection du Travail et des Mines	Labour and Mines Inspectorate
238.	Inspection Générale de la Sécurité Sociale	Social Security Inspectorate
239.	intempéries	extreme weather conditions
240.	interdiction d'emploi des retraités et des préretraités	ban on the employment of old-age and early-retirement pensioners
241.	intérimaire	temporary-employment agency worker
242.	interprétation des conventions collectives	interpretation of collective agreements
243.	invalidité	invalidity
244.	irrevocabilité du licenciement	irrevocability of dismissal
245.	ITM	ITM
246.	jeune chômeur	young unemployed person
247.	jeunes travailleurs	young workers
248.	jours fériés légaux	public holidays
249.	jugement par défaut (Tribunal du travail)	Labour Tribunal judgment in default
250.	juridiction du travail	labour jurisdiction
251.	juridictions de la sécurité sociale	social security courts
252.	LCGB	LCGB
253.	législation du travail	labour legislation
254.	Lëtzebuurger Chrëschtliche Gewerkschaftsbond (LCGB)	Luxembourg Confederation of Christian Trade Unions (LCGB)
255.	liberté d'association	freedom of association
256.	libertés syndicales	freedom of collective industrial organization
257.	libre circulation des travailleurs	freedom of movement for workers
258.	licenciement	dismissal
259.	licenciement abusif	unfair dismissal
260.	licenciement collectif	collective dismissal/redundancy
261.	licenciement irrégulier pour vice de forme	wrongful dismissal
262.	licenciement pour motif économique	redundancy
263.	lien de subordination	legal subordination
264.	lock-out	lock-out
265.	majoration de rémunération	pay premium
266.	maladie du salarié	illness of the employee
267.	maladie professionnelle	occupational illness
268.	maternité	maternity
269.	médecin du travail	company medical officer
270.	Mémorial	Mémorial
271.	mineurs d'âge	minors
272.	mise à pied conservatoire du salarié	suspension with pay
273.	mise à pied des représentants du personnel	suspension of employee representatives
274.	mise au travail temporaire des personnes sans emploi	requirement to work for the unemployed
275.	mobilité géographique	geographical mobility
276.	modification de la situation juridique de l'employeur	change in the employer's legal identity
277.	motif grave	grave cause
278.	motivation du licenciement avec préavis	statement of reasons for dismissal with notice
279.	négociation collective	collective bargaining
280.	Neutral Gewerkschaft Lëtzebuerg (NGL)	Neutral Union of Luxembourg Workers (NGL)
281.	nombre-indice (n.i.)	index number (n.i.)
282.	non-concurrence	non-competition
283.	non-discrimination de la femme au travail	non-discrimination against women in employment

284.	nullité du licenciement	nullity of dismissal
285.	obligation de négocier	duty to bargain
286.	obligation générale	<i>erga omnes</i> force
287.	Office National de Conciliation	National Conciliation Service
288.	office social	social assistance office
289.	offres d'emploi	job vacancies
290.	Onofhängege Gewerkschaftsbond Lëtzebuerg (OGB-L)	Independent Trade Union Confederation of Luxembourg (OGB-L)
291.	organisation professionnelle des employeurs	employers' association
292.	organisation syndicale	collective industrial organization/trade union organization
293.	orientation professionnelle	vocational guidance
294.	ouvrier	manual worker
295.	paiement des salaires et traitements	payment of wages and salaries
296.	paramètres sociaux	social security calculation formulas
297.	participation	participation
298.	pause d'allaitement	breastfeeding break
299.	pension complémentaire	occupational pension
300.	pension d'invalidité	invalidity pension
301.	pension de solidarité	state guarantee pension
302.	pension de vieillesse	old-age pension
303.	pension de vieillesse anticipée	premature old-age pension
304.	pension de vieillesse différée	deferred old-age pension
305.	période d'essai	probationary period
306.	permis de travail	work permit
307.	placement des travailleurs	job placement
308.	plaintes à l'Inspection du Travail et des Mines	complaints to the Labour and Mines Inspectorate
309.	plan social	redundancy programme
310.	plein-emploi	full employment
311.	préavis de résiliation du contrat de travail	notice of termination of the contract of employment
312.	préretraite	early retirement
313.	préretraite-ajustement	early retirement for company restructuring
314.	préretraite des travailleurs postés et des travailleurs de nuit	early retirement of shiftworkers and night workers
315.	préretraite progressive	phased early retirement
316.	préretraite-solidarité	early retirement for job creation
317.	prescription des rémunérations	limitation of actions regarding pay
318.	prestations familiales	family benefits
319.	prêt de main-d'œuvre	loaning of labour
320.	prime d'apprentissage	apprenticeship award
321.	prime de ménage	head-of-household premium
322.	priorité de réembauchage	priority for re-engagement
323.	privilège	preferential claim
324.	prolongation des délais de préavis	extension of the notice period
325.	protection contre le licenciement de la femme en cas de maternité	maternity protection against dismissal
326.	protection contre le licenciement des administrateurs représentant le personnel	protection against dismissal of board-level employee representatives
327.	protection contre le licenciement des délégués du personnel	protection against dismissal of employee committee members
328.	protection contre le licenciement des membres du comité mixte d'entreprise	protection against dismissal of joint works committee members
329.	protection des enfants et des jeunes travailleurs	protection of children and young workers

330.	reconduction des conventions collectives de travail	automatic renewal of collective agreements
331.	reconversion professionnelle	re-training
332.	reçu pour solde de tout compte	receipt acknowledging settlement in full
333.	rééducation professionnelle des handicapés	occupational rehabilitation of the disabled
334.	réemploi	re-employment
335.	référé auprès du Tribunal du travail	injunction procedure in Labour Tribunals
336.	refus de dépôt	refusal of registration (of collective agreements)
337.	registre des congés	holiday register
338.	règlement des conflits collectifs	dispute settlement
339.	règlement intérieur	works rules
340.	réintégration (du salarié)	reinstatement
341.	relation de travail	employment relationship
342.	relations professionnelles	industrial relations
343.	rémunération en nature	payment in kind
344.	rémunération salariale	remuneration package
345.	renouvellement du contrat de travail à durée déterminée	renewal of fixed-term contracts
346.	rente complémentaire	occupational pension
347.	réparation de la résiliation abusive du contrat de travail	compensation for unfair dismissal
348.	repos compensatoire	day off in lieu
349.	repos dominical	Sunday rest
350.	repos hebdomadaire	weekly rest
351.	représentation des salariés au niveau de l'entreprise	employee representation at workplace level
352.	représentativité des syndicats	representativeness of trade unions
353.	résiliation abusive du contrat de travail par l'employeur	unfair dismissal
354.	résiliation d'un commun accord du contrat de travail	termination of the employment contract by mutual agreement
355.	résiliation du contrat de travail	termination of the contract of employment
356.	résiliation du contrat de travail à durée déterminée	termination of fixed-term contracts
357.	résiliation du contrat de travail pour motif grave	termination of the employment contract for grave cause
358.	résiliation immédiate	summary termination
359.	résolution judiciaire du contrat de travail	judicial rescission of the contract of employment
360.	responsabilité du salarié	employee liability
361.	responsabilité quant aux risques de l'entreprise	liability for business risks
362.	retenues légales sur les salaires et traitements	deductions from pay permitted by law
363.	retraite	retirement
364.	revenu minimum garanti (RMG)	guaranteed minimum income (RMG)
365.	révision du contrat de travail	variation of the contract of employment
366.	RMG	RMG
367.	saisie-arrêt et cession	attachment and transfer
368.	salaire	wage/pay
369.	salaire social minimum	minimum wage
370.	salaire social minimum de référence	reference minimum wage
371.	salarié	employee
372.	sanction pénale	penal sanction
373.	santé des travailleurs	health of employees

374.	secteur public	public sector
375.	sécurité et santé des travailleurs au travail	health and safety at work
376.	sécurité sociale	social security
377.	ségrégation d'emploi	job segregation
378.	Service des travailleurs handicapés	Disabled Workers Service
379.	Service national d'action sociale (SNAS)	National Agency for Social Measures (SNAS)
380.	services de santé au travail	company medical services
381.	société anonyme (SA)	public limited company (SA)
382.	solde de tout compte	settlement in full
383.	stage de formation et stage probatoire	training course and probation course
384.	stage de préparation en entreprise	youth employment traineeship
385.	stage-initiation	work experience
386.	stage probatoire	probation course
387.	superprivilège du salarié	reinforced right of preference for employees
388.	syndicat	trade union/collective industrial organization
389.	syndicat ouvrier	trade union
390.	syndicat patronal	employers' association
391.	taux de syndicalisation	union density
392.	traitement	salary/pay
393.	transfert d'entreprise	transfer of undertaking
394.	travail à temps partiel	part-time work
395.	travail clandestin	undeclared employment
396.	travail de dimanche et de jour férié légal	Sunday and public-holiday work
397.	travail de nuit	night work
398.	travail intérimaire	temporary-employment agency work
399.	travail intérimaire transfrontalier	transfrontier temporary-employment agency work
400.	travail supplémentaire	overtime
401.	travail volontaire à temps partiel	part-time work
402.	travailleur étranger	foreign worker
403.	travailleur frontalier	transfrontier commuter
404.	travailleur handicapé	disabled worker
405.	travailleur intérimaire	temporary-employment agency worker
406.	travailleur manuel	manual worker
407.	travailleur qualifié	skilled worker
408.	travaux d'utilité publique	community work programmes
409.	treizième mois	thirteenth month's pay
410.	tribunal arbitral	white-collar workers' tribunal
411.	Tribunal du travail	Labour Tribunal
412.	tripartisme	tripartism
413.	unicité de la convention collective de travail	single collective-agreement system
414.	Union des Caisses de Maladie (UCM)	Union of Sickness and Maternity Insurance Funds (UCM)
415.	vieillesse	old age

NUMBERED ALPHABETICAL LIST OF ENTRIES IN ENGLISH

ENGLISH

ABBL
 absenteeism
 accident at work
 accident *en route*
 ADEM
 adoption
 adoption leave
 age-based reductions
 aid for the creation of jobs classed as
 socially and economically useful
 ALEBA
 alien
 annual holiday
 antenatal leave
 appeal against Labour Tribunal decisions

 apprentice
 apprenticeship allowance
 apprenticeship award
 apprenticeship contract
 apprenticeship examination
 apprenticeship subsidies and awards

 ARBED
 arbitration
 arbitration panel
 attachment and transfer
 automatic cost-of-living adjustment of pay

 automatic renewal of collective
 agreements
 ban on the employment of old-age and
 early-retirement pensioners
 bankruptcy of the employer
 benefits in kind
 board-level employee representatives
 breastfeeding
 breastfeeding break
 Central Office of Social Security
 certificate of employment
 cessation of the employer's business
 CGFP
 CGT
 Chambers of Labour and Trade
 change in the employer's legal identity

 child
 child benefit
 childbirth grant
 Christian Transport Workers'
 Federation (FCPT)

FRENCH

2. ABBL
 3. absentéisme
 5. accident du travail
 4. accident de trajet
 12. ADEM
 16. adoption
 101. congé d'accueil en cas d'adoption
 1. abattements d'âge
 17. aide à la création d'emplois d'utilité socio-
 économique
 22. ALEBA
 195. étranger
 98. congé annuel (de récréation)
 110. congé prénatal
 31. appel contre les décisions des Tribunaux
 du travail
 33. apprenti
 225. indemnité d'apprentissage
 320. prime d'apprentissage
 126. contrat d'apprentissage
 197. examen d'apprentissage
 21. aides et primes de promotion de
 l'apprentissage
 34. ARBED
 35. arbitrage
 117. conseil d'arbitrage
 367. saisie-arrêt et cession
 11. adaptation automatique des rémunérations
 aux variations du coût de la vie
 330. reconduction des conventions collectives
 de travail
 240. interdiction d'emploi des retraités et des
 préretraités
 198. faillite de l'employeur
 47. avantages en nature
 13. administrateurs représentant le personnel
 23. allaitement
 298. pause d'allaitement
 58. Centre Commun de la Sécurité Sociale
 59. certificat de travail
 62. cessation des affaires de l'employeur
 64. CGFP
 65. CGT
 66. Chambres Professionnelles
 276. modification de la situation juridique de
 l'employeur
 189. enfant
 28. allocation familiale
 27. allocation de naissance
 201. Fédération Chrétienne du Personnel du
 Transport (FCPT)

co-determination	81.	cogestion
collective agreement	125.	contrat collectif
collective agreement	135.	convention collective de travail
collective bargaining	279.	négociation collective
collective dismissal/redundancy	260.	licenciement collectif
collective industrial organization	388.	syndicat
collective industrial organization/trade union organization	292.	organisation syndicale
combined employee committee	153.	délégation unique
community work programmes	408.	travaux d'utilité publique
company medical officer	269.	médecin du travail
company medical services	380.	services de santé au travail
compensation for unfair dismissal	347.	réparation de la résiliation abusive du contrat de travail
complaints to the Labour and Mines Inspectorate	308.	plaintes à l'Inspection du Travail et des Mines
compulsory notification of the Employment Service	146.	déclarations obligatoires à l'Administration de l'Emploi
conciliation	92.	conciliation
Confederation of Luxembourg Commerce	93.	Confédération du Commerce Luxembourgeois
consultation	122.	consultation
contract for a specific task	129.	contrat de mission
contract for the provision of labour	128.	contrat de mise à disposition
contract of employment	130.	contrat de travail
contract of indefinite duration	124.	contrat à durée indéterminée
contract of service	127.	contrat de louage de services
cost-of-living index	233.	indice du coût de la vie
Court of Appeal	137.	Cour d'Appel
covenant in restraint of competition	77.	clause de non-concurrence
cultural activities grant	100.	congé culturel
damages	168.	dommages et intérêts
day off in lieu	348.	repos compensatoire
death grant	229.	indemnité funéraire
death of the employee	144.	décès du travailleur
death of the employer	143.	décès de l'employeur
deductions from pay permitted by law	362.	retenues légales sur les salaires et traitements
deferred old-age pension	304.	pension de vieillesse différée
departmental employee committee	150.	délégation divisionnaire
departure before notice expires	166.	dispense de travail
dependent-family weighting	25.	allocation de famille
derogation and supplementary clauses	78.	clauses dérogatoires et complémentaires
disabled worker	404.	travailleur handicapé
Disabled Workers Service	378.	Service des travailleurs handicapés
disablement assessment and resettlement panel	87.	commission d'orientation et de reclassement professionnel
discrimination	164.	discrimination
dismissal	115.	congédiement
dismissal	258.	licenciement
dispute settlement	338.	règlement des conflits collectifs
duration of the contract of employment	176.	durée du contrat de travail
duty to bargain	285.	obligation de négocier
early retirement	312.	préretraite
early retirement for company restructuring	313.	préretraite-ajustement
early retirement for job creation	316.	préretraite-solidarité

early retirement of shiftworkers and night workers	314.	prétraite des travailleurs postés et des travailleurs de nuit
Economic and Social Council (CES)	120.	Conseil Économique et Social (CES)
educational leave	104.	congé-éducation
employee	371.	salarié
employee categories	56.	catégories de salariés
employee committee	151.	délégation du personnel
employee committee member	157.	délégué du personnel
employee liability	360.	responsabilité du salarié
employee representation at workplace level	351.	représentation des salariés au niveau de l'entreprise
employers' association	291.	organisation professionnelle des employeurs
employers' association	390.	syndicat patronal
employment authorization	46.	autorisation de travail
Employment Fund	214.	Fonds pour l'Emploi
employment inspector	134.	contrôleur de l'Inspection du Travail
employment office	50.	bureau de placement public
employment-related costs	67.	charges sociales
employment relationship	341.	relation de travail
Employment Service	14.	Administration de l'Emploi
entreprise	191.	entreprise
entreprise creation	140.	création d'entreprises
entreprise employee committee	149.	délégation centrale
entreprise start-up grant	18.	aide à la création d'entreprises
equal pay for men and women	180.	égalité de rémunération entre les hommes et les femmes
equal treatment for men and women	182.	égalité de traitement entre les hommes et les femmes
equal treatment for temporary workers	181.	égalité de traitement des salariés engagés à durée déterminée
<i>erga omnes</i> force	286.	obligation générale
established civil servant	212.	fonctionnaire
establishment employee committee	152.	délégation principale
European Works Council	84.	Comité d'Entreprise Européen
extension of collective agreements	145.	déclaration d'obligation générale
extension of the notice period	324.	prolongation des délais de préavis
extreme weather conditions	239.	intempéries
family benefits	318.	prestations familiales
Federation of Luxembourg Industrialists (FEDIL)	203.	Fédération des Industriels Luxembourgeois (FEDIL)
Federation of Private-Sector Staffs/ Independent Federation of Employees and Managers (FEP-FITC)	202.	Fédération des Employés Privés/Fédération Indépendante des Travailleurs et Cadres (FEP-FITC)
Federation of Small and Medium-sized Enterprises	200.	Fédération des Artisans
FEDIL	208.	FEDIL
female employment	10.	activité féminine
FEP-FITC	210.	FEP-FITC
fixed-term contract	123.	contrat à durée déterminée
fixed works holidays	99.	congé collectif d'entreprise
FNS	211.	FNS
foreign worker	402.	travailleur étranger
form of the contract of employment	216.	forme du contrat de travail
freedom of association	255.	liberté d'association
freedom of collective industrial organization	256.	libertés syndicales

freedom of movement for workers	257.	libre circulation des travailleurs
fringe benefits	48.	avantages extra-légaux
full employment	310.	plein-emploi
full-time employee committee member	158.	délégué libéré
General Confederation of Civil Servants	94.	Confédération Générale de la Fonction Publique
geographical mobility	275.	mobilité géographique
geographical mobility allowances	20.	aides à la mobilité géographique
grave cause	277.	motif grave
guarantee of the employee's claims in the event of the employer's bankruptcy	218.	garantie des créances du salarié en cas de faillite de l'employeur
guaranteed minimum income (RMG)	364.	revenu minimum garanti (RMG)
head-of-household premium	321.	prime de ménage
health and safety at work	375.	sécurité et santé des travailleurs au travail
health of employees	373.	santé des travailleurs
Higher Social Security Tribunal	121.	Conseil Supérieur des Assurances Sociales
holiday pay	227.	indemnité de congé payé
holiday register	337.	registre des congés
illness of the employee	266.	maladie du salarié
immigrant	222.	immigrant
incapacity for work	223.	incapacité de travail
Independent Trade Union Confederation of Luxembourg (OGB-L)	290.	Onofhängege Gewerkschaftsbond Lëtzebuerg (OGB-L)
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Industrial Injuries Insurance Association	42.	Assurance contre les Accidents Professionnels (Association d')
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industrial relations	342.	relations professionnelles
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insolvency of the employer	236.	insolvabilité de l'employeur
integration and reintegration of job-seekers into employment	235.	insertion et réinsertion professionnelles des demandeurs d'emploi
interference	159.	délit d'entrave
interpretation of collective agreements	242.	interprétation des conventions collectives
introduction of young people into working life	234.	insertion des jeunes dans la vie active
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involuntary layoff	70.	chômage accidentel ou technique involontaire
<i>ipso jure</i> termination of the contract of employment	61.	cessation de plein droit du contrat de travail
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itemized pay statement	147.	décompte des salaires ou traitements
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job placement	307.	placement des travailleurs
job-seeker	160.	demandeur d'emploi
job segregation	377.	ségrégation d'emploi
job vacancies	289.	offres d'emploi
job vacancy advertisements	30.	annonces de places vacantes
joint works committee	85.	comité mixte d'entreprise
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juvenile	15.	adolescent
Labour and Mines Inspectorate	237.	Inspection du Travail et des Mines
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labour jurisdiction	250.	juridiction du travail
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labour legislation	253.	législation du travail
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Labour Tribunal assessors	38.	assesseurs aux Tribunaux du travail
Labour Tribunal judgment in default	249.	jugement par défaut (Tribunal du travail)
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liability for business risks	361.	responsabilité quant aux risques de l'entreprise
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loaning of labour	319.	prêt de main-d'œuvre
Local Government Civil Service Union (FGFC)	204.	Fédération Générale des Fonctionnaires Communaux (FGFC)
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Luxembourg Confederation of Christian Trade Unions (LCGB)	254.	Lëtzebuurger Chrëschtliche Gewerkschaftsbond (LCGB)
Luxembourg General Confederation of Labour	95.	Confédération Générale du Travail du Luxembourg
Luxembourg Printing Workers' Federation (FLTL)	205.	Fédération Luxembourgeoise des Travailleurs du Livre (FLTL)
Luxembourg Railways Medical Insurance Association (EMFCL)	190.	Entraide Médicale de la Société Nationale des Chemins de Fer Luxembourgeois (EMFCL)
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manual worker	406.	travailleur manuel
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maternity	268.	maternité
maternity allowance	26.	allocation de maternité
maternity benefit	231.	indemnité pécuniaire de maternité
maternity leave	103.	congé de maternité
maternity protection against dismissal	325.	protection contre le licenciement de la femme en cas de maternité
meal voucher	68.	chèque-repas
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INTRODUCTION

1. Historical background

- 1.1 The Grand Duchy of Luxembourg is the smallest of the 15 EU Member States, with an area of 2,586 square kilometres and a population of 401,000. This independent and sovereign state, situated at the heart of Europe and bounded by France, Belgium and Germany, is a constitutional monarchy.
- 1.2 After becoming a Grand Duchy as a result of the Treaty of Vienna in 1815, Luxembourg lost its former western Walloon (French-speaking) province to Belgium in 1839 and has existed in its present territorial form since the Treaty of London of 11 May 1867. Following its occupation by Germany during the First World War, and unable to exist in economic isolation, in 1922 it formed with Belgium the Belgo-Luxembourg Economic Union (BLEU), which is both a customs union and a monetary union with a single currency.
- 1.3 The formation of the earliest trade unions in Luxembourg during the First World War led to serious social tensions in the early post-war years. In 1921, workers in the iron and steel industry took action against mass dismissals by occupying the steel plants, and had to be forcibly evicted.
- 1.4 The overwhelming failure of this strike persuaded the unions to abandon any form of revolutionary agenda, while the employers attached considerable importance thereafter to industrial peace. The Government, for its part, was prompted during this era to introduce conciliation and arbitration bodies into the industrial relations system, starting in 1924 with the Chambers of Labour and Trade and ending in 1936 (after a mass demonstration organized jointly by the two largest unions, respectively socialist and Christian Socialist) with the creation of a National Labour Council composed of equal numbers of employer and employee representatives.
- 1.5 That same year saw the establishment of the right to organize, as a result of the abolition of the offence of *coalition*, i.e. collective organization (Article 310 of the Penal Code), and the enshrinement of freedom of association. From then on, no obstacle remained to prevent the unions from negotiating collective agreements which resulted in bona fide pay increases.
- 1.6 The advent in 1937 of a Government which for the first time included two socialist ministers, one of them the leader until then of the socialist union LAV (*Lëtzebuurger Arbechterverband*, i.e. Luxembourg Workers' Union), marked the start of this union's support for the LSAP socialist party. Over the years, LAV union leaders were made Minister for Labour and Social

- Security in several Governments that included the LSAP.
- 1.7 After the Second World War, during which a general strike under German occupation was suppressed in 1942, Luxembourg abandoned its former neutral status and adopted an active policy of co-operation at European and international level. The Benelux customs union which Luxembourg and Belgium had agreed in principle with the Netherlands in 1944 was set up in 1948. Together with its two partners, therefore, Luxembourg was the precursor and promoter of European economic integration and it is hardly surprising that it was one of the founder members of the ECSC in 1952 and the EEC in 1958. Its capital is the seat of several major EU institutions such as the European Court of Justice, the European Investment Bank, the Office for Official Publications, the Court of Auditors and part of the Secretariat of the European Parliament.
 - 1.8 Since the end of the Second World War Luxembourg has experienced a period of political and social calm and economic well-being. The situation deteriorated in the late 1970s and early 1980s, principally as a result of the crisis in the steel industry, but improved again from 1983 onwards owing to the policy of industrial diversification pursued by the Government and to the expansion in services in general and financial services in particular. Nevertheless, it is disturbing that in recent years the traditionally low rate of registered unemployment has risen to 3.7 per cent., which is exceptionally high for Luxembourg (see below).

2. Economic and social context

From iron and steel to financial services

- 2.1 From the 1890s onwards, Luxembourg's prosperity rested on its iron and steel sector. However, the essentially monolithic structure of the economy posed major problems in the face of the successive crises suffered by the European steel industry during the twentieth century, the latest of which is still going on.
- 2.2 It is therefore not surprising that the first of these crises, which lasted from 1975 to 1985, hit Luxembourg harder than any other European country. In 1974 its iron and steel sector was employing 18 per cent. of the working population and producing 30 per cent. of GNP, as opposed to the present-day figure of only 8 per cent. It accounted for 64 per cent. of all exports and represented 60 per cent. of Luxembourg industry. Furthermore, the taxes paid by the multinational group

ARBED (in which the Luxembourg state owns roughly a third of the total share capital and voting capital), which dominated the sector as it still does today, amounted to some 60 per cent. of the taxes paid by the whole of industry.

- 2.3 To overcome the most serious crisis ever experienced by the iron and steel industry, the Luxembourg government had to call on solidarity from the entire population. Each of the three parties concerned, *i.e.* the iron and steel companies, the government and the unions, accepted the principle of permanent concertation in the context of what has since come to be called “the Luxembourg tripartite model”.
- 2.4 In the first restructuring of the industry, largely financed by a solidarity tax (*impôt de solidarité*) levied on the general population, over a period of eight years employment in the iron and steel sector was halved, from 27,600 to 13,400 employees. The measures applied to absorb the impact of these drastic job losses included premature retirement, early retirement, special invalidity allowances and the creation of a government-subsidized Emergency Employment Scheme (*Division anticrise*) providing tide-over jobs in community work programmes.
- 2.5 It was fortunate that the spectacular growth in financial services commenced during precisely the same period and helped to soften the impact of these rescue measures on the public finances.
- 2.6 The second crisis in the iron and steel sector, which is still going on at present, is necessitating further substantial job losses. Following initial forecasts that by 1998 total employment in the sector would be reduced to some 5,500, in January 1996 ARBED announced that, in the face of aggressive competition from the East and market stagnation, it would need to reduce its own workforce even more than initially predicted, *i.e.* from almost 7,000 to just under 4,000 by 1998.
- 2.7 As in most industrialized countries, there has also been a marked decline in Luxembourg’s primary sector (agriculture and extractive industries). Employment in agriculture dropped from 42.2 per cent. of the working population in 1907 to 5 per cent. in 1980, and in the extractive industries the contraction is due to the fact that the country’s iron ore deposits can no longer be economically exploited and the last mine was closed down in 1982.
- 2.8 The policy of industrial diversification pursued by the Luxembourg government has encouraged the establishment of numerous foreign companies in the country, including more than 20 subsidiaries of American companies. The main drive in this diversification effort, initially in the chemical sector, has included such industries as synthetic fibres, rubber, plastics and glass.

- 2.9 The small and medium-sized enterprise sector (*artisanat*) is made up of some 4,000 firms employing almost a quarter of the working population.
- 2.10 The construction sector, which over the past few decades was able to expand as a result of, for example, the installation of the infrastructure necessary for Luxembourg's development as an international financial centre and for the Kirchberg *Centre Européen* where the EU institutions are located, has entered a crisis threatening half of its 22,000 jobs.
- 2.11 The tertiary sector, on the other hand, has experienced spectacular growth in comparison with the primary and secondary sectors. The most notable expansion has been in banking, in which over the past 25 years Luxembourg's capital, mainly owing to the development of the Euromarket, has become a major financial centre vying with Paris, Zurich and Frankfurt for second place in Europe behind London. In 1993 there were 213 banks operating in Luxembourg, compared with only 15 in 1960. Over the past 15 years employment in the banking sector has tripled, to almost 19,000.

Immigration

- 2.12 A steady fall in the birth rate since 1967 has meant that Luxembourg has a demographic problem, necessitating recourse to immigration to fill the gaps in the economically active population. In addition to adjusting the age balance, immigration has been a contributory means of carrying through the country's policy of economic diversification.
- 2.13 At present, foreign nationals represent over 30 per cent. of the resident population (34.2 per cent. in 1997), which is a European, if not world, record. Of the total 142,800 more than 90 per cent. are EU nationals, with 70 per cent. originating from the Mediterranean and Latin countries (53,100 Portuguese and 19,800 Italians).
- 2.14 In addition to these 142,800 foreign nationals who are resident in Luxembourg, there are some 59,600 transfrontier commuters who come to work in Luxembourg and return each evening to their homes in the bordering regions of Saarland, Lorraine and the Belgian province of Luxembourg.
- 2.15 Following the emigration of more than 72,000 Luxembourgers between 1841 and 1891 when the economy was too poor to support them, from the 1890s onwards it was the development of the iron and steel industry, with its substantial demand for labour, which turned Luxembourg into a country of immigration. Except during the two world wars and the depression of the 1930s, when vast numbers of immigrants returned to their countries of origin, immigration has become

a permanent feature of the Luxembourg economy, averaging 3,000 immigrants annually between 1923 and 1930 and over 1,600 annually since 1945.

- 2.16** A special feature of immigration in Luxembourg is that it is not confined to manual workers, as was the case with the Italian seasonal workers who arrived between 1930 and 1970 and is still mostly the case today with Portuguese immigrants. Many of the senior managerial and professional staff of the foreign-owned banks and companies and the European and international institutions located in Luxembourg are also foreign nationals. According to the official figures for 1981, foreign nationals then represented 41.8 per cent. of chief executives and senior managers in all economic sectors combined, and 82.4 per cent. in the rubber and plastics industry. And prior to 1930 the German immigrants who preceded the Italian seasonal workers also included many engineers and first-line supervisors. Hence Michel Pauly's reference to a dual immigration culture in which "foreign nationals occupy the top and bottom of the social hierarchy, with Luxembourgers keeping the middle for themselves" (see *Bibliography* at the end of the Glossary).

3. The labour market and unemployment

Employment trends

- 3.1** In Luxembourg, even more than throughout Europe as a whole, employment is largely concentrated in the service sector. According to the Eurostat figures for 1991, 67.3 per cent. of jobs are in services, while agriculture and industry combined represent only 32.7 per cent.
- 3.2** In June 1993 total employment was 204,500 (187,000 employees and 17,000 self-employed), representing 50 per cent. of the population as against 40 per cent. in other European countries. The growth in employment between 1984 and 1991 (and subsequently to 203,000 employees by 1996) has mainly been in the service sector, since 1991 in the context of a general slowdown in job creation and renewed rise in unemployment (see below).

Transfrontier commuters

- 3.3** The growth in employment has been increasingly due to the influx of transfrontier commuters, *i.e.* employees who work in Luxembourg but live in France, Belgium and Germany. Their number tripled between 1984 (15,377) and 1993 (47,500),

- including an increase of 40.4 per cent. between 1990 and 1993.
- 3.4 By the end of 1996, transfrontier commuters represented approximately 30 per cent. of all employees in Luxembourg (61,758 out of a total of 206,149), and together with the 45,000 foreign workers who are resident in Luxembourg they nowadays constitute 51 per cent. of the total (as against 41.5 per cent. in 1988). They are mainly employed in manufacturing industry, construction and civil engineering, and market services.
 - 3.5 This trend confirms the decreasing proportion of Luxembourg citizens in the labour force. While acknowledging the positive impact of the Luxembourg labour market on the bordering regions that have been hit particularly hard by unemployment, the beneficial aspects which these transfrontier commuters bring for the Luxembourg economy must also be recognized. Their arrival on the labour market occasions no public expenditure, they are unable to register for unemployment benefit, their training was not at Luxembourg public expense and they are excluded from entitlement to certain social benefits such as public housing and childbirth grants, but they are obliged to pay taxes on their earnings like all resident workers.
 - 3.6 Without this transfrontier labour, the Luxembourg economy would not have possessed the flexibility needed to utilize all the investment opportunities available to it in order to carry through its policy of diversification.

Female employment

- 3.7 The activity rate for women in Luxembourg is one of the lowest in the European Union. As at 31 March 1992, of the total of 182,417 employees only 64,445 were women (35.3 per cent.). Female employment is also concentrated by age-group: 31 per cent. of women aged 14-19 are economically active, 56 per cent. of those aged 20-29 and only 33 per cent. of those aged 30-39. For the age-group 25-49, the women's activity rate is 52 per cent., i.e. the lowest in Europe apart from Ireland and Spain.
- 3.8 In addition, women are still usually concentrated in the lowest-status jobs, and their access to higher grades is more difficult than it is for men. If a woman manages to reach a position of responsibility, it will have taken her longer than her male equivalent to attain the same post.
- 3.9 In many cases women's education and training are insufficient. Statistics show that 40 per cent. of school-leavers have an inadequate educational level and that 80 per cent. of this group of young people are girls. In the key banking and insurance

sectors, for example, 8 per cent. of women have an educational level that automatically classifies them in the lower grades. Furthermore, most women tend to have chosen courses of study which automatically propel them towards “women’s” occupations that are given a lower rating in collective agreements.

In general, employers are reluctant to create part-time jobs and hesitate to hire mothers with large families for fear of frequent absences from work when their children are ill (although statistics for the banking and insurance sector show that, on average, absenteeism is no higher for women than for men).

- 3.10 Women are also over-represented in the new “atypical” forms of work such as part-time, temporary, casual and seasonal jobs.
- 3.11 A further factor is that Luxembourg is one of the EU countries in which discrimination between men and women as regards pay is the greatest. According to a European Commission study dating from 1989, in industry as a whole the average pay of women white-collar workers was only 55.6 per cent. of that earned by men, and the corresponding figure for women manual workers was 63.2 per cent. (having actually fallen a further 2 per cent. behind since 1983).
- 3.12 Government statistics for 1992 showed that the earnings of 18 per cent. of all women employees fell within an income band equivalent to 100-130 per cent. of the minimum wage, as against only 6.2 per cent. of men employees.

Unemployment

- 3.13 Despite the fact that employment has remained buoyant (see above), unemployment (for many years the lowest in Europe) has been rising since the end of 1990, and more particularly since 1993. The number of registered job-seekers has tripled, and in November 1996 the unemployment rate stood at 3.7 per cent.
- 3.14 Among the unemployed, 40 per cent. have no occupational qualifications and 60 per cent. have completed only basic compulsory schooling. The duration of unemployment is also tending to increase: 60 per cent. of job-seekers have been unemployed for more than three months and 17.7 per cent. for over a year. In contrast to the early 1980s, the proportion of young unemployed persons (below the age of 25) is no longer so high and they now represent only 28.4 per cent. of the total.
- 3.15 Women, on the other hand, are being hit harder by unemployment than men. They account for 42 per cent. of the unemployed although they represent only 35 per cent. of all employees.

Measures to combat unemployment

- 3.16** The principal instruments used to combat unemployment have been the creation in 1976 of an *Employment Fund* and the introduction in 1977 of the early retirement formula (*préretraite*).
- 3.17** The Employment Fund regulates the award of unemployment benefit, the grant of subsidies to employers who introduce short-time working to avoid dismissals, and the operation of community work programmes.
- 3.18** The Fund's revenue derives from a mixed system of financing which is based not only on contributions from employers within the framework of an unemployment insurance system but also calls on national solidarity in the form of solidarity taxes levied on the population as a whole via general taxation, including increased personal income tax and tax on petrol, higher local government taxes, etc. Consensus on measures of this kind to deal with the recent renewed increase in unemployment was reached in 1994 within the *Tripartite Co-ordination Committee*, a body composed of equal numbers of employer, employee and government representatives which was originally set up in 1977 in response to the economic crisis (see Section 5.14 below).
- 3.19** The resources generated are used by the Fund for forms of assistance such as geographical mobility allowances for registered job-seekers who are placed in employment or different employment, financial support for employees in redundancy situations who accept lower-paid jobs with a new employer, enterprise start-up grants, exemption for employers from social security contributions when they hire the long-term unemployed or unemployed persons aged over 50, training and re-training allowances, etc.
- 3.20** The *early retirement* formula was initially conceived in 1977 as a temporary scheme for absorbing drastic job losses in the steel industry. It imposed compulsory early retirement for employees aged 57 or over, who during the three years until their entitlement to an old-age pension or premature old-age pension commenced received an early retirement payment (*indemnité de préretraite*) successively representing 85, 80 and 75 per cent. of their previous pay.
- 3.21** Over the years, this formula has become permanently enshrined in labour legislation as a general employment-policy measure offering optional early retirement (and, since 1995, phased early retirement) to employees aged 57 or over in all sectors. Provided that an enterprise is deemed eligible and that the jobs (or part-jobs) thereby released are filled from the Employment Service's register of job-seekers, the cost to the

employer of the payments made to those who opt for early retirement is partly or wholly reimbursed by the Employment Fund. It therefore now constitutes an instrument for avoiding unemployment in restructuring situations, for enabling employers to adjust the age composition (and associated costs) of their workforce, and for the job placement of the unemployed.

- 3.22 A tripartite *Standing Committee on Employment*, composed of equal numbers of government, employer and union representatives, was set up in 1995 with the specific task of overseeing the follow-up of the decisions reached within the Tripartite Co-ordination Committee on employment matters and examining aspects such as the recruitment of workers from outside the European Economic Area. To counter any tendency towards social dumping and prevent unfair competition, the Law creating the Committee also pronounced that the whole of Luxembourg labour law ranks as *d'ordre public*, i.e. a matter of public policy, and is hence applicable to all work performed on Luxembourg territory even when the employees concerned are on temporary secondment from an enterprise established outside Luxembourg.

4. The legal framework of industrial relations

- 4.1 In Luxembourg, employees' terms and conditions of employment and the system of industrial relations are regulated by national sources (the Constitution, laws and grand ducal regulations) and international sources, and also by collective agreements within the framework laid down for them by the Law of 12 July 1965 (see Section 6 below).

Constitution

- 4.2 In its Article 11(4), the Luxembourg Constitution "guarantees the right to work and ensures every citizen the exercise of that right". It also prescribes that "the law shall organize social security, health protection and a weekly rest for employees and guarantee freedom of collective industrial organization" (Article 11(5)) and that "the law shall guarantee freedom of trade and industry and the exercise of a liberal profession and agricultural work, subject to such restrictions as may be established by the legislature" (Article 11(6)).
- 4.3 As concerns the right to strike, it has been decided by judicial interpretation that "participation by an employee in a legitimate and lawful strike constitutes a right that is implicitly proclaimed in Article 11(5) of the Constitution."

4.4 It should also be noted that, although in the past the Luxembourg courts refused to exercise judicial control of the constitutionality of laws, on the grounds of the principle of the separation of powers, following the revision of the Constitution in 1996 a Law of 27 July 1997 created a Constitutional Court to ensure, thereafter, that any laws passed do not contravene the Constitution. Any court, whether of a judicial or an administrative nature, may now refer to the Constitutional Court for a preliminary ruling on cases involving the constitutionality of a law, whether the latter has been questioned by one of the interested parties or *ex officio* by the court hearing the case.

Laws and grand ducal regulations

- 4.5 Alongside Articles 1779 and 1780 of the Civil Code (which have remained unchanged and therefore correspond to their content in the Napoleonic code), terms and conditions of employment are regulated by a proliferation of laws and grand ducal regulations which are difficult to single out because they have never been formally codified (see *List of Legislation* at the end of the Glossary).
- 4.6 Under Article 36 of the Constitution, “the Grand Duke shall enact such regulations as are necessary for the implementation of laws.” This power falls under the heading of executive power. Grand ducal regulations may be applied only in so far as they are in accordance with laws. Under Article 95 of the Constitution, the courts are not empowered to nullify unlawful regulations, which remain in existence but as a permanent dead letter.
- 4.7 In general, laws and grand ducal regulations concerning terms and conditions of employment rank as peremptory law, *i.e. jus cogens*, and the contracting parties may not agree to alter them unless this alteration is in employees’ favour. Much labour legislation in Luxembourg carries penal sanctions, such as the provisions relating to health and safety at work and the weekly rest, the minimum wage and the generalized index-linking of pay. The principal laws regulate the contract of employment, pay, working hours, rest on Sundays and public holidays, night work, annual holidays and special forms of leave, collective agreements, employee representation within the workplace and in the Chambers of Labour and Trade and the organizations, the protection of certain categories of employee (disabled workers, pregnant women, children and young workers) and unemployment.
- 4.8 The purpose of more recent legislative changes has been to reinforce job security by doubling the period of notice of

dismissal that must be given to manual workers (harmonization with the notice period applicable to white-collar workers), reversing the burden of proof in claims of unfair dismissal (it now rests on the employer) and imposing restrictive regulation of atypical contracts of employment such as fixed-term and part-time contracts and contracts for temporary-employment agency work.

- 4.9** The new Law of 24 May 1989 on the contract of employment has also gone some way towards harmonizing the rules governing the employment of manual workers with those applicable to white-collar workers (and traditionally more favourable), although some differences between the two categories remain. As regards the reduction of weekly working hours, which are at present fixed at 40 hours (except in certain clearly defined sectors such as the hotel and catering industry, road transport, family enterprises in agriculture, viticulture and horticulture, hospitals and other establishments in the health-care sector, and domestic work in private households), the legislators have chosen to leave it to the social partners to regulate the matter by collective agreement (or, in the case of manual workers in the above exceptions, to administrative regulation in the absence of a collective agreement).

International sources

- 4.10** International conventions and treaties are playing an increasingly important role in Luxembourg labour law, in terms both of their volume and of the pre-eminence of international law over even more recent national law.
- 4.11** Within the framework of the UN, the ILO and the Council of Europe, Luxembourg has ratified numerous conventions including the Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950 and the European Social Charter.
- 4.12** In the context of the European Union, particular mention should be made of the transposition into national law of the principles of equal pay and of equal treatment for men and women as regards access to employment, vocational training and promotion and terms and conditions of employment, and in matters of social security. As regards the principles of freedom of movement and non-discrimination against employees originating from other EU Member States, on 17 December 1993 the European Commission brought infringement proceedings before the European Court of Justice against the Grand Duchy for maintaining Luxembourg nationality as a condition of access to employment as an established civil servant (*fonctionnaire*) or public servant

(*employé public*) in the public sectors of research, education, health, transport, postal and telecommunications services and public utilities, and thereby failing to fulfil its obligations under Article 48 of the Treaty of Rome and Articles 1 and 7 of Regulation 1612/68/EEC.

- 4.13 Following the judgment delivered against Luxembourg by the Court on 2 July 1996 (Case C-473/93 *Commission v Luxembourg* [1996] ECR I-3248), on 23 May 1997 the Government announced the imminent tabling of a new law opening up the public service in the sectors concerned.
- 4.14 In the case of Directive 94/95/EC on the establishment of European Works Councils with the purpose of improving the right to information and consultation of employees in Community-scale undertakings and groups of undertakings, the Luxembourg legislature has not yet effected its transposition into national law although the time-limit set for this expired on 22 September 1996.

5. The actors in the industrial relations system

- 5.1 Luxembourg is renowned for its political stability and its legendary industrial peace. The chief reason is to be found in the frame of mind underlying industrial relations over the past 60 years. These relations have been marked by close collaboration between the social partners at enterprise level, where employee representation takes place via the employee committee (*délégation du personnel*, obligatory in all enterprises with 15 or more employees), the employee members of the joint works committee (*comité mixte d'entreprise*, obligatory in all private sector enterprises with 150 or more employees) and, in certain public limited companies, employee members of the board (*administrateurs représentant le personnel*).
- 5.2 Although the function of the employee committee is predominantly one of protecting employees' rights rather than that of a body with co-determination rights, for our present purposes it has been grouped together with the joint works committee and employee members of the board under the heading of *Participation* (see Section 7 below).
- 5.3 At national level, the social partners have been extensively involved in the formulation of economic and social policy in the context of institutionalized organizations such as the Chambers of Labour and Trade, the Economic and Social Council and the tripartite bodies.

Trade unions and employers' associations

- 5.4 Freedom of collective industrial organization is guaranteed by Article 11(5) of the Luxembourg Constitution and by ILO Convention No. 87, which was ratified by Luxembourg in 1958.

Trade unions

- 5.5 Trade unionism in Luxembourg is marked by a high membership density (around 60 per cent.). Nowadays, the unions are closely involved in the social and political life of the country. They conclude collective agreements (see Section 6 below), play a part in resolving individual or collective labour disputes, are represented on employee committees and joint works committees, have seats in the Chambers of Labour and Trade, participate in the management of the sickness and maternity insurance funds and pension funds, have a presence on the Economic and Social Council, and exert a degree of influence on government policy within the context of the tripartite meeting (see Glossary entry **conférences tripartites**).
- 5.6 Private sector employees are organized in the following trade union organizations:
- * OGB-L (*Onofhängege Gewerkschaftsbond Lëtzebuerg*), the Independent Trade Union of Luxembourg;
 - * LCGB (*Lëtzebuenger Chrëschtliche Gewerkschaftsbond*), the Luxembourg Confederation of Christian Trade Unions;
 - * FEP-FITC (*Fédération des Employés Privés/Fédération Indépendante des Travailleurs et Cadres*), the Federation of Private-Sector Staffs/Independent Federation of Employees and Managers;
 - * FNCTTFEL (*Fédération Nationale des Cheminots, Travailleurs du Transport, Fontionnaires et Employés Luxembourgeois*), the National Federation of Railway and Transport Workers, Civil Servants and White-Collar Workers;
 - * FLTL (*Fédération Luxembourgeoise des Travailleurs du Livre*), the Luxembourg Printing Workers' Federation;
 - * FCPT, also referred to as SYPROLUX (*Fédération Chrétienne du Personnel du Transport*), the Christian Transport Workers' Union;
 - * ALEBA (*Association Luxembourgeoise des Employés de Banques et d'Assurances*), the Luxembourg Banking and Insurance Employees' Union;
 - * NGL (*Neutral Gewerkschaft Lëtzebuerg*), the Neutral Union of Luxembourg Workers.

The three unions OGB-L, FNCTTFEL and FLTL are united in the CGT (*Confédération Générale du Travail du Luxembourg*), the Luxembourg General Confederation of Labour, which is of socialist tendency and covers some 45,000 members. The LCGB, which is of Christian Socialist tendency, covers almost 25,000 members, and these two confederations together represent the majority of employees and are affiliated to the ETUC (European Trade Union Confederation). The FEP-FITC, which has some 12,500 members, is affiliated to the European Association of Managers.

- 5.7 In the case of established civil servants, the majority are organized in the CGFP (*Confédération Générale de la Fonction Publique*), the General Confederation of Civil Servants, which has around 15,000 members and regularly negotiates the pay review agreements for the public service with the Government.

Employers' associations

- 5.8 The major employers' associations in Luxembourg are the following:

- * FEDIL (*Fédération des Industriels Luxembourgeois*), the Federation of Luxembourg Industrialists;
- * *Fédération des Artisans* (Federation of Small and Medium-Sized Enterprises);
- * *Confédération du Commerce Luxembourgeois* (Confederation of Luxembourg Commerce);
- * ABBL (*Association des Banques et Banquiers Luxembourg*), the Luxembourg Bankers' Association;
- * HORESCA (*Fédération Nationale des Hôteliers, Restaurateurs et Cafetiers*), the National Federation of Hotel, Restaurant and Café Employers.

The FEDIL is the dominant employers' association. It organizes 11 sectoral employers' associations and 350 directly affiliated enterprises employing some 45,000 employees and is a member of UNICE.

Chambers of Labour and Trade

- 5.9 In 1924, following the strike of 1921 (see Section 1 above), the right-wing Government, inspired by the social doctrine of the Church, created a system of six *chambres professionnelles* (Chambers of Labour and Trade) with compulsory membership, as an attempt to counter the concept of the class struggle with a more conciliatory spirit.
- 5.10 These Chambers, whose members are elected by and from their constituencies, have a consultative role within the procedure for the adoption of laws and regulations. All drafts or

proposals for legislation affecting the particular occupations they represent must first be submitted to the Chambers concerned. They, in their turn, have the right to submit proposals for legislation to the Government. In general, the Chambers of Labour and Trade are called upon to uphold and protect the interests of all those in the occupations they represent and provide the institutional forum that allows the unions and employers' associations to transpose their claims onto the legislative level.

- 5.11 The three on the employers' side are the Chamber of Industry and Commerce, Chamber of Craft Trades and Chamber of Agriculture, while the three on the employees' side are the Chamber of Labour, Chamber of White-Collar Workers and Chamber of Civil Servants and Public Servants.

Economic and Social Council

- 5.12 The bipartite Economic and Social Council was created in 1966, replacing the former Economic Commission. It has 35 members, comprising equal numbers of employer and employee representatives from the various sectors of the economy together with a number of independent experts, and is a government advisory body charged with the task of studying economic, financial and social problems affecting either particular sectors or the entire economy. In addition to delivering opinions at the Government's request, it may also be consulted by the Government on proposed legislation and regulations relating to matters of general concern. The Council's opinions are marked by a search for mutual agreement, making it possible to identify lines of action which find approval with all the social partners, and the Government generally takes careful heed of them.
- 5.13 In addition, the Council produces an annual report on the country's economic, financial and social situation and, at the Government's express request, opinions on conclusions reached by the Tripartite Co-ordination Committee (see below).

Tripartite Co-ordination Committee

- 5.14 The distinctive feature of what has come to be called "the Luxembourg model" is the will to preserve industrial peace, firmly rooted on both the unions' side and the employers' side. No major strike has disturbed the country since 1921. It was this model that prompted the creation in 1977 of the Tripartite Co-ordination Committee, composed of equal numbers of employer, employee and government representatives, which

during the years immediately following the economic crisis of 1974 served to preserve consensus between the three partners on the measures to be taken in the face of inadequate economic growth. The Committee's function is to intervene through tripartite meetings (*conférences tripartites*) convened whenever a worsening of the economic and social situation (notably, unfavourable developments as regards the rate of inflation or the competitiveness of Luxembourg enterprises in international markets) calls for general measures at national level relying on national solidarity. Such measures may include extending the periods of notice required for dismissal, temporarily freezing price margins including interest charges, and imposing temporary restrictions on the thresholds for applying the index-linking of pay.

- 5.15 The Committee advises both on the evaluation of the economic and social situation and on remedial action to be taken by the Government. If the three groups of representatives are unable to reach agreement, the Government may appoint a mediator to submit a proposal for remedial action to the Committee.
- 5.16 Once this tripartite consultation procedure has been completed, the Government may table before the Chamber of Deputies such legislative measures as are designed to remedy the economic situation.
- 5.17 The most important exercise carried out in this tripartite context was the implementation of measures for restructuring the steel industry (creation of a *Division anticrise*, i.e. Emergency Employment Scheme, to absorb surplus workers, who continued to receive an income while assigned to socially useful tasks, and the introduction of a solidarity tax levied on the entire population to finance the restructuring).
- 5.18 However, the disadvantage of this unique form of institutionalized tripartite consultation is that it greatly reduces the parliamentary role. Since making any amendment to the Committee's agreements would jeopardize the delicate and fragile balance reached through its tripartite negotiations, the role of the Chamber of Deputies in such circumstances tends to be confined to "rubber-stamping" the texts tabled before it, a practice which in the long term may well be viewed with disfavour by the elected representatives of the people.

6. Collective bargaining

- 6.1 The earliest collective agreements regulating terms and conditions of employment in Luxembourg were negotiated in certain particularly highly organized sectors such as printing, brewing and glove-making. The practice of negotiating

collective agreements then became generalized following the enshrinement of freedom of collective industrial organization after the major union demonstrations of 1936, and nowadays the pay and conditions of some 60 per cent. of all employees are regulated by collective agreement (half of these by company-level agreements).

- 6.2 The Law of 12 June 1965, as amended in 1986, regulates the conclusion of collective agreements and lists a number of clauses that must be included. This mandatory content includes, in particular, rules on premium pay for night work and dangerous and uncongenial working conditions, and on the application of the principle of equal pay without any sex-based discrimination. In addition, collectively agreed provisions may not be less favourable for employees than those laid down by national law.
- 6.3 Within the meaning of Luxembourg law, a collective agreement in the strict sense is an agreement concluded between, on the one hand, either an individual employer or an employers' association and, on the other, one or more manual workers' or white-collar workers' unions possessing national representative status. This notion of adequately representative status recently gave rise to keen debate during the negotiation of the collective agreement for the banking sector, and needs to be revisited by the legislators in order to avoid a legal uncertainty that is prejudicial to the parties concerned.
- 6.4 When a collective agreement is accepted by a qualified majority of a given occupation, it may be declared generally binding on all employers and employees in the occupation concerned (*i.e.* as having *erga omnes* force) by grand ducal regulation.
- 6.5 Any disputes arising in connection with the conclusion, amendment or renewal of a collective agreement may be referred to the National Conciliation Service by the parties concerned (see Section 8.8 below).
- 6.6 The signatory unions to an agreement may institute any legal proceedings arising from it on behalf of their members without justifying their authorization from the interested party, provided the latter has been informed and does not object. The interested party may always appear before the court hearing the case by virtue of the collective interest its settlement may have for all other members. Despite their potential collective interest, any such claims concerning the interpretation of collective agreements are brought before the Labour Tribunals (see Section 8.4 below), which possess jurisdiction over all individual disputes, and not referred to the National Conciliation Service (see Section 8.8 below), which deals only with collective disputes. See also the Glossary entries **convention collective de travail** and **négociation collective**.

7. Participation

Workplace representation

- 7.1 As indicated in Section 5.1 above, employee representation at enterprise level takes place via the employee committee, the employee members of the joint works committee and, in certain public limited companies, employee members of the board.

Employee committee

- 7.2 In its present-day form, the institution known as the employee committee (*délégation du personnel*) has existed since 1979. Its forerunners were the separate representative bodies for manual and white-collar workers, in industrial enterprises, which had been reintroduced in 1925 after the earliest such bodies, called *conseils d'usine* and created in 1919 for manual workers in the steel industry, had been abolished after the unsuccessful strike of 1921.
- 7.3 Legislation in 1979 extended the institution to all enterprises regularly employing 15 or more employees (manual and white-collar workers) in any sector of the economy. This present-day employee committee is viewed as an instrument of industrial peace within the enterprise and has the general function of upholding and protecting the interests of the workforce as regards terms and conditions of employment, job security and social rights, through its rights of information and consultation. Thus, it is called on to present opinions and formulate proposals on any matter relating to the improvement of working and employment conditions and the social rights of the workforce, the management of the enterprise and its works rules, the use of temporary workers, the creation of part-time jobs, and early retirement. It serves as the mouthpiece for presenting employees' individual and collective complaints, and assists the Labour and Mines Inspectorate in its task of monitoring the proper application of health and safety regulations.
- 7.4 In addition to these functions, employee committee members are in practice directly involved in collective bargaining through their unions. In the event of a dispute arising from a collective agreement, they are normally designated by the unions to represent them before the National Conciliation Service (see Section 8.8 below). It may therefore be said that they constitute the unions' lever for putting forward demands at enterprise and establishment level.

Joint works committee

- 7.5 The joint works committee (*comité mixte d'entreprise*), which under legislation of 1974 is mandatory in all private sector enterprises with 150 or more employees, has more the nature of a co-determination body. Its role combines decision-making (in very narrowly defined matters), consultation and monitoring. The distinctive feature of the joint works committee in Luxembourg law is that it is composed of equal numbers of employer and employee representatives. It is chaired by the head of the enterprise or a delegated representative, and its opinions and decisions must be backed by an absolute majority on both sides. The powers of the employee group within the joint works committee are comparable to those of the German *Betriebsrat*: co-determination rights, with a power of veto, over “social” matters (company policy on recruitment, promotion, transfer and dismissal, employee appraisal, amendment of the works rules, regulation of health and safety matters, and the use of technical devices to monitor employees’ conduct or measure their performance), and information and consultation rights as regards matters relating to labour requirements and the enterprise’s economic and financial situation.

8. Disputes and conflict resolution

Strikes and lock-outs

- 8.1 Although the right to strike is not expressly stated in the wording of the Luxembourg Constitution, it is accepted in case-law that “participation by an employee in a legitimate and lawful strike constitutes a right that is implicitly proclaimed in Article 11(5) of the Constitution”, which since the constitutional revision of 1948 guarantees “freedom of collective industrial organization”. Previously, Article 310 of the Penal Code (making *coalition*, *i.e.* collective organization, a criminal offence and restricting the right to strike) had been abolished under legislation of 1936. Since then, therefore, employees have possessed the right to organize and to take strike action to protect their legitimate occupational claims, provided that the mandatory conciliation procedure before the National Labour Council (prior to 1945) or National Conciliation Service (since 1945) has been properly observed. The right to strike is, however, rarely exercised in Luxembourg.
- 8.2 On the employers’ side, legal opinion considers that, although the right to resort to lock-out is not expressly mentioned in the

legal texts, it is implicitly included in the concept of “stoppage of work” referred to in the texts which require the social partners to follow the conciliation procedure before resorting to any stoppage of work.

Courts system and labour cases

- 8.3 Alongside its system of ordinary courts and system of administrative courts (which hear cases relating to the employment of established civil servants and public servants), Luxembourg has a system of special labour courts.
- 8.4 Since the Law of 6 December 1989 on labour jurisdiction, which unified the formerly separate judicial bodies for white-collar workers and for manual workers, these now take the form of Labour Tribunals (one in each magistrate’s district) which have jurisdiction over individual disputes relating to contracts of employment and apprenticeship contracts that arise between employers and employees (whether white-collar or manual) in the private sector, and also public sector employees who are employed under a private-law contract of employment.
- 8.5 Each Tribunal consists of a presiding magistrate and two lay assessors (proposed by the Chambers of Labour and Trade and appointed by the Minister for Justice after consulting the Minister for Labour), one of whom is chosen by the magistrate from the employer-assessors and the other from the employee-assessors.
- 8.6 In general the rules of procedure for Labour Tribunals are the same as those applicable to ordinary magistrates’ courts, and there is provision for an injunction procedure in cases of urgency. Appeals against their decisions are heard by the Court of Appeal, which has two special chambers dealing with labour law cases.

Labour and Mines Inspectorate

- 8.7 The broad remit of the Labour and Mines Inspectorate includes effective and constant monitoring to ensure proper compliance by employers with the provisions laid down by law or collective agreement regarding working conditions, seeking to prevent or settle all labour disputes which do not fall within the competence of the National Conciliation Service and drawing up official reports on infringements, which are admitted as evidence by the courts. It is, however, common knowledge that the Inspectorate has insufficient staff to enable it to discharge fully the numerous responsibilities assigned to it by law.

National Conciliation Service

- 8.8** Established in 1945 to replace the former National Labour Council, the National Conciliation Service is charged with the task of seeking to prevent or settle collective industrial disputes. Any such dispute must, on pain of liability to a fine, be referred to the Service by one of the parties concerned before any resort to industrial action by either side. The Service may also take the initiative itself in intervening to mediate in any collective dispute which comes to its notice.
- 8.9** Presided over by the Minister for Labour or a delegated representative, it consists of a joint conciliation committee with six permanent members (three employer representatives and three union representatives) plus, for any given dispute, one or more representatives of the employers and the employees of the enterprise or occupation concerned.

Arbitration panel

- 8.10** If the conciliation procedure before the National Conciliation Service fails, the parties may ask for the dispute to be referred to an arbitration panel chaired by a government nominee with one employer representative and one union representative.
- 8.11** This process is not arbitration in the strict sense but rather mediation, since the panel's decision is not technically binding on the parties, who may still opt to take industrial action. However, if they accept the decision it is equivalent to the conclusion of a collective agreement and may be declared to have *erga omnes* force.

Civil arbitration

- 8.12** Under the Law of 12 June 1965 on collective agreements, the parties in dispute may also opt for the alternative route of arbitration in accordance with the rules of the Code of Civil Procedure.

9. Conclusion

- 9.1** Unlike the bordering regions of Saarland in Germany and Lorraine in France, which had the same monolithic structure as Luxembourg towards the end of the 1970s and now suffer from high unemployment resulting from the coal and steel crisis, Luxembourg has succeeded in lessening the impact of the successive crises in its iron and steel industry to a very considerable extent, and so avoiding disaster. This has been due

to its policy of industrial diversification and the concomitant development of the financial sector and also the advanced technology and audio-visual sector.

- 9.2** The Luxembourg economy must, however, remain vigilant to prevent any decline in its financial sector, on which it is heavily dependent, from leading it once again into the same difficult situation that it experienced with the crisis in the steel industry. This is particularly true in view of the fact that some of the advantages offered by the Luxembourg financial centre which have attracted its clients, mainly in the private banking sector, are directly linked to fiscal advantages which may partly or entirely disappear under the effect of the fiscal harmonization being pursued within the European Union.

A

1. **ABATTEMENTS D'ÂGE — AGE-BASED REDUCTIONS:** Entitlement to the full amount of the **minimum wage** established by law in Luxembourg for all adult employees commences at the age of 18. For juveniles aged 15, 16 and 17 reduced rates are applicable (60, 70 and 80 per cent. respectively).
2. **ABBL:** Initials standing for the Association des Banques et Banquiers Luxembourg (Luxembourg Bankers' Association). See **employers' association**.
3. **ABSENTÉISME — ABSENTEEISM:** Employees may be absent from work for legitimate reasons: forms of leave provided for particular purposes, **leave for personal reasons, release from work**, etc.
Although unjustified absences may obviously lead to termination of the contract of employment by the employer, Luxembourg law provides, as a general principle, a specified period of protection against dismissal for employees who are ill. Nevertheless, habitual absenteeism on the grounds of ill-health may constitute cause for dismissal in cases where it undeniably disrupts the functioning of the enterprise. See **illness of the employee**.
4. **ACCIDENT DE TRAJET — ACCIDENT EN ROUTE:**
See **industrial injury**.
5. **ACCIDENT DU TRAVAIL — ACCIDENT AT WORK:**
See **industrial injury**.
6. **ACCIDENT PROFESSIONNEL — INDUSTRIAL INJURY:** Term covering both accidents at work in the strict sense and accidents *en route*, the consequences of which attract compensatory payment from the **Industrial Injuries Insurance Association** for those compulsorily insured with it. An accident at work (*accident du travail*) is one suffered by the insured by reason of or during the course of their employment. An accident *en route* (*accident de trajet*) is one suffered by the insured in the course of their normal and direct journey between home and the workplace, and other employment-related journeys. Industrial injury gives rise to benefits in kind (medical treatment, medicines, the costs of hospitalization and the provision of everything likely to guarantee the results of treatment, without any time-limit or

ACCIDENT PROFESSIONNEL

any contribution to the costs by the victim, within specified agreed limits) and cash benefits. A monthly partial or full pension is paid according to the degree of incapacity. Total (100 per cent.) incapacity confers entitlement to a pension of 86.5 per cent. of the victim's earnings during the year preceding the accident, increased by 10 per cent. for each dependent child, but the total must not exceed 100 per cent. of the pay used as the basis for calculation. Such an industrial injury pension (*rente d'accident*) may be received in addition to an **invalidity pension** provided their combined total does not exceed the average of the insured person's five best years' pay. If the victim dies as a result of industrial injury, their close relatives receive survivors' pensions (*rentes de survie*) and a **death grant**.

7. **ACCORD COLLECTIF — SINGLE-EMPLOYER AGREEMENT:** Term denoting a collective agreement in the form of a single-employer or works agreement in which the parties agree to set aside or suspend, *i.e.* derogate from, a provision in a collective agreement in the strict sense (referred to as a **convention collective de travail** or **contrat collectif**).
8. **ACCORD D'ENTREPRISE — WORKS AGREEMENT:** See **single-employer agreement**.
9. **ACTIONS POSITIVES — POSITIVE ACTION:** Term denoting measures directed at promoting equal opportunity for men and women. In Luxembourg in particular this means the removal of existing inequalities which affect women's opportunities in the areas of employment, vocational training, promotion and re-training. Hence, the principle of positive action is enshrined in Luxembourg legislation in Article 2(3) of the Law of 8 December 1981 on **equal treatment for men and women** as regards access to employment, vocational training and promotion, and terms and conditions of employment. (The expression "affirmative action" is used synonymously in English.)
10. **ACTIVITÉ FÉMININE — FEMALE EMPLOYMENT:** In Luxembourg, the activity rate for women is one of the lowest in the European Union (at only 52 per cent. for the 25-49 age group, for example). In addition, women employees still tend to be concentrated in "women's" jobs or occupations which have a lower rating in collective agreements (horizontal segregation) and, within a particular occupation, to hold the

lower-status and lower-paid positions (vertical segregation). In the important banking and insurance sector, for example, this is the automatic result of their lower level of education and training. Women are also over-represented in the new “atypical” forms of work such as part-time, temporary, casual and seasonal jobs. See also **equal pay for men and women, equal treatment for men and women.**

11. **ADAPTATION AUTOMATIQUE DES RÉMUNÉRATIONS AUX VARIATIONS DU COÛT DE LA VIE — AUTOMATIC COST-OF-LIVING ADJUSTMENT OF PAY:** See **cost-of-living index, sliding pay scale.**
12. **ADEM:** Acronym used to refer to the **Employment Service** (Administration de l’Emploi).
13. **ADMINISTRATEURS REPRÉSENTANT LE PERSONNEL — BOARD-LEVEL EMPLOYEE REPRESENTATIVES:** Under Luxembourg law, all **public limited companies** employing 1,000 or more employees for three successive years must have a board of directors with nine members, at least one third of whom must be employee representatives. The same applies, whatever the size of their workforce, to public limited companies established on Luxembourg territory in which the state has at least a 25 per cent. shareholding or which enjoy a state concession in regard to their main activity (this means, in fact, CEGEDEL (Grand Ducal Electricity Corporation), CLT (Luxembourg Radio and Television Corporation), Luxair (Luxembourg Airways) and SES (European Satellite Corporation)).

These employee representatives on the board of directors are elected by secret ballot, from lists of candidates based on proportional representation, by the company’s **employee committee(s)**. In many cases the unions exert an indirect influence in that they propose lists of candidates who are often successfully elected. However, in the case of the steel industry three of them are appointed by the most representative unions at national level (see **representativeness of trade unions**), after consulting the signatories to the collective agreement(s) applicable to the company concerned; they may be appointed from outside the workforce.

Candidates for appointment as worker members of the board must have been employees of the company for at least two years. Once appointed, their term of office is the same as that of other directors of the same company, and is renewable. They are jointly and severally liable with the other directors,

and are liable for any torts committed in the course of their management. They may not sit on more than two boards of directors and may not simultaneously be directors of companies pursuing activities and objectives of the same kind. Nor are they permitted to perform work on behalf of another enterprise whose activities are of the same kind as those of the enterprise in which they are directors. Company directors covered by the relevant legislation, including worker members of the board, appoint by unanimous vote an independent auditor as one of the number of auditors prescribed by company law. See also **employee representation at workplace level, protection against dismissal of worker members of the board.**

14. **ADMINISTRATION DE L'EMPLOI — EMPLOYMENT SERVICE:** The public agency (also referred to by the acronym ADEM) which in Luxembourg is responsible for application of the legislation on employment. Placed under the authority of the Minister for Labour, its main functions are to monitor the situation and development trends of the labour market, to match offers of employment with requests for employment, to organize the recruitment of foreign workers, to organize and provide vocational guidance for young people or adults with a view to their integration or reintegration into working life, to oversee application of the legislation on the prevention of unemployment and the payment of unemployment benefit, and to make provision for the vocational training, placement, rehabilitation and integration of the disabled. Decisions on the award, continuation, resumption, extension, denial or withdrawal of unemployment benefit, and decisions ordering the repayment of benefits already received, are taken by the Director of the Employment Service or his authorized officials. Appeals against the denial or withdrawal of benefit may be made to a special review board set up by the Minister for Labour. See **compulsory notification of the Employment Service, Disabled Workers Service, Employment Fund, job-seeker, layoff due to extreme weather conditions, short-time working, special review board, unemployment.**
15. **ADOLESCENT — JUVENILE:** In Luxembourg law, term used to refer to minors aged 15-18. See **protection of children and young workers.**
16. **ADOPTION — ADOPTION:** See **adoption leave.**

17. **AIDE À LA CRÉATION D'EMPLOIS D'UTILITÉ SOCIO-ÉCONOMIQUE — AID FOR THE CREATION OF JOBS CLASSED AS SOCIALLY AND ECONOMICALLY USEFUL:** The Minister for Labour is empowered to grant aid to employers for the creation of socially and economically useful jobs currently subject to an upper limit of LUF 350,000 for each full-time job, with a proportional reduction for the creation of part-time jobs. The Minister's decision, as notified to the applicant, may restrict the number of jobs in respect of which such aid is granted to the institution, body or group of persons making the application. The aid awarded is normally paid in three instalments in the form of conditional grants. Payment of the first instalment is subject to presentation of a certificate testifying to the newly hired employee's membership of the social security bodies and a copy of the contract of employment demonstrating that the job for which aid is being sought has actually been created. The recipient is required to pay back the aid if the occupational activity concerned ceases during the year for which it was granted or (except in cases of impossibility duly recognized by the Minister) during the following two years. If the employee occupying the job for which aid has been granted resigns or is dismissed, the aid is continued provided the employer replaces the employee concerned within eight days of the termination of the employment relationship. The Minister and the **Employment Service** must be informed of the termination.
18. **AIDE À LA CRÉATION D'ENTREPRISES — ENTERPRISE START-UP GRANT:** A grant paid to unemployed persons who wish to start up or resume activities on a self-employed basis. It may be awarded by the Minister for Labour to unemployed **job-seekers** who are particularly difficult to place in employment, namely those who are aged over 40 and/or have been out of work for an extended period. The grant corresponds to the capitalized sum of the **unemployment benefit** to which the applicant would have been entitled during the first six months following the start-up or resumption of the activity concerned. It must be paid back if the enterprise for which it was awarded ceases to operate less than one year after the start-up or resumption, or if the recipient leaves the enterprise within the same period. The enterprise which is created or resumed must be located on Luxembourg territory.

19. **AIDE AU RÉEMPLOI — RE-EMPLOYMENT**

SUPPORT: Term designating a form of financial aid that may be paid by the **Employment Fund** to employees who have been, or are faced with the threat of being, dismissed for economic reasons (classed as “redundancy” in English) and in consequence find a new job in a different enterprise. Eligibility for such financial aid is conditional on their accepting a new job with a new employer offering a lower level of pay than their present rate of pay. The employees in question may apply to the Employment Service for the award of re-employment support. The decision on whether the employees of a particular enterprise are eligible lies, on request, with the Minister for Labour. The financial support provided is intended to guarantee the recipients, taking account of their new rate of pay, a level of pay amounting to 90 per cent. of their former pay for the first 24 months in their new employment and 85 per cent. for the following 24 months. Decisions on its award are made by the Director of the Employment Service on application from the re-employed worker. Applications must be submitted, on pain of debarment, during the first six months following re-employment.

20. **AIDES À LA MOBILITÉ GÉOGRAPHIQUE — GEOGRAPHICAL MOBILITY ALLOWANCES:**

A Grand Ducal Regulation of 17 June 1994 specifies the formalities for the award of geographical mobility allowances by the **Employment Fund** to **job-seekers** who are placed in employment or different employment. This financial support for the geographical mobility of job-seekers may take the form of a flat-rate monthly allowance for travel expenses, a flat-rate monthly allowance for the maintenance of two homes, or a fixed lump-sum payment for removal and resettlement expenses. Those eligible include young people looking for first-time employment, unemployed persons in receipt of **unemployment benefit** and other job-seekers.

21. **AIDES ET PRIMES DE PROMOTION DE L'APPRENTISSAGE — APPRENTICESHIP SUBSIDIES AND AWARDS:**

The amended Law of 27 July 1978 introducing various measures to encourage the employment of young people authorizes the Minister for Labour to grant employees, from the **Employment Fund**, various forms of financial aid to promote apprenticeship. It also authorizes the Minister to award, from the Employment Fund, special payments to young job-seekers who enter working life as

employees under a contract of employment or as **apprentices** under an **apprenticeship contract**. The Minister is empowered to designate particular occupations and branches of economic activity which are eligible for such subsidies and awards.

Subsidies to promote apprenticeship are available to any employer training an apprentice under an apprenticeship contract, at the rate of 8 per cent. of the apprenticeship allowance payable to the apprentice by the employer (increased to 12 per cent. in the case of a *métier de l'artisanat*, *i.e.* craft trade), plus the employer's share of the social security contributions payable.

An additional subsidy on top of this is granted in the case of designated trades or occupations characterized by a structural shortage of labour or a lack of apprenticeship places.

An apprenticeship award (*prime d'apprentissage*) is paid to all apprentices who successfully pass the apprenticeship examination at the end of their apprenticeship. Except for apprentices in the commercial sector, the amount is currently fixed at LUF 1,500 per month of apprenticeship served irrespective of branch of activity or sector. As in the case of the subsidies paid to employers, the Regulation awards an additional payment of LUF 3,900 for trades and occupations characterized by a marked shortage of applicants for apprenticeship. Apprentices coming under the Chamber of Commerce (apprentice sales staff, warehouse staff, decorators, office staff and architectural draughtsmen and draughtswomen) are entitled to an award from their employer amounting to 10 per cent. of the annual apprenticeship allowance.

22. **ALEBA:** Acronym used to refer to the Association Luxembourgeoise des Employés de Banques et d'Assurances (Luxembourg Banking and Insurance Employees' Union). See **trade union**.
23. **ALLAITEMENT — BREASTFEEDING:** See **breast-feeding break**.
24. **ALLOCATION D'ÉDUCATION — PARENTAL ALLOWANCE:** The parental allowance is intended to allow parents freedom of choice as regards the care of their children. It is a monthly allowance paid to parents who have one or more dependent children under the age of two and who have their legal domicile in Luxembourg and are habitually resident

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there. The allowance is payable only once, even if the household includes more than one child under the age of two. It is granted to whichever of the parents does not engage in gainful employment and is mainly occupied with caring for a child under the age of two. If both parents continue to work, they are still entitled to the parental allowance if the household's semi-net income (gross income minus social security contributions) does not exceed a level calculated on the basis of the **reference minimum wage** and the number of children in the household. If one of the parents works part-time (weekly working hours not exceeding 20 hours), half of the allowance is paid irrespective of the household's income. If both parents work part-time, the full amount is still payable, again irrespective of the household's income. Entitlement continues until the child reaches the age of two. However, where the recipient is caring for three or more children at home it is continued for as long as one of the children is under the age of four. It is also continued for anybody who is caring for a disabled child under the age of four at home.

In 1996 the figure for the parental allowance was fixed at the following monthly amounts irrespective of the number of children being cared for in a household: full allowance LUF 16,059 and half-allowance LUF 8,029.

25. **ALLOCATION DE FAMILLE — DEPENDENT-FAMILY WEIGHTING:** See **head-of-household premium**.
26. **ALLOCATION DE MATERNITÉ — MATERNITY ALLOWANCE:** The purpose of the maternity allowance is to extend the principle of the award of a cash benefit, during the period corresponding to the **maternity leave** prescribed by Luxembourg law for employees, to women who carry on an unpaid activity and women wholly engaged in household tasks within the home. It is a benefit available to all mothers, subject to the conditions governing its award and to its non-cumulative nature. It is paid to the mother with only rare exceptions (mainly in the event of the mother's death or in cases where she may not be officially identified), in which circumstances it is paid, at least in part, to the person assuming responsibility for the child. Entitlement to the maternity allowance is open to any mother who is not simultaneously receiving, from employment, pay or benefit equal to or greater than the amount of the allowance. If the pay being received is less than the amount of the allowance, the latter is paid in part as a top-up. It is a flat-rate allowance

paid for a maximum period of 16 weeks preceding the expected date of confinement; the current weekly amount is LUF 6,432. See also **maternity benefit, sickness and maternity insurance**.

27. **ALLOCATION DE NAISSANCE — CHILDBIRTH GRANT:** Under Luxembourg law, the birth of every live child creates entitlement to a childbirth grant currently totalling LUF 57,619 and consisting of three equal instalments which are paid separately and subject to different conditions. See also **family benefits**.

28. **ALLOCATION FAMILIALE — CHILD BENEFIT:** Child benefit is nowadays regarded as a process of redistribution of national income to the benefit of children in the name of a principle of social solidarity. Consequently, current Luxembourg legislation establishes the personal right of children to child benefit. Every child brought up on a continuous basis in Luxembourg and having his or her legal domicile there is entitled to child benefit from birth up to the age of 18. If the beneficiary engages in full-time studies, entitlement is extended up to the age of 27 provided he or she retains legal domicile in Luxembourg.

When undertaking the reform of the Law of 19 June 1985 on child benefit the legislature, aware of the potential problems with respect to EC law implied by the residence conditions (in 1991 Luxembourg was the subject of infringement proceedings against a Member State brought by the Commission for having imposed residence conditions for the award of the **maternity allowance** and **childbirth grant** and the European Court of Justice delivered judgment against it on that count: Case C-111/91 [1993] ECR I-840), took care to state that “persons subject to Luxembourg law shall possess entitlement, in respect of children residing abroad who have the legal status of member of their family, to child benefit in accordance with the relevant provisions of EC regulations or other international instruments signed by Luxembourg in the field of social security”.

Child benefit is paid by the **National Family Benefits Office** to the parents if the child is being brought up in their shared household or, in other cases, to that parent or natural or legal person who has effective custody of the child. The amount ranges at present from LUF 3,292 per month for a single child to LUF 36,260 for a family of five children (the amount paid per child increasing up to the third child) and is also increased twice, *i.e.* for children aged 6-11 and children

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aged 12 and over. A special supplementary benefit is paid to children suffering from a physical or mental disability. See also **family benefits**.

29. **ANCIENNETÉ DE SERVICES — LENGTH OF SERVICE:** Length of time for which an employee has been continuously employed by the same employer. It is important mainly in determining the period of notice that must be given when either party terminates the contract (see **notice of termination of the contract of employment**) and, in cases of dismissal, the amount of **severance pay** due. In cases of dismissal by the employer the contract of employment terminates on the expiry of a notice period of 2 months, 4 months or 6 months for employees with a length of service of less than 5 years, more than 5 but less than 10 years or 10 or more years respectively. These periods are halved in cases of resignation by the employee. The amount of severance pay received by employees on dismissal with notice may not be less than 1 month's pay, 2 months' pay or 3 months' pay for employees with a continuous length of service of at least 5 years, 10 years or 15 years respectively. If the employees concerned are **white-collar workers**, they are entitled to severance pay amounting to 6, 9 or 12 months' pay after a length of service of at least 20 years, 25 years or 30 years respectively.

Employers with fewer than 20 employees have the option of giving a longer period of notice in lieu of a severance payment. The decision to take up this option must be stated by the employer in the letter of dismissal.

30. **ANNONCES DE PLACES VACANTES — JOB VACANCY ADVERTISEMENTS:** Under Luxembourg law, for labour-market monitoring purposes job vacancies advertised in the press or on radio or television must (failing prior dispensation from the **Employment Service**) state the full address of the employer. This provision is also applicable to advertisements emanating from employers located abroad.

Also, the Employment Service must be sent notification of vacant apprenticeship places. The placement of apprentices is carried out by the Vocational Guidance Service. See also **compulsory notification of the Employment Service, job placement**.

31. **APPEL CONTRE LES DÉCISIONS DES TRIBUNAUX DU TRAVAIL — APPEAL AGAINST LABOUR TRIBUNAL DECISIONS:** Appeals against decisions by the

Labour Tribunals (see **labour jurisdiction**) are heard by the Court of Appeal in Luxembourg, which at present has two chambers specializing in labour law cases. An appeal must be lodged within an extinctive time-limit of 40 days from notification of the decision if it was delivered after hearing both parties or, if it was delivered in default, 40 days from expiry of the time-limit for bringing an application to set it aside. Individuals living abroad are entitled to extra time. Notice of appeal and the investigation and judgment of the case are governed by the Code of Civil Procedure.

32. **APPOINTEMENTS — PAY/SALARY:** Term used synonymously with **traitement**, *i.e.* usually to describe the pay of **white-collar workers**.
33. **APPRENTI — APPRENTICE:** Individual receiving vocational training within the enterprise under an **apprenticeship contract** subject to the relevant legal and regulatory provisions (Decree of 8 October 1945 amending the Law of 5 January 1929 on apprenticeship). Apprenticeship comprises both practical on-the-job training and theoretical instruction in an educational establishment. Although not employees within the meaning of the law, apprentices are paid an **apprenticeship allowance** that varies according to the occupation concerned and their age and year of apprenticeship, and are registered with the social security system. If they succeed in passing the **apprenticeship examination** they are entitled, subject to certain conditions, to be paid an apprenticeship award (see **apprenticeship subsidies and awards**). The provisions on the employment of children, young workers and, where appropriate, women are applicable to apprentices. In Luxembourg, the employment of apprentices falls largely under the responsibility of the Ministry of National Education.
34. **ARBED:** The main company (**Aciéries Réunies de Burbach, Eich et Dudelange**) in the steel industry, on which the Luxembourg economy traditionally rested until the economic crisis of the 1970s. Formed in 1911, ARBED's history is closely linked to that of the country itself and its economy, and despite drastic restructuring and job cuts the company is still the largest private employer in Luxembourg. Starting with the introduction after the First World War of a form of **works council** that was the forerunner of the **employee committee**, the industrial relations aspects of ARBED and the steel industry have included real innovations which have

had resonances beyond it. See also **early retirement, sickness and maternity insurance fund, Tripartite Co-ordination Committee.**

35. **ARBITRAGE — ARBITRATION:** Luxembourg law includes provision for two forms of arbitration for the settlement of collective **industrial disputes**: arbitration within the context of the **National Conciliation Service**, and arbitration in accordance with the rules of the Code of Civil Procedure. See **dispute settlement.**
36. **ARTISANAT — SMALL AND MEDIUM-SIZED ENTERPRISE SECTOR:** Term denoting the heterogeneous sector made up of some 4,000 small and medium-sized firms employing almost 25 per cent. of the economically active population of Luxembourg. They represent more than 150 different occupations (traditionally grouped into: food; fashion, health and hygiene; mechanical engineering; building and decorating; and miscellaneous), producing consumer and capital goods and supplying services, and are united in the *Chambre des Métiers* (Chamber of Craft Trades). Although the number of these enterprises has declined by 20 per cent. since 1970, during the same period their average size has more than doubled (from 5 to 11 employees) and some 18,000 additional jobs (representing an increase of 70 per cent.) have been created in the sector, particularly in the building industry. See also **Chambers of Labour and Trade.**
37. **ASSEMBLÉE PLÉNIÈRE DU PERSONNEL — MASS MEETING OF THE WORKFORCE:** The **establishment employee committee** is permitted by law to hold a meeting once a year with the entire workforce of the establishment concerned. This meeting is convened by the chairperson of the committee. The head of the enterprise is invited to attend or to send a representative. See also **employee committee, employee committee member.**
38. **ASSEESSEURS AUX TRIBUNAUX DU TRAVAIL — LABOUR TRIBUNAL ASSESSORS:** Under the Law of 6 December 1989 on **labour jurisdiction**, a **Labour Tribunal** consists of a presiding magistrate and two assessors chosen by the magistrate, one from the employer-assessors and the other from the employee-assessors. Assessors are appointed by the Minister for Justice, on the advice of the Minister for Labour, for a term of office of four years. For each Labour Tribunal

there are, in all, two accredited and six alternate employer-assessors and one accredited and three alternate employee-assessors for each category of employees (**white-collar workers** and **manual workers**). They are chosen from a list of candidates submitted by the **Chamber of Labour and Trade** concerned. Their term of office is renewable.

39. **ASSOCIATION DES BANQUES ET BANQUIERS LUXEMBOURG — LUXEMBOURG BANKERS' ASSOCIATION:** See **employers' association**.
40. **ASSOCIATION LUXEMBOURGEOISE DES EMPLOYÉS DE BANQUES ET D'ASSURANCES — LUXEMBOURG BANKING AND INSURANCE EMPLOYEES' UNION:** See **trade union**.
41. **ASSURANCE CONTRE LA VIEILLESSE ET L'INVALIDITÉ (ÉTABLISSEMENT D') — OLD-AGE AND INVALIDITY INSURANCE INSTITUTION:** Public body also referred to by the initials AVI. See **pension fund**.
42. **ASSURANCE CONTRE LES ACCIDENTS PROFESSIONNELS (ASSOCIATION D') — INDUSTRIAL INJURIES INSURANCE ASSOCIATION:** Body created to provide compensation for the consequences of accidents at work and accidents *en route* (see **industrial injury**) and **occupational illnesses**. It is a mutual insurance association, and membership is compulsory not only for all industrial, commercial and agricultural enterprises but also, for example, for the self-employed, state-run activities, public servants and public employees at central and local government level, academic activities, etc. All those employed in such enterprises or engaged in such activities are insured. The Industrial Injuries Insurance Association and the **Old-Age and Invalidity Insurance Institution** are grouped under the combined administration of the Social Insurance Office.
43. **ASSURANCE MALADIE-MATERNITÉ — SICKNESS AND MATERNITY INSURANCE:** Form of insurance covering the interruption of employment entailed by both illness and pregnancy, and also by non-industrial injury as opposed to the employment-related accidents and **occupational illnesses** covered by the **Industrial Injuries Insurance Association**. The loss of income caused in each

case is covered respectively by a **sickness benefit** and a **maternity benefit**. Sickness and maternity insurance is administered both by the **Union of Sickness and Maternity Insurance Funds**, which has overall responsibility, and by nine **sickness and maternity insurance funds** covering particular categories of employees and the self-employed.

In addition to these cash benefits, the sickness and maternity insurance funds also provide benefits in kind for the insured and their families covering all or part of the costs of medical care and treatment, hospitalization, medicines, etc., and a **death grant**.

With the exception of maternity benefit (which is entirely state-funded), the resources needed to enable the sickness and maternity insurance funds to provide the relevant cash benefits and benefits in kind are funded from contributions shared equally between employer and employee (the latter in the form of compulsory deductions at source by the employer) in the case of employees and contributed wholly by themselves in the case of the self-employed, both payable monthly to the **Central Office of Social Security**. See also **illness of the employee, maternity, maternity leave, social security contributions**.

44. ASSURANCE PENSION — PENSION INSURANCE:

In Luxembourg, everyone engaging in economic activity, whether as an employee or in a self-employed capacity, is covered by pension insurance against old age and invalidity. In the private sector there are four **pension funds** responsible for administering contributory pension schemes (as distinct from the non-contributory pension insurance which operates in the public and semi-public sector). Although these contributory pension schemes were merged under a Law of 27 July 1987, the individual pension funds, which are public bodies, each remain responsible for the occupational groups they previously covered.

45. ASTREINTE — PERIODIC PENALTY PAYMENT/STAND-BY: Term used with two distinct meanings in Luxembourg law.

1) In the sense of a periodic penalty payment, it refers to a pecuniary court order supplementing a main order if the latter is not executed within the time-limit prescribed by the court. Fixed at a certain sum payable for each day of non-execution, it is intended to coerce the obligor into executing the main order under the threat of the mounting debt otherwise incurred. It may, for instance, be used as a means of

enforcement against an employer who has been ordered to supply a **certificate of employment** to an employee or to a public authority such as the Employment Service (for the purposes of awarding and calculating unemployment benefit, etc.).

2) In the sense of stand-by, it denotes the period of time during which employees are required to keep themselves at their employer's disposal, outside their normal working hours, so that they can be called upon to work in the event of necessity. Stand-by duty normally attracts a special rate of pay referred to as *prime d'astreinte*.

- 46. **AUTORISATION DE TRAVAIL — EMPLOYMENT AUTHORIZATION:** See **work permit**.
- 47. **AVANTAGES EN NATURE — BENEFITS IN KIND:** See **payment in kind**.
- 48. **AVANTAGES EXTRA-LÉGAUX — FRINGE BENEFITS:** Term used to refer to the additional benefits which many employers offer their employees over and above the minimum standards laid down by law on pay and conditions, social security, etc. or those provided by collective agreement. Such fringe benefits may include **thirteenth month's pay**, **special bonuses**, profit-sharing, **meal vouchers**, **occupational pension** schemes, cheap loans, etc. They must not be confused with the notion of **benefits in kind**.

B

49. **BUREAU DE BIENFAISANCE — WELFARE OFFICE:**
Former name of what is nowadays called a **social assistance office**.
50. **BUREAU DE PLACEMENT PUBLIC — EMPLOYMENT OFFICE:** Name used to refer to the local offices of the **Employment Service**.

C

51. **CADRE SUPÉRIEUR — SENIOR EXECUTIVE:** Term used in connection with the employment of **white-collar workers**. Defined as a category of employees whose presence is essential to the running of the enterprise and its supervision, senior executives (like those occupying actual management posts) are not covered by the legal provisions on **normal working hours**, work on **public holidays** and the associated enhanced rates of pay. They are also excluded from provisions on pay and conditions laid down for the workforce as a whole in **collective agreements**.

(In the plural, the term *cadres* is also used in a more general way to apply to other categories of professional and managerial employees.)

52. **CAISSE DE MALADIE — SICKNESS AND MATERNITY INSURANCE FUND:** Term designating the series of Funds created in Luxembourg to administer and distribute **sickness and maternity insurance** for particular occupational categories. They include *Caisse de Maladie Agricole (CMA)*, the Agricultural Sickness and Maternity Insurance Fund for those affiliated on the basis of an occupation falling under the Chamber of Agriculture (*i.e.* individuals engaging in an agricultural activity on their own account); *Caisse de Maladie des Employés Privés (CMEP)*, the White-Collar Workers' Sickness and Maternity Insurance Fund for **white-collar workers** employed in occupations of a mainly non-manual nature and all those engaging in non-commercial activities of a non-manual nature, *i.e.* self-employed persons such as doctors, architects, lawyers, etc.; *Caisse de Maladie des Fonctionnaires et Employés Communaux (CMFEC)*, the Local Government Civil Servants' and Public Servants' Sickness and Maternity Insurance Fund for **established civil servants** and other **public servants** at local government level; *Caisse de Maladie des Fonctionnaires et Employés Publics (CMFEP)*, the Civil Servants' and Public Servants' Sickness and Maternity Insurance Fund for established civil servants and other public servants employed at central government level or in public and semi-public agencies; *Caisse de Maladie des Ouvriers (CMO)*, the Manual Workers' Sickness and Maternity Insurance Fund (see **manual workers**); and *Caisse de Maladie des Professions Indépendantes (CMPI)*, the Sickness and Maternity Insurance Fund for the Self-Employed covering those affiliated on the basis of engaging in activities falling

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under the Chamber of Craft Trades or the Chamber of Industry and Commerce. In addition to these six national Funds, there are three company funds providing sickness and maternity insurance for their own employees: two operated by the steelmaking group **ARBED**, the largest private employer in Luxembourg (*Caisse de Maladie des Employés de l'ARBED (CMEA)*, the ARBED White-Collar Workers' Sickness and Maternity Insurance Fund, and *Caisse de Maladie des Ouvriers de l'ARBED (CMOA)*, the ARBED Manual Workers' Sickness and Maternity Insurance Fund); and *Entraide Médicale des Chemins de Fer Luxembourgeois (EMCFL)*, the Luxembourg Railways Medical Insurance Association. See also **Chambers of Labour and Trade**.

53. **CAISSE DE PENSION — PENSION FUND:** There are four private-sector Funds which administer contributory **pension insurance** in Luxembourg: *Caisse de Pension Agricole (CPA)*, the Agricultural Pension Fund for those affiliated on the basis of engaging in an activity falling under the Chamber of Agriculture; *Caisse de Pension des Artisans, Commerçants et Industriels (CPACI)*, the Craft Trades, Commercial and Industrial Pension Fund for those engaging in activities falling under the Chamber of Craft Trades or the Chamber of Industry and Commerce; *Caisse de Pension des Employés Privés (CPEP)*, the White-Collar Workers' Pension Fund for **white-collar workers** employed in occupations of a mainly non-manual nature and all those engaged in non-commercial activities of a non-manual nature, *i.e.* self-employed persons such as doctors, architects, lawyers, etc.; and *Etablissement d'Assurance contre la Vieillesse et l'Invalidité, (AVI)*, the Old-Age and Invalidity Insurance Institution for **manual workers**. See also **Chambers of Labour and Trade**.
54. **CAISSE NATIONALE DES PRESTATIONS FAMILIALES — NATIONAL FAMILY BENEFITS OFFICE:** Name of the public agency in Luxembourg responsible for administering **family benefits**.
55. **CARTE DE SÉCURITÉ SOCIALE — SOCIAL SECURITY CARD:** Under a Law of 17 June 1994 specifying measures designed to safeguard employment, price stability and the competitiveness of enterprises, the Minister for Labour and the Minister for Social Security were empowered to introduce the use of a social security card as a form of identity card in Luxembourg. Its purpose is to facilitate control by the competent authorities of proper

compliance with the legislation on the use of **foreign workers, health and safety at work and social security**.

56. **CATÉGORIES DE SALARIÉS — EMPLOYEE CATEGORIES:** For a long time, Luxembourg law has made a clear distinction between two categories of employee: *ouvriers* (**manual workers**) and *employés privés* (**white-collar workers**). The legislation applicable to the two categories differed considerably and still does so, since although the Law of 24 May 1989 on the **contract of employment** introduced formal unification of the legal framework of the contract (the crucial aspect of standardization being **dismissal**), certain specific points such as the matter of length of service remain different. In addition, various categories of people employed either in enterprises or in public and international bodies must be excluded from the concept of an “employee” within the meaning of the 1989 Law. For example, **apprentices, schoolchildren and students** employed during their summer holidays, various categories of trainee and **public servants** employed in central government and international bodies are all categories whose employment is either regulated by a special regime or only partly covered by the legal provisions applying to employees in general. See also **senior executive**.
57. **CÉLIBAT (CLAUSE DE) — MARRIAGE CLAUSE:** Clause whereby a female employee undertakes not to marry during the lifetime of her **contract of employment**. Under Luxembourg law such a clause is null and void, as is **dismissal** on the grounds of the employee’s marriage. An employee who is so dismissed may invoke the nullity of the dismissal and claim the continuation of her employment relationship. Otherwise, she is entitled to the compensation for termination laid down by law. See **unfair dismissal**.
58. **CENTRE COMMUN DE LA SÉCURITÉ SOCIALE — CENTRAL OFFICE OF SOCIAL SECURITY:** Name of the public body responsible, on behalf of the various social security institutions, for providing the **Social Security Inspectorate** with all the information it needs to perform its function and for the centralized compilation and processing of computerized data on registered individuals and the collection and recovery of contributions. Claims against its decisions (such as the imposition of administrative fines) are heard by the **social security courts**.

59. **CERTIFICAT DE TRAVAIL — CERTIFICATE OF EMPLOYMENT:** Document which employers are obliged to issue, on request, to any employee whose **contract of employment** comes to an end. It may state only the dates on which employment commenced and ended and the nature of the post(s) occupied. Subjective or critical comments are not permitted. In the case of a **fixed-term contract**, the certificate must be issued, on request, at least eight days before its expiry.
60. **CERTIFICAT MÉDICAL — MEDICAL CERTIFICATE:** See **illness of the employee**.
61. **CESSATION DE PLEIN DROIT DU CONTRAT DE TRAVAIL — IPSO JURE TERMINATION OF THE CONTRACT OF EMPLOYMENT:** The contract of employment terminates *ipso jure, i.e.* by automatic operation of the law, on: 1) the death of the employee; 2) the date on which the employee, provided entitlement exists, is granted an **old-age pension**, and at the latest on attainment of the age of 65; 3) the date on which the employee is granted an **invalidity pension** (if the employee concerned continues or resumes gainful employment in accordance with the legal provisions regulating the invalidity pension, a new contract of employment may be concluded); or 4) the date on which the employee's entitlement to **sickness benefit** under the provisions of the **Social Insurance Code** is exhausted, unless the employee concerned is not granted an invalidity pension.
62. **CESSATION DES AFFAIRES DE L'EMPLOYEUR — CESSATION OF THE EMPLOYER'S BUSINESS:** Without prejudice to the legal provisions covering a **change in the employer's legal identity** (succession, conversion to limited company status, etc.), the **contract of employment** is terminated with immediate effect in the event of a cessation of the employer's business as a result of the employer's death, physical incapacity or declared bankruptcy. Failing the continued operation of the business by an appointed administrator or the employer's successor, the employee is entitled to 1) a continued right to the pay relating to the month in which the event occurs and the following month, and 2) a lump sum equal to 50 per cent. of the monthly payments relating to the period of notice that would have been applicable in the event of dismissal with notice. See also **guarantee of the employee's claims in the event of the employer's bankruptcy**.

63. **CESSION DES RÉMUNERATIONS — TRANSFER OF EARNINGS:** See **attachment and transfer**.
64. **CGFP:** Initials standing for the Confédération Générale de la Fonction Publique (General Confederation of Civil Servants). See **trade union**.
65. **CGT:** Initials standing for the Confédération Générale du Travail du Luxembourg (Luxembourg General Confederation of Labour). See **trade union**.
66. **CHAMBRES PROFESSIONNELLES — CHAMBERS OF LABOUR AND TRADE:** Name given to a system of six Chambers created by a Law of 4 April 1924, comprising three for employers (Chamber of Industry and Commerce, Chamber of Craft Trades and Chamber of Agriculture) and three for employees (Chamber of Labour, Chamber of White-Collar Workers and Chamber of Civil Servants and Public Servants. Although the unions were initially excluded, they now have seats in the Chambers and use them as an instrument.
- Apart from their main function of protecting the interests of the occupations they represent, they also participate in the supervision of vocational training, particularly apprenticeship. They also have the right to submit proposals for legislation and must be consulted (without commitment) by the Government on any proposed legislation affecting their constituencies. For a long time, this function in legislative matters led the Government to reserve the right to vote and to be elected in these Chambers to Luxembourg nationals. However, since membership is compulsory for the employers and employees concerned the European Court of Justice delivered judgment against Luxembourg on two occasions on the grounds of infringement of Article 48(2) of the EC Treaty and Article 8(1) of Regulation 1612/68 (Case C-213/90 *ASTI v Chambre des Employés Privés* [1991] ECR I-3507 and Case C-118/92 *Commission v Luxembourg* [1994] ECR I-1891). In the meantime, the Law of 13 July 1993 has amended the national legislation to conform with Community law as regards the Chamber of Labour, the Chamber of White-Collar Workers and the Chamber of Agriculture and the Law of 3 July 1995 has also removed the nationality condition in the case of the other three Chambers. See also **social concertation**.
67. **CHARGES SOCIALES — EMPLOYMENT-RELATED COSTS:** Term which, although it may also carry a broader

CHARGES SOCIALES

meaning including other indirect costs, is essentially synonymous with **cotisations sociales**, since under Luxembourg law social security contributions make up the bulk of such costs.

68. **CHÈQUE-REPAS — MEAL VOUCHER:** See **payment in kind**.

69. **CHÔMAGE — UNEMPLOYMENT:** Situation in which workers who are able and willing to work are without employment. In Luxembourg the term has two distinct but related meanings, drawing a distinction between: those who are wholly unemployed, *i.e.* who have no job at all and are actively seeking one (a situation which is referred to as *chômage complet* and in English has the meaning of “unemployment” in the strict sense); and those who are only partially unemployed, *i.e.* who still have a job but are involuntarily undergoing either a period of exclusion from work as a result of temporary closure (*chômage technique, i.e. layoff*) or a temporary reduction in their normal working hours (*chômage partiel, i.e. short-time working*).

In July 1996 the unemployment rate in Luxembourg (in the sense of *chômage complet, i.e. unemployment proper*) was 3.7 per cent. of the workforce. Under an amended Law of 30 June 1976 creating an **Employment Fund** and regulating the award of unemployment benefit (*indemnité de chômage complet*), entitlement to benefit is based on proof of having worked as an employee for at least 26 weeks during the previous 12 months (or, in the case of part-time workers, *i.e.* those regularly employed for less than 20 hours per week, 52 weeks). The amount of unemployment benefit is 80 per cent. of the worker’s last pay (85 per cent. in the case of workers with one or more dependent children), subject to an upper limit of a percentage of the **reference minimum wage** varying according to the duration of unemployment. The basic period of entitlement (365 calendar days during a reference period of 24 months) may be extended in the case of unemployed persons aged over 50 or persons classed as particularly difficult to place in employment (because of physical incapacity or aged over 55). Refusal to accept a suitable offer of employment or a place in training courses or **community work programmes** offered by the **Employment Service** may lead to loss of benefit.

70. **CHÔMAGE ACCIDENTEL OU TECHNIQUE INVOLONTAIRE — INVOLUNTARY LAYOFF:** Term used in the Luxembourg legislation to refer to situations

where the operation of the enterprise is wholly or partly interrupted by unforeseeable natural disasters (*sinistres*) having the nature of *force majeure*, i.e. beyond the employer's control, and where employers who undertake not to declare dismissals but to continue the contracts of employment or apprenticeship contracts of their workforce are granted subsidies to enable them to arrange compensatory allowances for employees to offset their resultant loss of pay. Such subsidies may be extended to situations where the unforeseeable cause is public works such as roadworks being carried out by local authorities. Employers intending to apply to the **Employment Service** for the subsidy must first consult the **employee committee**, the **joint works committee** and, in the case of enterprises covered by a collective agreement, the most representative unions (see **representativeness of trade unions**). The compensatory payments for employees are subject to an upper limit of 250 per cent. of the minimum wage, but entitlement is otherwise based on the same criteria as in the case of **layoff due to extreme weather conditions** and the employees concerned are likewise under an obligation to accept any offers of temporary or casual employment or places in training schemes.

71. **CHÔMAGE COMPLET — UNEMPLOYMENT:** Term used with the meaning of “unemployment” in the strict sense in English. Cf. **chômage**.
72. **CHÔMAGE-INTEMPÉRIES — LAYOFF DUE TO EXTREME WEATHER CONDITIONS:** Expression referring to the scheme provided for under Luxembourg law whereby workers in the building and public works sector receive a guaranteed compensatory payment (*salaires de compensation*) for hours lost when extreme weather conditions bring work to a temporary halt. This compensatory payment, which the employer advances and then claims back from the **Employment Service**, amounts to 80 per cent. of normal gross hourly pay, subject to an upper limit of 250 per cent. of the hourly minimum wage. Refusal to accept the alternative employment that the employers concerned are obliged to attempt to offer, or any temporary or casual employment or training places offered by the Employment Service, leads to loss of entitlement.
73. **CHÔMAGE PARTIEL — SHORT-TIME WORKING:** Under a Law of 26 July 1975 the Minister for Labour is

CHÔMAGE PARTIEL

empowered to grant subsidies to employers in designated industries suffering cyclical difficulties, to encourage them to retain employees on short-time working (*i.e.* less than the full working week) as an alternative to declaring redundancies. The scheme, which provides a guaranteed compensatory payment (*salaire de compensation*) subject to an upper limit of 250 per cent. of the **minimum wage**, was extended in 1977 to cover enterprises involved in significant organizational or industrial restructuring and obliged to resort to workforce rationalization, subject to their having concluded agreements on the phased reduction of employment with one or more representative unions (see **representativeness of trade unions**). Subsidies are restricted to enterprises where the reduction in working time does not exceed 50 per cent. of the normal monthly working hours, and before making an application the head of the enterprise must consult the **employee committee**, the **joint works committee** and, where applicable, the unions.

74. **CHÔMAGE-SINISTRES — TEMPORARY LAYOFF DUE TO NATURAL DISASTERS:** See **involuntary layoff**.
75. **CHÔMAGE TECHNIQUE — LAYOFF:** See **involuntary layoff**. (Must not be confused with the English term “technological unemployment”, *i.e.* unemployment deriving from the replacement of human workers by machines as a result of technological change.)
76. **CHÔMEUR INDÉPENDANT — SELF-EMPLOYED PERSON REGISTERED AS UNEMPLOYED:** The self-employed who have been forced to cease their activity because of economic and financial difficulties are able to obtain **unemployment benefit** when they register as job-seekers at an employment office, provided they have a record of at least five years’ compulsory insurance (reducible to one year in exceptional cases) with one of the **pension funds**. They are exempted from the usual qualifying period of 26 weeks’ work as an employee during the preceding 12 months (see **unemployment**) provided they register as unemployed within three months of ceasing their activity and apply for benefit no later than two months from the start of entitlement. The benefit payable corresponds to 80 per cent. of the income last used as the basis for calculating their pension insurance contributions, subject to the upper limits applicable in the ordinary scheme and a lower limit of 80 per

cent. of the **reference minimum wage**. See also **enterprise start-up grant**.

77. **CLAUSE DE NON-CONCURRENCE — COVENANT IN RESTRAINT OF COMPETITION:** Clause inserted in a **contract of employment** prohibiting employees who leave the enterprise from engaging in similar activities, to prevent them damaging their former employer's interests by setting up a rival business of their own. Under Luxembourg law, in order to be valid the covenant must be evidenced in writing. Where this is so, the validity of the covenant is still subject to three conditions: it must relate to a specified sector and to activities similar to those of the employer; it may not last for more than 12 months from the date on which the contract of employment ends; and it must be limited geographically to those areas where the employee can truly constitute competition, given the nature of the enterprise and its radius of operation, and cannot extend beyond Luxembourg's borders. If an employer has dismissed the employee without observing the due period of notice or without satisfying the legal provisions on **termination of the employment contract for grave cause**, such a covenant is rendered non-applicable.
78. **CLAUSES DÉROGATOIRES ET COMPLÉMENTAIRES — DEROGATION AND SUPPLEMENTARY CLAUSES:** The parties to the **contract of employment** are permitted to derogate from the statutory provisions in the direction of improving on them to the employee's benefit. Any clause in the contract which is contrary to the statutory provisions is null and void in so far as it restricts the rights or increases the obligations of the employee.
79. **CODE DES ASSURANCES SOCIALES — SOCIAL INSURANCE CODE:** Although Luxembourg labour law has not been codified, the situation is slightly different as regards the law on **social security**. The Social Insurance Code (CAS), which is subdivided into four Books (I. Sickness and Maternity Insurance, II. Accident Insurance, III. Pension Insurance and IV. General Provisions), has been completed by the addition of all statutes relating to social security not included in Books I-IV to form, together with all relevant Regulations and annexed international instruments, a co-ordinated collection published by the Ministry under the title "Social Security".

80. **CODE DU TRAVAIL — LABOUR CODE:** No Labour Code exists in Luxembourg corresponding to the Civil Code, Commercial Code, Code of Civil Procedure, Penal Code, Code of Criminal Investigation and **Social Insurance Code**, since labour law consists of a proliferation of legal and regulatory texts and collective agreements which are sometimes difficult to track down. At present, there is no comprehensive collection and updating of all the rules relating to this area of the law. Consequently, the compendium of essential labour law texts and case law compiled by Marc Feyereisen (Judge in the Luxembourg Tribunal Administratif) under the title “Labour Law in the Grand Duchy of Luxembourg” and the excellent book entitled “Labour Law” by Romain Schintgen (Judge in the European Court of Justice) are valuable tools. (See *Bibliography* at the end of the Glossary.)
81. **COGESTION — CO-DETERMINATION:** The forms of co-determination recognized in Luxembourg law consist in the rights over certain matters possessed by **joint works committees**, which were established by the Law of 6 May 1974 when Jacques Santer was Minister for Labour, and the provision for **board-level employee representatives** introduced (despite considerable misgivings and heated debate among employers) by the same Law.
82. **COL BLANC — WHITE-COLLAR WORKER:** Colloquial expression used synonymously with the formal term **employé privé** found in legal texts.
83. **COMITÉ DE COORDINATION TRIPARTITE — TRIPARTITE CO-ORDINATION COMMITTEE:** Name given to a body created by the Law of 24 December 1977 on the economic crisis, consisting of equal numbers of employer, employee and Government representatives. Its function is to intervene through tripartite meetings (*conférences tripartites*) convened whenever a worsening of the economic and social situation (notably, unfavourable developments as regards the rate of inflation or the competitiveness of Luxembourg enterprises in international markets) calls for general measures at national level (such as extending the required periods of notice for dismissal, temporarily freezing price margins including interest charges, and imposing temporary restrictions on the thresholds for applying the **sliding pay scale**). The Committee advises both on the evaluation of the situation and on remedial action by

the Government. If the three groups of representatives concerned are unable to reach agreement, the Government may appoint a mediator to submit a proposal for remedial action to the Committee. When this tripartite consultation procedure is completed, the Government may table before the Chamber of Deputies any legislative measure designed to remedy the economic situation.

The most important exercise carried out in this tripartite context was the implementation of measures for restructuring the Luxembourg steel industry (creation of an Emergency Employment Scheme (*Division anticrise*) to absorb surplus workers, who continued to receive an income while assigned to socially useful tasks, and the introduction of a solidarity tax (*impôt de solidarité*) levied on the entire population to finance the restructuring). See **social concertation**.

84. **COMITÉ D'ENTREPRISE EUROPÉEN — EUROPEAN WORKS COUNCIL:** The EC Directive 94/45 on the establishment of European Works Councils has not yet been implemented in Luxembourg.
85. **COMITÉ MIXTE D'ENTREPRISE — JOINT WORKS COMMITTEE:** In terms of **employee representation at workplace level**, alongside the **employee committee**, whose function is predominantly one of protecting employees' rights, Luxembourg legislation requires the establishment of a joint works committee possessing co-determination rights in all private enterprises with at least 150 employees. This committee, which is chaired by the head of the enterprise or a delegated representative, is composed of equal numbers of employer and employee representatives. The latter are elected by the employee committee(s) on a proportional representation basis from the **manual worker** and **white-collar worker** members of the workforce. Any category representing at least 10 per cent. of the total workforce must be represented. In many cases the unions exert an indirect influence in that they propose lists of candidates who are often successfully elected.

The joint works committee has a threefold function: 1) it possesses **co-determination rights** over company policy on recruitment, promotion, transfer and dismissal, employee appraisal, works rules, health and safety matters, and the use of equipment to monitor employee performance; 2) it has *information and consultation rights* as regards management decisions on technical changes, working methods and the work environment, current and forecast labour requirements,

COMITÉ MIXTE D'ENTREPRISE

vocational training and re-training, and the enterprise's economic and financial position, including an obligation on the employer to provide it with information, at least once a year, on levels of pay; and 3) it has the right to monitor and keep a check on company welfare facilities (*œuvres sociales*) such as company housing. Responsibility for ensuring that the committee's rights are observed lies with the **Labour and Mines Inspectorate**.

In areas of co-determination, every decision of the committee which is backed by an absolute majority on both sides is adopted. In the event of failure to reach agreement the side that introduced the issue concerned may initiate the conciliation procedure and, where necessary, arbitration by the **National Conciliation Service**. For matters covered by consultation rights, joint opinions backed by an absolute majority are submitted to the head of the enterprise and are normally adopted; where the two sides disagree both opinions must be communicated to the company board.

Meetings of the committee are held during working hours, with guaranteed maintenance of pay for its members. The company must provide it with a suitable room and secretarial assistance. Advisers may be invited to participate in a consultative capacity. Committee members enjoy special protection against dismissal (see **protection against dismissal of joint works committee members**) and their (renewable) term of office is five years.

Despite the legal rights of the joint works committee, the employer's control of the agenda and access to technical expertise may contribute to a situation where employee influence is in practice not great. The consequent lack of confidence in the institution and the tendency of the Labour and Mines Inspectorate not always rigorously to enforce the committee's rights mean that the institution may be far less powerful and widespread than the legislation might suggest.

In 1994 the Government announced its intention to consult the **Economic and Social Council** on proposed changes to joint works committees.

86. **COMITÉ PERMANENT DE L'EMPLOI — STANDING COMMITTEE ON EMPLOYMENT:** Tripartite body under the auspices of the Minister for Labour and Employment created by a Law of 31 July 1995, with the specific task of examining the employment and **unemployment** situation at least every six months as a follow-up to the decisions of the **Tripartite Co-ordination Committee**. The 12-member Committee is chaired by the

Minister, who also appoints its members, and is composed of equal numbers of representatives of Government and (appointed on their respective recommendation) the employers' associations and most representative unions (see **representativeness of trade unions**). Its powers, organization and functioning are laid down by a Grand Ducal Regulation of 31 July 1996. The Committee examines the situation, development and operation of the Luxembourg labour market with particular regard to the optimum use of labour resources in co-ordination with economic and social policy, the match or mismatch between labour supply and demand, the recruitment of workers from outside the European Economic Area, and application of the legislation on preventing and combating unemployment and on relations between the **Employment Service** and employers. It may commission studies as a basis for making recommendations on, for example, improving training and increasing the Employment Service's role in the labour market. Cf. the more general role of the **National Employment Commission**.

87. **COMMISSION D'ORIENTATION ET DE RE-CLASSEMENT PROFESSIONNEL — DISABLEMENT ASSESSMENT AND RESETTLEMENT PANEL:** Body which examines applications for classification as a **disabled worker** and decides whether such status is to be granted, denied or withdrawn. Its composition and functioning are laid down by grand ducal regulation. If necessary the Panel may enlist the services of experts in assessing applicants, and it has the right to obtain from public bodies any documentation relevant to the condition of the disabled person concerned. Where disabled worker status is granted, it may make recommendations to the Director of the **Employment Service** on placement in employment, training or re-training or occupational rehabilitation according to the applicant's age, degree and type of disability and former abilities.
88. **COMMISSION NATIONALE DE L'EMPLOI — NATIONAL EMPLOYMENT COMMISSION:** Tripartite advisory body created in 1976 under the auspices of the Minister for Labour. Charged with the task of advising the Government on the formulation and administration of employment policy, the Commission is empowered to issue opinions either at the Minister's request or on its own initiative. Chaired by the Minister, it is composed of seven representatives of Government, seven representatives of the

employers' associations and seven representatives of the most representative unions (see **representativeness of trade unions**), with appointed alternates. Cf. the more specific responsibilities of the **Standing Committee on Employment**.

89. **COMMISSION SPÉCIALE DE RÉEXAMEN — SPECIAL REVIEW BOARD:** Body set up by the Minister for Labour which hears applications for the review of decisions by the Director of the **Employment Service** (or his authorized officials) denying or withdrawing entitlement to **unemployment benefit** or **disabled worker** status. Applications must be submitted, by registered letter, within 40 days of notification of the decision. The review board consists of three employers' representatives and three employees' representatives, with a chairperson designated by the Minister. Appeals against the board's decisions may be made (without suspensive effect) by an unsuccessful applicant, the Minister for Labour or the Director of the Employment Service. Such appeals are heard by the **Social Security Tribunal** and must be lodged within 40 days of notification of the contested decision.
90. **COMMUN ACCORD (RÉSILIATION D'UN) — TERMINATION BY MUTUAL AGREEMENT:** See **termination of the contract of employment**.
91. **CONCERTATION — SOCIAL CONCERTATION:** Process of institutionalized consultation between the Government, employers and unions at the macrosocial level of industrial relations which is the hallmark of Luxembourg's consensual tradition (referred to as the "Luxembourg model") and unquestionably the reason underlying its legendary industrial peace. The fora in which the extensive involvement of the social partners in the formulation of economic and social policy takes place are the **Chambers of Labour and Trade**, the **Economic and Social Council** and the tripartite bodies such as the **National Employment Commission**, the **Standing Committee on Employment** and the **Tripartite Co-ordination Committee**. The latter was created in 1977 as a means of dealing with the economic crisis, and the most important achievement in this tripartite context was to enable the restructuring of the steel industry during the 1990s (with massive job cuts by **ARBED**) to be carried through consensually. More recently, in April 1998 the Committee reached consensus on the National Plan to be

CONGÉ ANNUEL (DE RÉCRÉATION)

submitted to the European Commission following the Luxembourg extraordinary summit on employment.

92. **CONCILIATION — CONCILIATION:** If an employer refuses to enter into collective bargaining with a view to concluding a **collective agreement**, or if in the course of negotiations the parties are unable to agree on one or more of the provisions of the agreement to be concluded, the conciliation procedure prescribed by the current legislation must be initiated (see **dispute settlement**).
93. **CONFÉDÉRATION DU COMMERCE LUXEMBOURGEOIS — CONFEDERATION OF LUXEMBOURG COMMERCE:** See **employers' association**.
94. **CONFÉDÉRATION GÉNÉRALE DE LA FONCTION PUBLIQUE — GENERAL CONFEDERATION OF CIVIL SERVANTS:** See **trade union**.
95. **CONFÉDÉRATION GÉNÉRALE DU TRAVAIL DU LUXEMBOURG — LUXEMBOURG GENERAL CONFEDERATION OF LABOUR:** See **trade union**.
96. **CONFÉRENCES TRIPARTITES — TRIPARTITE MEETINGS:** Although this phrase may imply any such anti-crisis meetings (see **social concertation**), in Luxembourg it usually refers to the meetings between the Government, employers and unions within the **Tripartite Co-ordination Committee** in the years following the economic crisis of the early 1970s. Their novelty lay in the fact that their outcome was a ready-negotiated package of measures, presented to the Chamber of Deputies for translation into law.
97. **CONFLIT COLLECTIF DU TRAVAIL — INDUSTRIAL DISPUTE:** Dispute arising between the parties to collective bargaining. A collective dispute may not lead to industrial action until the settlement procedures laid down by law have been exhausted. Luxembourg has an established tradition of industrial peace, and the social partners normally succeed in resolving their disputes through these procedures without the need to resort to drastic means such as strikes (see **dispute settlement**).
98. **CONGÉ ANNUEL (DE RÉCRÉATION) — ANNUAL HOLIDAY:** Luxembourg legislation on annual holidays for employees, which was unified for **manual workers** and

CONGÉ ANNUEL (DE RÉCRÉATION)

white-collar workers in 1966, provides for a paid annual holiday entitlement of at least 25 working days, irrespective of age. Entitlement commences after three months' uninterrupted employment with the same employer and during the first year is calculated at the rate of one twelfth for each complete month worked (the same applies when the contract of employment ends in the course of the year). Employees whose unjustified absences earlier in the year exceed 10 per cent. of normal working time may lose their holiday entitlement (absences due to lawful strike action are not classed as unjustified). According to law, the annual holiday must normally be taken in a single uninterrupted block unless circumstances dictate otherwise, but taking it in separate segments tends to be the norm (see **segmentation of annual holidays**). In practice, detailed arrangements for the annual holiday are often regulated by collective agreement. It must in principle be granted and taken during the calendar year, but may be carried over to the next year under certain conditions. The timing is chosen by the individual employee unless the needs of the enterprise or the wishes of other employees make this impossible and except in the case of **fixed holidays** during annual closure. If employees fall ill during their holiday, provided they produce a medical certificate the period affected does not count as part of their holiday entitlement.

For each day of their holiday employees receive holiday pay (*indemnité de congé*) equal to their average daily pay over the preceding three months, calculated on the basis of gross monthly pay. They are prohibited from engaging in any other paid work while on holiday, on pain of losing their holiday pay, and (except in the case of a payment in lieu agreed between the employer and an employee who leaves the enterprise) they may not waive their right to paid annual holidays. The annual holiday entitlement is sometimes also referred to as **congé payé**.

99. **CONGÉ COLLECTIF D'ENTREPRISE — FIXED WORKS HOLIDAYS:** Expression used to refer to the practice whereby the entire workforce take part or all of their annual holiday at the same time during a scheduled closure of the enterprise. The dates, which must be made known during the first quarter of the calendar year, are fixed by agreement between employer and employees or (where there is one) the **employee committee**. Employees who have not yet accumulated a full holiday entitlement when the fixed

holidays begin are granted the right, by law, to holiday for the duration of the closure.

100. **CONGÉ CULTUREL — CULTURAL ACTIVITIES GRANT:** Entitlement introduced by a Law of 20 April 1994, which is intended to enable amateur actors, musicians, etc. to participate in formally established cultural events. The grant, from the Minister for Culture, is received personally in the case of a self-employed person and paid to the employer in the case of an employee.
101. **CONGÉ D'ACCUEIL EN CAS D'ADOPTION — ADOPTION LEAVE:** Under a Law of 14 March 1988, when adopting a child under primary school age a private-sector employee (male or female) is entitled to eight weeks' adoption leave (twelve weeks for multiple adoption). Those covered by **sickness and maternity insurance** are entitled to **maternity benefit** during adoption leave, and the legal rules granting women special **maternity protection against dismissal** also apply. In addition, the Law provides that when adoption leave expires a female employee may decide, without giving notice, not to return to work immediately (see **special childcare leave**). In such cases the employer is under an obligation, for one year, to give any application from her priority when filling suitable vacancies and, in the event of her re-employment, to grant her all the rights she had acquired at the time of her departure. The situation regarding male entitlement is unclear.
102. **CONGÉ DE FORMATION DES DÉLÉGUÉS DU PERSONNEL — TRAINING LEAVE FOR EMPLOYEE COMMITTEE MEMBERS:** See **employee committee member**.
103. **CONGÉ DE MATERNITÉ — MATERNITY LEAVE:** Period of entitlement to time off for childbirth during which the contract of employment is suspended and the employee's old job or an equivalent job must be held open for her by the employer (Law of 3 July 1975, as amended by the Law of 24 May 1989). Maternity leave consists of optional antenatal leave for at least eight weeks before the anticipated date of confinement (the pregnant employee may continue working during this period provided she produces a medical certificate testifying to her fitness for work), and compulsory postnatal leave (during which her employment is prohibited) for eight weeks from the actual date of confinement (extended to

CONGÉ DE MATERNITÉ

twelve weeks in cases of premature or multiple births or for breastfeeding mothers). Employees for whom there is no guaranteed continuation of pay during maternity leave are entitled, subject to **sickness and maternity insurance** eligibility criteria, to receive **maternity benefit**. See also **maternity protection against dismissal, special childcare leave**.

104. **CONGÉ-ÉDUCATION — EDUCATIONAL LEAVE:** Time off from work (Law of 4 October 1973 as amended by the Law of 1 June 1989) intended to enable young workers aged under 25 to attend officially approved courses with a view to continuing or completing their **vocational training** or engaging in cultural or sporting programmes for young people, and to enable other employees (to whom the age limit does not apply) to receive training as youth leaders and course instructors in associated fields. Entitlement to educational leave, which does not count towards annual holidays and is subject to the completion of six months' service with the same employer, is limited to a total of 60 days and may not exceed 20 working days in any one period of two years. For each day of educational leave, beneficiaries receive a guaranteed compensatory payment equal to average daily pay as specified by the rules governing **holiday pay**. The employer advances this payment, which is then reimbursed by the state together with the employer's share of social security contributions. Public sector employees continue to receive their pay during educational leave.
105. **CONGÉ EXTRAORDINAIRE POUR CONVENANCES PERSONNELLES — LEAVE FOR PERSONAL REASONS:** All employees, irrespective of their **length of service**, are entitled under Luxembourg law to extraordinary paid leave of absence from work of from one to six days for a range of personal circumstances. The events creating entitlement are the day preceding military call-up, the death of a spouse or close relative, marriage or the marriage of a child, a wife's confinement, adoption (failing entitlement to **adoption leave**) and moving house. If the event concerned occurs during ordinary **annual holidays**, it interrupts their duration. Such leave may not be carried over and added to annual holidays. It must be taken at the time of the event or, if it falls on a Sunday, public holiday or **day off in lieu**, on the next working day.
106. **CONGÉ PAYÉ — PAID LEAVE:** General term applying to all forms of paid leave, such as **maternity leave, adoption**

CONGÉ SPÉCIAL (SERVICES DE SAUVETAGE)

leave, training leave for employee committee members, public holidays, etc. When used on its own it is normally assumed to refer to the **annual holiday** and may be seen as synonymous with **congé annuel**.

107. **CONGÉ POLITIQUE — TIME OFF FOR PUBLIC DUTIES:** The amended Law of 13 December 1988 and Grand Ducal Regulation of 19 April 1994 grant employees who are elected mayors, deputy mayors and local councillors varying periods of paid time off work to enable them to fulfil the duties of public office, for which the employer is then reimbursed annually from local government funds. Such time off may be used only for the purposes of fulfilling the responsibilities directly associated with the public office concerned and may not be carried over from one month to another. Time off for public duties is an example of **release from work** and therefore regarded as effective working time, during which the legal provisions on social security and job protection remain applicable and employees continue to receive, in addition to their pay, any benefits attaching to their occupation. It may not be counted towards their **annual holidays**. The self-employed and other individuals under the age of 65 not covered by a legal regime on employment who hold such public office receive an hourly flat-rate payment of twice the minimum wage for skilled workers.
108. **CONGÉ POSTNATAL — POSTNATAL LEAVE:** See **maternity leave**.
109. **CONGÉ POUR LA RECHERCHE D'UN NOUVEL EMPLOI — TIME OFF FOR JOB SEARCH:** Employees who have been given notice of **dismissal** by their employer may ask for periods of time off they need in finding a new job, amounting to a maximum of six working days during the **period of notice**. Provided they are registered as **job-seekers** with the **Employment Service** and produce proof of its genuine purpose, dismissed employees are entitled to be paid in full for this time off.
110. **CONGÉ PRÉNATAL — ANTENATAL LEAVE:** See **maternity leave**.
111. **CONGÉ SPÉCIAL (SERVICES DE SAUVETAGE) — SPECIAL TIME OFF FOR VOLUNTARY EMERGENCY SERVICES:** The Law of 15 March 1994 introduced special paid time off work of six working days per

CONGÉ SPÉCIAL (SERVICES DE SAUVETAGE)

year (subject in general to a maximum of 42 working days over working life) to enable employees who are voluntary members of fire, emergency and rescue services in local authorities and civil defence organizations to attend training courses and official events and parades. It obliges public and private employers to release employees from work when the firefighting or civil defence unit to which they are attached is called on in an emergency. Subject to certain conditions, self-employed persons who are voluntary firefighters may also receive a form of payment from the Ministry of Civil Protection.

112. **CONGÉ SPÉCIAL D'ÉDUCATION — SPECIAL CHILDCARE LEAVE:** On the expiry of **maternity leave** or **adoption leave** a female employee may decide, without giving notice to her employer, not to return to work. For a year from that date, she is then entitled to ask to be re-employed at any time and her employer is under an obligation to give her priority when filling suitable vacancies. This period following maternity leave or adoption leave is called special childcare leave. It carries no entitlement to pay.

(Not to be confused with the term **congé-éducation**, *i.e.* educational leave intended for young workers.)

113. **CONGÉ SPORTIF — TIME OFF FOR AMATEUR SPORTSMEN AND SPORTSWOMEN:** Under a Law of 26 March 1976 charging the Luxembourg Government with the task of encouraging top-class sport by ensuring that participation is not detrimental to the employment situation of the individuals concerned, top-class athletes and sportsmen and sportswomen and those essential to their training are granted special time off work when participating in the Olympic Games and World and European Championships and qualifying events. This special time off, which is subject to a maximum of 10 working days per year for each individual, is paid for by the state.

114. **CONGÉ SUPPLÉMENTAIRE — SUPPLEMENTARY HOLIDAY:** Term used to refer to the range of extra paid **annual holiday** entitlements granted to particular groups: disabled ex-servicemen, victims of industrial injury and others classed as **disabled workers** (6 extra working days); manual workers and technical staff in the mining industry (3 extra working days); and all employees whose work does not allow an uninterrupted **weekly rest** of 44 hours (1 extra working day for each 8-week period thus affected).

CONSEIL ÉCONOMIQUE ET SOCIAL (CES)

115. **CONGÉDIEMENT — DISMISSAL:** Term used synonymously with **licenciement**.
116. **CONSEIL ARBITRAL DES ASSURANCES SOCIALES — SOCIAL SECURITY TRIBUNAL:** See **social security courts**.
117. **CONSEIL D'ARBITRAGE — ARBITRATION PANEL:** See **dispute settlement, National Conciliation Service**.
118. **CONSEIL DE PRUD'HOMMES — MANUAL WORKERS' TRIBUNAL:** Bodies which at one time in Luxembourg had separate jurisdiction over disputes between **manual workers** and their employers. Under a Law of 6 December 1989 this institution was merged with that of the separate white-collar workers' tribunal (*tribunal arbitral*) to form the institution known as the Labour Tribunal (*Tribunal du Travail*), *i.e.* the bodies which today possess unified jurisdiction (see **labour jurisdiction**).
119. **CONSEIL D'USINE — WORKS COUNCIL:** Although there is no single institution in Luxembourg that corresponds exactly to the works council, the rights and responsibilities normally associated with such bodies exist in the dual system of employee representation in the enterprise in the form of the **employee committee** and the **joint works committee**. Neither of these may be accurately called a works council, but the essential features of the works council are combined in the system. The term *conseil d'usine* itself, which referred to a short-lived institution (1919-21) that was the forerunner of the present system, is no longer used.
120. **CONSEIL ÉCONOMIQUE ET SOCIAL (CES) — ECONOMIC AND SOCIAL COUNCIL (CES):** Government advisory body created in 1966 (replacing the Economic Commission) which has the task of examining major economic, financial and social issues. The Council has 14 members representing employers and 14 members representing employees in the various sectors of the national economy (appointed by the Government from lists nominated by the employers' associations and the unions), plus 4 members co-opted by the employers' associations and the unions and 3 members nominated by the Government who are totally independent of the above and include one from the "liberal" professions. In addition to producing an annual

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report and making proposals of its own, it may be consulted by the Government on proposed legislative and regulatory action or asked to deliver opinions on matters of general concern, on conclusions reached by the **Tripartite Co-ordination Committee** or on questions on which the various **Chambers of Labour and Trade** have submitted conflicting views. It is a consultative body *sui generis*. See **social concertation**.

121. **CONSEIL SUPÉRIEUR DES ASSURANCES SOCIALES — HIGHER SOCIAL SECURITY TRIBUNAL:** See **social security courts**.

122. **CONSULTATION — CONSULTATION:** At enterprise level, consultation between the employer and the workforce takes place through the employee committee, which is the main form of employee representation in the workplace. (The two other institutions, the **joint works committee** and **board-level employee representatives**, have the nature more of **co-determination** than simple consultation.) The general function of protecting employees' interests which is the employee committee's task is exercised through its extensive information and consultation rights (see **employee committee: functions and powers**).

123. **CONTRAT À DURÉE DÉTERMINÉE — FIXED-TERM CONTRACT:** Under the Law of 24 May 1989 on the **contract of employment**, the presumption is that the normal case is a **contract of indefinite duration**. As an exception to this, fixed-term employment contracts are permitted only subject to fairly restrictive conditions, for the performance of a specific task of a temporary nature not forming part of the enterprise's normal and permanent activity. Such tasks are deemed to include: work as a temporary replacement until an absent worker (other than a striker) returns or until a vacant post is filled; seasonal work as designated by the Grand Ducal Regulation of 11 July 1989 (in agriculture, shops, restaurants and the tourist industry); work in sectors where it is established practice not to use permanent contracts, designated by the same Regulation (such as radio and television, the film industry, music and the performing arts, professional sport, trading and investment counselling in the banking and finance sector, temporary-employment agencies, etc.); work necessitated by an exceptional increase in the enterprise's business; urgent repairs; and officially approved employment connected with job creation and

training. Jobs in designated sectors for workers arriving in Luxembourg who are covered by a **work permit** are a separate exception.

Fixed-term contracts must contain an expressly specified expiry date on which they terminate automatically, except for temporary replacement and seasonal work and those sectors where it is established practice not to use permanent contracts, in which cases the law merely imposes a minimum duration and the contract ends when the task indicated has been completed. They may be renewed twice but this total duration may not in general exceed 24 months. In the special case of seasonal work (for which the maximum duration is 10 months in any 12-month period) the contract may provide for its automatic renewal the following year, but repetition over more than two seasons transforms it into a contract of indefinite duration. The same applies to any contract where its performance continues after the expiry date. Unless the law stipulates otherwise, fixed-term contracts are covered by the same legal and collectively agreed provisions as contracts of indefinite duration and may similarly stipulate a **probationary period**. They may not be terminated before the expiry date without just cause (see **termination of the employment contract for grave cause**), subject to payment of compensation.

124. **CONTRAT À DURÉE INDÉTERMINÉE — CONTRACT OF INDEFINITE DURATION:** The presumption in Luxembourg law (Law of 24 May 1989) is that every **contract of employment** is concluded for a term of unspecified duration. **Fixed-term contracts** constitute an exception permitted only within narrow limits. The normal employment contract of indefinite duration continues to take effect until it ends in the circumstances laid down by law.
125. **CONTRAT COLLECTIF — COLLECTIVE AGREEMENT:** Term used synonymously with the expression **convention collective de travail**, *i.e.* in the strict sense of a collective agreement concluded between an individual employer or an employers' association and one or more representative unions (see **representativeness of trade unions**), as distinct from a collective agreement in the form of an *accord collectif*, *i.e.* a single-employer or works agreement in which the parties agree to set aside or suspend a provision of a collective agreement in the strict sense.
126. **CONTRAT D'APPRENTISSAGE — APPRENTICESHIP CONTRACT:** Special contract whereby an enterprise duly recognized by the appropriate **Chamber of Labour and**

CONTRAT D'APPRENTISSAGE

Trade, with which the contract must be registered, undertakes to provide or arrange practical training and theoretical instruction in a particular occupation for an **apprentice**. If the training employer is the apprentice's father the contract is replaced by a declaration of apprenticeship (*déclaration d'apprentissage*), and where apprentices are minors at the time the contract is signed by their legal representative. The contract, which includes a three-month **probationary period**, has an obligatory content specifying annual holidays, the apprenticeship allowance, board and lodging, etc. and the statement of its duration, which if the apprentice fails the **apprenticeship examination** is extended until the date of the next examination. It terminates automatically on the apprentice's success in the examination or the death or retirement of the training employer, but may also be terminated by either party for reasons such as misconduct or incompetence, ill health or a change of domicile that makes its continuation impossible. Disputes relating to its performance or termination do not fall within the jurisdiction of the ordinary Labour Tribunals but are dealt with by the **National Conciliation Service**.

127. **CONTRAT DE LOUAGE DE SERVICES — CONTRACT OF SERVICE:** Concept deriving from Article 1779(1) of the Civil Code and referred to in Article 1 of the Law of 24 May 1989 on the contract of employment. This expression, which was at one time widely used in the field of labour law, has nowadays been replaced by the term *contrat de travail*, i.e. **contract of employment**.
128. **CONTRAT DE MISE À DISPOSITION — CONTRACT FOR THE PROVISION OF LABOUR:** Term used to refer to the contract that must be concluded in writing between a **temporary-employment agency** and a user enterprise to which the former is hiring out the services of a temporary worker. It may be concluded only for the performance of a specified task of a non-permanent nature within the meaning of the legal and regulatory provisions on **fixed-term contracts** and may not be made with a view to filling a permanent post forming part of the user enterprise's normal activity. Such a contract must be concluded individually for each temporary worker supplied and contain at least the minimum provisions laid down in the relevant Law of 19 May 1994. Any provision prohibiting the user enterprise from subsequently hiring the temporary worker concerned is null and void (see **contract for a specific task**).

129. **CONTRAT DE MISSION — CONTRACT FOR A SPECIFIC TASK:** Term used to refer to the contract concluded between a temporary worker and a **temporary-employment agency** whereby the former undertakes to perform, on behalf of the latter and in return for pay, *but* in a user enterprise, a specified task of a non-permanent nature as permitted by the legal and regulatory provisions on **fixed-term contracts**. There is an automatic legal presumption that such a contract constitutes a **contract of employment**. Without prejudice to the provisions regulating the **form of the contract of employment**, its statutory content is as laid down by the relevant Law of 19 May 1994 and any clause prohibiting the temporary worker's subsequent permanent employment by the user enterprise is null and void. The contract, which with specified exceptions must state an expiry date, may in general not exceed a total duration, including two renewals, of 12 months. Premature termination by either party gives rise to compensation for the other and disputes on the matter fall under **Labour Tribunal** jurisdiction. See also **contract for the provision of labour**.
130. **CONTRAT DE TRAVAIL — CONTRACT OF EMPLOYMENT:** Term established in formal usage by the Law of 24 May 1989 regulating the contract of employment. It has replaced those used in earlier texts, such as *contrat d'emploi*, *contrat d'engagement* and *contrat de louage de services* (contract of service). In fact, the term designates not only the document evidencing the existence of an employment relationship but also proof of the employment relationship when there is no document. In such cases the above Law states clearly that, if there is no contract in writing, the employee may prove its existence and content by adducing any kind of evidence. This 1989 Law has created a reasonably uniform legal framework for the relationship between employers and different categories of employees who had previously been treated differently under contract law (see **employee categories**), at least on a number of points: duration of the contract; fixed-term contracts; permissible derogations from the Law's provisions; clauses that are automatically null and void; form (including obligatory written content) and proof of the contract; probationary period; *ipso jure* termination (including the effect of old-age or invalidity pension); termination with notice; summary termination for grave cause; unfair dismissal; cessation of the employer's business; death of the employee; termination by

mutual agreement; change in the employer's legal identity; variation of the contract; receipt acknowledging full settlement on termination; certificate of employment; itemized pay statement; covenant in restraint of competition; the employee's preferential claim for payment of pay and arrears; limitation period for legal actions concerning pay; guarantee of the employee's preferential claim in the event of the employer's bankruptcy; liability for business risks; and priority for re-employment. (These various points are discussed under the appropriate headings elsewhere in the Glossary.)

Despite the number of points made uniform by the 1989 Law, however, numerous other aspects are not covered by it but regulated by a multitude of different texts. See also **labour legislation**.

131. **CONTRAT SAISONNIER — SEASONAL EMPLOYMENT CONTRACT:** See **fixed-term contract**.
132. **CONTRÔLE MÉDICAL DE LA SÉCURITÉ SOCIALE — SOCIAL SECURITY MEDICAL CONTROL BOARD:** Body under the authority of the Minister for Social Security, created by a Law of 16 April 1979 with the task of establishing and assessing the degree of temporary or permanent incapacity for work and carrying out associated periodic medical examinations for the contributory branches of social security (*i.e.* excluding civil servants and public servants). Its medical officers, who may not interfere in relations between the insured person and their own doctor, deliver opinions that must be followed by the **sickness and maternity insurance funds, pension funds** and other institutions but are not binding on the **social security courts**, which may call on independent experts.
133. **CONTRÔLE MÉDICAL DES ÉTRANGERS — MEDICAL SCREENING OF ALIENS:** Under the Law of 18 August 1995 amending the Law of 28 March 1972 relating mainly to the entry or immigration of aliens in general, even nationals of other EU Member States may, if seeking right of abode in Luxembourg, be required by the immigration control authorities to undergo medical examination. Without prejudice to the provisions of the 1951 UN Convention relating to the Status of Refugees, it may then be recommended to the Minister for Justice that any EU national found to be suffering from any condition specified by a Grand Ducal Regulation of 12 October 1995 should be denied entry. See also **foreign worker**.

134. **CONTRÔLEUR DE L'INSPECTION DU TRAVAIL — EMPLOYMENT INSPECTOR:** Name given to inspectors attached to the **Labour and Mines Inspectorate** to assist the Inspectorate's labour inspectors in detecting contraventions of the statutory, regulatory and collectively agreed provisions for whose enforcement the Inspectorate is responsible. They are seconded for a three-year term on the recommendation of the most representative unions (see **representativeness of trade unions**), after which they return to their old job.

135. **CONVENTION COLLECTIVE DE TRAVAIL — COLLECTIVE AGREEMENT:** (The term *contrat collectif* is used synonymously, *i.e.* as distinct from an agreement in the form of an *accord collectif*.) Within the meaning of Luxembourg law, an agreement on labour relations and general terms and conditions of employment concluded between one or more manual workers' or white-collar workers' unions on the one hand and, on the other, either an individual employer or a sectoral or occupational association of employers. The distinguishing feature of a collective agreement in this strict sense is that, on the employees' side, only unions possessing most representative status at national level (see **representativeness of trade unions**) possess the capacity to conclude such an agreement. To be valid, an agreement must be signed by the contracting parties or their representatives and submitted in writing for official registration with the **Labour and Mines Inspectorate**. Appeals against the **refusal of registration** on the grounds of lack of proper capacity may be referred to the Litigation Division of the *Conseil d'État* (the supreme administrative court). A collective agreement must be made known to the employees of the signatory enterprises by being displayed at the main entrances to the workplace.

The duration of most collective agreements is two years (the legal maximum is three years). If due notice of termination has not been given by the date of their expiry, the principle of *reconduction* applies (automatic renewal as an agreement of unspecified duration) and the specified notice of termination is still required. The Law of 1965 regulating collective agreements specifies issues which must be covered and this mandatory content includes, in particular, rules on payments for night work and dangerous and uncongenial working conditions, on the avoidance of sex discrimination in pay, and on the index-linking of pay that applies to all employees in Luxembourg (see **sliding pay scale**). If the

parties to an agreement are unable to agree on a point of interpretation through a joint committee formed for the purpose, the appropriate **Labour Tribunal** is competent to rule on the matter.

The obligations deriving from an agreement are binding on all those who have signed it personally or through their representative and also on those who adopt or ratify it. Where an agreement is the outcome of a conciliation settlement or arbitration award within the **National Conciliation Service**, it may be given *erga omnes* force, *i.e.* declared generally binding on all employers and employees in the occupation concerned. This process of extension of collective agreements (*déclaration d'obligation générale*) is effected by grand ducal regulation. If an employer is bound by an agreement, its provisions regulate the employment relationships and terms and conditions of employment of all his or her employees, with the exception of **senior executives**. The contracting parties are under an obligation to uphold the agreement while it remains in force: they are required to refrain from doing anything of a nature to compromise its loyal observance and from any threat or execution of **strikes** or **lockouts** until the settlement procedures prescribed by law have been exhausted (see **dispute settlement**). Any stipulation in an individual **contract of employment** or the enterprise's works rules which is contrary to the relevant collective agreement is null and void unless it operates in the employee's favour.

The signatory unions to an agreement may institute any legal proceedings arising from it on behalf of their members without justifying their authorization from the interested party, provided the latter has been informed and does not object. The interested party may always appear as a joined party in the court before which the union has brought proceedings. See also **duty to bargain, single collective-agreement system, union right to appear in court**.

136. **COTISATIONS SOCIALES — SOCIAL SECURITY CONTRIBUTIONS:** (*Cf. employment-related costs.*) **Social security** in Luxembourg is financed partly by the insured and, where the insured is an employee, their employer, and partly by the state. The employee's share of the contributions is deducted from their gross pay by employers and forwarded, together with the employer's share, direct to the institutions concerned. The five basic branches of social security covered by the regulations are: sickness and maternity insurance, pensions (in both cases with equal contributions from employers and employees), industrial injuries insurance,

family benefits (in both cases with contributions solely from employers) and unemployment (financed from taxes). There are lower and upper limits for earnings on which contributions are payable, but in contrast to the system in some other countries employees whose earnings exceed the upper limit, although exempted from paying contributions beyond that, must still remain within the statutory insurance scheme. See also **deductions from pay permitted by law, social security calculation formulas.**

137. **COUR D'APPEL — COURT OF APPEAL:** See **appeal against Labour Tribunal decisions.**
138. **COUR DE CASSATION — SUPREME COURT:** As in other civil law systems, Luxembourg's Superior Court of Justice includes a *Cour de Cassation* as the highest court in the system of civil and criminal (as opposed to administrative) courts. In disputes relating to **contracts of employment** and **apprenticeship contracts**, final-instance decisions against which no other appeal is possible may be referred to this Court by way of a reference (in accordance with the prescribed procedure) called *pourvoi en cassation*, *i.e.* a request to have them quashed on the grounds of contravening points of law or violating requirements as to form or procedure. To be valid, the reference must be made within two months of the final-instance decision (in the case of a judgment by default, this period runs from expiry of the time-limit for applying to have it set aside).
139. **CRÉATION D'EMPLOIS D'UTILITÉ SOCIO-ÉCONOMIQUE — SOCIALLY AND ECONOMICALLY USEFUL JOB CREATION:** See **aid for the creation of jobs classed as socially and economically useful.**
140. **CRÉATION D'ENTREPRISES — ENTERPRISE CREATION:** See **enterprise start-up grant.**
141. **CRÉDIT D'HEURES — TIME-OFF RIGHTS:** Under Luxembourg law, the head of the enterprise is required to grant members of the **employee committee** such time off as they need to perform their function and to pay them for the hours concerned, which are credited as working time. In addition, in enterprises with up to 500 employees members of the committee are entitled to an amount of paid time off proportional to the number of employees they represent,

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calculated on the basis of 40 hours per week for 500 employees. These time-off rights are apportioned as an overall entitlement for the committee as a whole, to be taken individually as required. If the workforce exceeds 500 employees, **full-time employee committee members** are appointed.

142. **CUMUL D'EMPLOIS SALARIÉS — MULTIPLE JOBHOLDING:** (The expression “moonlighting” is also used in English.) Under the amended Law of 24 December 1977 authorizing the Luxembourg Government to take measures designed to stimulate economic growth and maintain full employment, any workers who combine their job as an employee with one or more other such jobs are required to notify the **Labour and Mines Inspectorate** if their resultant normal working hours total more than 40 hours per week. The Inspectorate may demand any relevant information from the **Central Office of Social Security** and other social security institutions.

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143. **DÉCÈS DE L'EMPLOYEUR — DEATH OF THE EMPLOYER:** See **cessation of the employer's business**.
144. **DÉCÈS DU TRAVAILLEUR — DEATH OF THE EMPLOYEE:** Under Luxembourg law, the **contract of employment** ends when the employee dies. Subject to certain conditions, however, the surviving spouse or any dependent children or parents forming part of the deceased employee's household may claim the continued payment of his or her pay up to the end of the month in which death occurs, plus a payment equal to three months' pay. If the deceased employee has been living in free company housing, the employer must allow the same persons to continue to live in it free of charge for three months following the month in which death occurs.
145. **DÉCLARATION D'OBLIGATION GÉNÉRALE — EXTENSION OF COLLECTIVE AGREEMENTS:** See **collective agreement**.
146. **DÉCLARATIONS OBLIGATOIRES À L'ADMINISTRATION DE L'EMPLOI — COMPULSORY NOTIFICATION OF THE EMPLOYMENT SERVICE:** Under Luxembourg law, employers are required to send notification to the **Employment Service** in the following circumstances: 1) on hiring any new employee (within eight days from commencement of the employment); 2) on dismissing one or more employees (written notification of the date on which the employment relationship will end must be sent to the Employment Service when the employee is given notice of dismissal); 3) availability of apprenticeship places (see **apprentice**); 4) all job vacancies, with designation of those to be filled by **disabled workers** under the quota regulations. In cases 1) and 2), failure to comply is punishable by a fine.
147. **DÉCOMPTE DES SALAIRES OU TRAITEMENTS — ITEMIZED PAY STATEMENT:** Document which, under the Law of 24 May 1989 on the contract of employment, the employer is required to issue to employees (with certain exceptions such as domestic workers employed less than full-time) at the end of every month together with the final instalment of their wages or salary for that month. It must give a detailed account of how their **pay** is calculated, stating the pay period and total number of hours worked to which the

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amount concerned corresponds, the rate of pay and any other remuneration in money or kind. On **termination of the contract of employment**, employees must receive an itemized pay statement and the outstanding pay due within a maximum of five days from the date on which the contract ends.

148. **DÉLAI DE PRÉAVIS — PERIOD OF NOTICE:** See **notice of termination of the contract of employment.**
149. **DÉLÉGATION CENTRALE — ENTERPRISE EMPLOYEE COMMITTEE:** See **employee committee.**
150. **DÉLÉGATION DIVISIONNAIRE — DEPARTMENTAL EMPLOYEE COMMITTEE:** See **employee committee.**
151. **DÉLÉGATION DU PERSONNEL — EMPLOYEE COMMITTEE:** Body which in Luxembourg constitutes the main form of **employee representation at workplace level.** Under the Law of 18 May 1979 to reform employee committees, every private-sector employer with 15 or more employees (temporary workers are counted on a pro rata basis) must provide for the election of an employee committee. The same applies to every public employer with 15 or more employees employed under a private-law contract of employment. More senior executives are not included.

Composition and structure

The employee committee is establishment-based, and a committee for a given establishment is called a *délégation principale*. In establishments with up to 100 employees, a combined employee committee (*délégation unique*) is elected to represent both white-collar and manual workers (with either category represented by at least one committee member if it constitutes at least 10 per cent. of the workforce). In establishments with more than 100 employees, separate elections are held for parallel committees (*délégations parallèles*) respectively representing white-collar workers and manual workers (provided there are at least 15 employees of the category concerned in the workforce). The size of the committee varies according to the number of employees represented, ranging from 1 member for a workforce of up to 25 employees to 25 members for a workforce of up to 5,500 employees (and an additional member for every 500 employees thereafter). An equal number of alternate members

are also elected. Voting is by secret ballot, from lists of candidates nominated by the unions with nationally representative status (see **representativeness of trade unions**), or by groups of up to 100 employees which must constitute at least 5 per cent. of the white-collar workers or manual workers to be represented, or by a union which need not necessarily be nationally representative provided it represented an absolute majority of the members who made up the former committee. In many cases the committee is an indirect channel of influence for the unions, since their lists of candidates tend to be successfully elected. All employees aged 18 or over with at least 6 months' continuous length of service are eligible to vote. Those eligible for election are all employees aged 21 or over with at least a year's continuous length of service, including nationals of other Member States and also non-Community nationals who hold a relevant **work permit** (although members of this last category must not constitute more than one third of the committee). Responsibility for dealing with any problems relating to election lies with the **Labour and Mines Inspectorate**.

Where a single enterprise consists of several separate establishments, an enterprise employee committee (*délégation centrale*) must be formed. Its members are designated by and from the establishment employee committees (three members from each separate establishment), and there must be parallel white-collar worker and manual-worker enterprise employee committees if these exist in at least two establishments. Alongside the establishment tier and the enterprise tier, the structure also includes a third tier: within any establishment comprising at least three departments each with at least 100 employees, at the request of the establishment employee committee *délégations divisionnaires* (departmental employee committees) with up to 5 members may be elected (where applicable, separately for white-collar workers and manual workers) by the workforce.

Functions and powers

As distinct from the **joint works committee**, which has co-determination rights over certain matters, the main function of the employee committee is to protect employees' rights and interests through its rights of information and consultation. It also has the important function of nominating members of the joint works committee, and in practice there is frequently a degree of interaction between the activities of the two bodies. The employee committee possesses the right to: formulate and present opinions on all issues relating to the

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improvement of employees' working conditions, terms and conditions of employment and social rights; present individual and collective complaints to the employer; seek to prevent and resolve any disagreements arising between the employer and the workforce and, in the event of non-compliance with the regulations, enlist the assistance of the Labour and Mines Inspectorate; present opinions on the management of the enterprise and monitor the application of, and propose amendments to, the works rules (*règlement intérieur*); participate in the definition and implementation of the rules governing the employment of **apprentices**; interpose with respect to the re-employment of the victims of **industrial injury, disabled workers**, etc.; participate in the management of the company welfare facilities (*œuvres sociales*); and help to prevent accidents at work and occupational illnesses (through the appointment of special **safety representatives**).

Any employer contemplating the creation of part-time jobs is required to consult the employee committee in advance. In joint-stock companies, the board or management is required to provide the employee committee with detailed accounts on the company's financial and economic situation at least once a year. All employers are required to keep the committee informed of the enterprise's economic situation, on a monthly basis in enterprises where there is a joint works committee and otherwise at the meetings (held at least three times a year) between the employee committee and management. Employee committees are entitled to meet as frequently as is necessary in order to perform their functions properly; monthly meetings may be held during working hours without any loss of pay for committee members, and a **mass meeting of the workforce** may be held once a year. Enterprise employee committees must convene an annual meeting with the relevant establishment employee committees, and establishment employee committees are likewise required to convene a meeting with any departmental employee committees at least once a year.

An establishment employee committee may designate periods during which it is available to employees for consultation at the workplace, during working hours if it includes one or more **full-time employee committee members** and otherwise either during working hours (counted towards committee members' **time-off rights**) or outside working hours, according to prior agreement reached with the head of the establishment. Accommodation on the establishment's premises must be made available not only for

employee committee meetings but also for these employee consultation periods. In enterprises where the committee includes one or more full-time members, the head of the establishment must provide the committee with a permanent room and a secretariat.

152. **DÉLÉGATION PRINCIPALE — ESTABLISHMENT EMPLOYEE COMMITTEE:** See **employee committee**.
153. **DÉLÉGATION UNIQUE — COMBINED EMPLOYEE COMMITTEE:** See **employee committee**.
154. **DÉLÉGATIONS PARALLÈLES — PARALLEL EMPLOYEE COMMITTEES:** See **employee committee**.
155. **DÉLÉGUÉ À LA SÉCURITÉ — SAFETY REPRESENTATIVE:** Term used to refer to the **employee committee** member at establishment or departmental level who is designated by fellow committee members as having specific responsibility for health and safety matters (see **health and safety at work**). These safety representatives are entitled to make an inspection tour of the workplace every week (but only twice a year in the case of office environments) and to record their findings in a special register that is made available to the officials of the **Labour and Mines Inspectorate**. Any serious issues relating to health and safety at work are referred to the Head of the Inspectorate (see **complaints to the Labour and Mines Inspectorate**).
156. **DÉLÉGUÉ DES JEUNES TRAVAILLEURS — YOUNG WORKERS' REPRESENTATIVE:** All young employees (under the age of 21) within an establishment who have completed at least 6 months' continuous length of service with the same employer and are nationals of Luxembourg or any other Member State are eligible to vote for, and eligible for election as, members of the **employee committee** (up to 4 members in establishments employing more than 100 **young workers**) with special responsibility for representing their fellow young workers. They are not full members of the committee, having instead the particular task of advising the head of the establishment and the employee committee on all matters relating to the working conditions and protection of young workers and **apprentices** and being entitled to enter such matters on the committee's agenda and to attend any meetings where such matters are to be discussed. However,

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one young workers' representative spokesperson has the right to attend all employee committee meetings, and in establishments with two or more young workers' representatives (*i.e.* employing more than 25 young workers) these representatives may provide an hour's consultation period for young workers every week, which must be conducted in the presence of another **employee committee member**.

157. **DÉLÉGUÉ DU PERSONNEL — EMPLOYEE COMMITTEE MEMBER:** The members of an **employee committee** are elected by their fellow-employees for a renewable term of office of 5 years. If their term of office ends prematurely (as a result of their resignation or death, or because the employer and the committee are informed that the individual concerned no longer belongs to the union that nominated them) it is taken over automatically by their alternate. The employer is required to allow committee members to take such time during working hours as is necessary to perform their duties in that capacity and to pay them for the hours involved, and they are also entitled, by agreement with the employer, to be released from work without loss of pay for the purposes of the functions assigned to them by law (see **time-off rights, full-time employee committee member**). They are also entitled to paid time off for training in the economic, social and technical aspects of their role (one week and two weeks during their term of office in enterprises respectively employing 15-50 and 51-150 employees, and one week every year in enterprises with over 150 employees) and enjoy special protection against dismissal (see **protection against dismissal of employee committee members**). Under Luxembourg law, impeding the free selection of employee committee members and their proper functioning constitutes the offence of **interference** on the part of the employer. While holding office, committee members remain subject to the enterprise's works rules (*règlement intérieur*) and are under an obligation not to divulge trade secrets or confidential business information. See also **personal file, safety representative**.
158. **DÉLÉGUÉ LIBÉRÉ — FULL-TIME EMPLOYEE COMMITTEE MEMBER:** In addition to the **time-off rights** enjoyed by all **employee committee** members, in establishments with more than 500 employees a certain number of these members (ranging from 1 for a workforce of 501-750 up to 5 for a workforce of over 5,000) must be given

full-time release from work. These full-time members are in practice the leaders of the committee. They are elected by secret ballot by and from the body of committee members on the basis of proportional representation. However, in establishments with more than 1,500 employees those unions possessing nationally representative status which have a presence on the committee and are linked with the establishment by a collective agreement each designate one of the full-time members. The latter are guaranteed retention of their level of pay and, where applicable, promotion while on release; their resumption of their former job or its equivalent when their term of office has expired is arranged by agreement between the employer and the committee.

159. **DÉLIT D'ENTRAVE — INTERFERENCE:** In Luxembourg law, any form of deliberate action to impede implementation of the statutory provisions on **employee committees**, *i.e.* affecting a committee's creation, election and manner of functioning, and individual members' exercise of their duties and protection against dismissal (see **special protection against dismissal of employee committee members**) is deemed to constitute the punishable offence of interference.
160. **DEMANDEUR D'EMPLOI — JOB-SEEKER:** Any individual who is without work and seeking a job (or who wishes to change their job) is entitled to register with the **Employment Service** as a job-seeker. Officials of the Employment Service may suggest to job-seekers that they should undergo a medical examination or psychological test at public expense. See also **disabled worker, enterprise start-up grant, job placement, unemployment**.
161. **DÉMISSION — RESIGNATION:** Termination of the **contract of employment** by the employee's voluntary act. It must be effected by registered letter, but the employer's signature on a copy of the letter of resignation constitutes evidence of receipt of its notification. The period of notice that must be observed by the employee is half that which the employer must observe when dismissing an employee (see **notice of termination of the contract of employment**). Since resignation does not give rise to any monetary entitlements for the employee, in the event of a dispute at law the **Labour Tribunals** must verify that it results from an unquestionable and unequivocal intention on the part of the employee. See also **pay/compensation in lieu of notice**.

162. **DÉPÔT DES CONVENTIONS COLLECTIVES DE TRAVAIL — REGISTRATION OF COLLECTIVE AGREEMENTS:** Under the Law of 12 June 1965, all **collective agreements** must be registered with the **Labour and Mines Inspectorate** by one of the parties. Unless the agreement itself provides otherwise, it then becomes applicable from the day following its registration.
163. **DEVOIR DE PAIX — PEACE OBLIGATION:** See **collective agreement**.
164. **DISCRIMINATION — DISCRIMINATION:** The Law of 19 July 1997 defines as unlawful discrimination any differential treatment based on sex, sexual orientation, marital status, colour, nationality, ethnic origin, state of health or disability, religious beliefs, political opinions, trade union activities, etc. See **equal pay for men and women, equal treatment for men and women, non-discrimination against women in employment, positive action**.
165. **DISPENSE DE SERVICE — RELEASE FROM WORK:** Luxembourg law grants employees the right to be released from the obligation to work, with retention of their entitlement to pay, for the purposes of performing certain functions, exercising certain civic rights and duties and completing certain terms of office. The circumstances covered include membership of a **Chamber of Labour and Trade** or **employee committee**, appointment as a **Labour Tribunal assessor** or employee-assessor in the **social security courts**, etc., and **time off for public duties** is a specific example of such release. These periods of release from work do not count towards the employee's **annual holiday** entitlement. However, if the amount of time involved is considered to be excessive the employer may institute legal proceedings applying for a reduction of the employee's pay or even, in extreme circumstances, **termination of the employment contract for grave cause**. This remedy is not, however, available to the employer in the case of **employee committee members**. See also **full-time employee committee member, labour jurisdiction**.
166. **DISPENSE DE TRAVAIL — DEPARTURE BEFORE NOTICE EXPIRES:** In the event of **termination of the contract of employment** by either the employer or the employee, the employer may release the employee from the obligation to work out the **period of notice**, either by stating

the fact in the letter of dismissal or otherwise notifying the employee in writing. Until the full period of notice has expired, such release must not entail any loss of **pay**, allowances or other benefits to which the employee would have been entitled if notice had been worked. An employee granted release from the obligation to work out notice is entitled to commence employment with a new employer during the period concerned; if so, the employer who has granted release must continue to pay the employee each month, until the period of notice expires, any shortfall between the employee's former remuneration and new remuneration.

In cases where it is the employee who gives notice of termination and makes a written request for release from the obligation to work out notice, if the employer agrees to such departure before notice expires the situation is deemed to constitute **termination of the employment contract by mutual agreement**.

167. **DIVISION D'AUXILIAIRES TEMPORAIRES — YOUTH EMPLOYMENT SCHEME:** Name given to a scheme launched under the amended Law of 27 July 1978 relating to measures to promote youth employment, under the direction of a Youth Employment Officer within the **Employment Service**. Proposals for community work programmes offering special 1-year temporary contracts of employment to provide work for the young unemployed (aged up to 30) on socially useful tasks, whose cost is partly or wholly financed from the **Employment Fund**, are submitted by local authorities, public enterprises or other non-profit-making bodies. Young workers allocated to the scheme receive the **minimum wage** for unskilled workers if they are aged up to 25, and the minimum wage for skilled workers if they are aged 26-30. Unjustified refusal to accept temporary employment under the scheme entails loss of **unemployment benefit**. If the young worker concerned finds new employment during the course of the temporary contract, it may be terminated by giving 8 days' notice. See also **introduction of young people into working life, young unemployed person**.
168. **DOMMAGES ET INTÉRÊTS — DAMAGES:** See **compensation for unfair dismissal**.
169. **DOSSIER PERSONNEL DU TRAVAILLEUR — PERSONAL FILE:** All employees are entitled to be afforded access twice a year, during working hours, to the personal files

concerning them which are maintained by the employer. At their request, they may be accompanied during this inspection by a member of the **employee committee**, who is under an obligation to observe the confidential nature of the file's contents unless released from that obligation by the individual employee concerned. Employees may demand that any comments they wish to make regarding the content of the file should be added to it.

170. **DROIT DE GRÈVE — RIGHT TO STRIKE:** See **industrial dispute, strike.**
171. **DROIT D'INTERVENTION DES SYNDICATS — UNION RIGHT TO APPEAR IN COURT:** When legal proceedings arising from a collective agreement have been instituted by a person bound by it, any **trade union** which is a signatory to the agreement may always appear before the court hearing the case, on the grounds of the collective interest that the outcome of the dispute may have for all its members.
Trade unions may not, however, act either as plaintiff or as defendant in an action for damages.
(The same rules apply, formally, to employers' associations, but no such cases have ever arisen in practice.)
172. **DROIT D'ORGANISATION — RIGHT TO ORGANIZE:** See **freedom of association, freedom of collective industrial organization.**
173. **DROIT DE LA SÉCURITÉ SOCIALE — SOCIAL SECURITY LAW:** See **Social Insurance Code.**
174. **DROIT DU TRAVAIL — LABOUR LAW:** See **labour legislation.**
175. **DROITS SYNDICAUX DANS L'ENTREPRISE — UNION RIGHTS IN THE WORKPLACE:** Term denoting the rights enshrined in Luxembourg law that allow trade union activities within the workplace. These are conferred on members of the **employee committee** who have been elected from the list presented by a trade union recognized as representative at national level, and include: the right to display union notices on special noticeboards separate from those provided for employee committee notices; the right to distribute union leaflets and publicity material at places within

the enterprise to be arranged by agreement with the employer; and the right to organize procedures for the collection of union dues, provided there is no disruption to the establishment's normal operation.

In establishments with 150 or more employees, the law permits the employee committee to enlist the assistance of a specified number of advisers from either within or outside the workforce (normally chosen on the recommendation of the most representative unions) for the purposes of dealing with certain matters. In establishments with fewer than 150 employees, the committee may decide to refer certain matters for joint consideration by an employers' association and the most representative unions. Where there is a **joint works committee** (*i.e.* in all private-sector enterprises regularly employing at least 150 employees), either side may use external advisers nominated by the employers' associations and unions. Such external advisers are under the same obligation as employee committee members not to divulge trade secrets or confidential business information. See also **duty to bargain**.

176. **DURÉE DU CONTRAT DE TRAVAIL — DURATION OF THE CONTRACT OF EMPLOYMENT:** See **contract of indefinite duration, fixed-term contract, probationary period**.
177. **DURÉE DU TRAVAIL — WORKING HOURS:** The amount of time for which employees are at the disposal of their employer (or employers, in cases where they have more than one); mealtimes and breaks are not included. Under Luxembourg law, working hours are regulated separately for **manual workers** and **white-collar workers**. In general, however, statutory normal working hours are set at 8 hours a day and 40 hours a week unless specified otherwise (in the case of white-collar workers) by **collective agreement**. (As regards working hours for part-time workers, see **part-time work**.) If the weekly limit of 40 hours is distributed over a working week of 5 days or less, the daily limit may be increased to a maximum of 9 hours. Where the nature of the work itself requires uninterrupted or continuous operation or the use of shiftwork, the reference period over which an average 40-hour working week is calculated may be extended to up to 4 weeks, subject to observance of a daily limit of 10 hours and advance authorization by the **Labour and Mines Inspectorate** or the Minister for Labour in the case of manual workers and white-collar workers respectively.

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Exemptions from normal working hours to meet the special technical needs of particular industries include cases where the Minister for Labour may allow manual workers to perform preparatory or complementary operations (*travaux préparatoires ou complémentaires*) which by their nature can only be performed outside normal working hours. The employees concerned must be given a day off in lieu for every 8 extra hours worked. Also, working time that is lost collectively as a result of exceptional circumstances (such as accidents or *force majeure*) may be made up at another time, subject to authorization by the Labour and Mines Inspectorate; limits on how lost working time may be made up in this way (*récupération*) are specified by law.

In the particular case of manual workers, the law prescribes regulation by collective agreement or, failing that, administrative regulation of working hours for domestic workers in personal households, work in family-type enterprises in agriculture, etc., work in the hotel and catering industry, work in hospitals, dispensaries, nursing and care establishments and work in the road passenger and goods transport sector, and exempts family enterprises employing only close relatives, river-transport and itinerant enterprises, and homeworkers. In the particular case of white-collar workers, the Minister for Labour may allow the calculation of weekly working hours to be averaged over the year in seasonal enterprises and enterprises in the hotel and catering industry if the presence of the staff concerned is essential to ensure normal operation. See also **overtime**, **public holidays**, **weekly rest**.

178. **DURÉE NORMALE DU TRAVAIL — NORMAL WORKING HOURS:** See **working hours**, and also **overtime hours**.

E

179. **ÉCHELLE MOBILE DES SALAIRES ET TRAITEMENTS — SLIDING PAY SCALE:** Mechanism whereby movements in **pay** follow changes in the cost of living. In Luxembourg, in 1975 the principle of index-linking that had been applied to the pay of **established civil servants** since 1963 was generalized to cover all employees, and it became a punishable offence for an employer to increase the pay of employees by less than the percentage resulting from operation of the sliding scale. Automatic adjustment of all pay and benefits fixed by law, collective agreement or individual contract, including the **minimum wage**, is triggered when the weighted **retail prices index** passes a certain threshold (when the average calculated over the preceding six months has exceeded 2.5 per cent.). The rigidity imposed by this comprehensive protection against the erosion of real earnings is unpopular with employers. Between 1981 and 1984 the Government's incomes policy imposed certain restrictions on the thresholds operated, which were fixed annually by law, but in 1985 the automatic adjustment mechanism was re-established (with provision for action to be taken in the event of a renewed economic crisis). See also *List of Legislation* at the end of the Glossary.
180. **ÉGALITÉ DE RÉMUNÉRATION ENTRE LES HOMMES ET LES FEMMES — EQUAL PAY FOR MEN AND WOMEN:** In accordance with a Grand Ducal Regulation of 10 July 1974 based on Article 119 of the Treaty of Rome and ILO Convention No. 100, all Luxembourg employers are required to observe the principle of equal **pay** for men and women when employed on the same work or work of equal value. All **collective agreements** must provide for the application of the same principle, and it is also stipulated by law that the **minimum wage** applies to every employee regardless of sex. The Regulation requires, among other things, that the various components that go to make up pay must be established identically for men and women: grades and criteria for classification and promotion and all other bases used for calculating pay, particularly job evaluation, must be common to employees of both sexes.
- In practice, however, the evaluation and classification criteria contained in a number of collective agreements continue to favour male employees. Traditionally masculine criteria such as physical effort or the arduous nature of the work are given excessively high ratings compared with criteria

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that favour women, such as dexterity. Any contract of employment or collective agreement specifying pay for employees of one sex that is lower than that of employees of the other sex for the same work or work of equal value is automatically null and void.

Individual employees have the right to claim that they are not receiving equal pay and such claims, which may be supported by their union where there is a **collective agreement**, may be taken to the appropriate **Labour Tribunal**. See also **equal treatment for men and women**.

181. **ÉGALITÉ DE TRAITEMENT DES SALARIÉS ENGAGÉS À DURÉE DÉTERMINÉE — EQUAL TREATMENT FOR TEMPORARY WORKERS:** Except where the law specifies otherwise, all legal and collectively agreed provisions applying to employees employed under a **contract of indefinite duration** are also applicable to those employed under a **fixed-term contract**.

182. **ÉGALITÉ DE TRAITEMENT ENTRE LES HOMMES ET LES FEMMES — EQUAL TREATMENT FOR MEN AND WOMEN:** The Law of 8 December 1981 (constituting the transposition into Luxembourg law of Council Directive 76/207/EEC) affirms the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, vocational guidance, advanced training and retraining, access to an independent occupation or profession and terms and conditions of employment.

As regards access to employment, it prohibits employers and all those who disseminate or advertise job vacancies from mentioning the sex of the worker or including information which, even without mentioning it explicitly, indicates or implies the sex of the worker, and from mentioning the sex of the worker (whether an employee or self-employed person) in the conditions of access and selection criteria for any job or post (except where being a member of one sex is a genuine occupational qualification), whatever the sector or branch of activity concerned, or including information which, even without mentioning the sex of the worker explicitly, leads to discrimination. The Law also prohibits employers from refusing or impeding access to employment or promotion for explicit reasons based directly or indirectly on the sex of the worker. In addition, the sex of the worker may not be mentioned in the terms and conditions of employment, including the conditions governing dismissal. Any employer who refuses to comply with these requirements is liable to a

fine. See also **equal pay for men and women, penal sanction.**

183. **ÉLÈVE — SCHOOLCHILD:** See **student.**

184. **EMPLOYÉ DE L'ÉTAT — NON-ESTABLISHED CIVIL SERVANT:** The status of non-established civil servant in Luxembourg (not to be confused with the term for ordinary **public employee** status governed by private law, *i.e. employé privé au service de l'État*) is enjoyed by any individual who fulfils the conditions of the amended Law of 27 January 1972 regulating the employment of non-established civil servants and is employed by the state under a public-law contract of indefinite duration for the performance of a complete or partial task within the public administrative authorities and departments. One of these conditions, namely Luxembourg nationality, no longer complies with the principle of non-discrimination contained in the Treaty of Rome and the European Court of Justice has already delivered judgment against Luxembourg in this connection (Case C-473/93 *Commission v Luxembourg* [1996] ECR I-3248: see also the *Introduction*, Sections 4.12-4.14). In cases where such a contract has been in force for 10 years and the individual concerned is aged 35 or over, the contract becomes non-terminable other than on disciplinary grounds. This represents a significant advantage over the situation of public employees with private-law contracts, whose employment may be terminated at any time subject to observance of the required period of notice. See also **established civil servant, public sector.**

185. **EMPLOYÉ PRIVÉ — WHITE-COLLAR WORKER (PRIVATE SECTOR):** The Law of 12 November 1971 defines this category of employee as covering any individual who, on the basis of a permanent or continuous contractual arrangement, performs on another's behalf and in return for remuneration work which involves mainly, if not exclusively, mental effort, with the exception of those employed in central or local government and other public institutions, who are covered by a more favourable statutory or regulatory regime. The inclusion of the adjective *privé* in the expression therefore stems from this original distinction in legal categorization, denoting a private-law contract of employment. Since private-sector employment and public-sector employment in this category are becoming increasingly coterminous, the unqualified term *employé* usually denotes any white-collar

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worker as distinct from a **manual worker**. However, with the entry into force of the Law of 24 May 1989 on the contract of employment, which although including a non-restrictive list of occupations classed in this category also largely standardized the legal provisions applicable to employees in general, and the updated co-ordinated text of 5 December 1989, the distinction between white-collar and manual workers has lost most of its practical significance in Luxembourg. One of the few remaining differences as far as the individual is concerned relates to the legal rules on **overtime**, but in addition the **employee committee** still reflects the difference.

186. **EMPLOYÉ PRIVÉ AU SERVICE DE L'ÉTAT — PUBLIC EMPLOYEE:** Term denoting a category of public-sector employees who, in contrast to those who are in a statutory, legal or regulatory position with respect to the state and fall under the jurisdiction of the administrative courts (*i.e.* **established civil servants** and **non-established civil servants**), are in a private-law contractual position. Since their terms and conditions of employment are governed solely by the Law of 24 May 1989 on the **contract of employment**, their contract may be terminated at any time by giving the required period of notice, subject to provisions regarding unfair dismissal, and they fall under the jurisdiction of the ordinary **Labour Tribunals**. See **termination of the contract of employment**.
187. **EMPLOYÉ PUBLIC — PUBLIC SERVANT:** Category covering those employed in central and local government and its agencies and in the public and para-public sector who are in a statutory position but do not possess established civil servant status. It includes **non-established civil servants** and local government employees (referred to as *employés communaux*). The status of public servant therefore differs both from that of **established civil servants** and from that of **public employees** employed in central and local government, and it is sometimes difficult to distinguish between the various regimes. See also **public sector**.
188. **EMPLOYÉ STATUTAIRE — PUBLIC SERVANT:** Term used synonymously with **employé public**.
189. **ENFANT — CHILD:** See **protection of children and young workers**.

190. **ENTRAIDE MÉDICALE DE LA SOCIÉTÉ NATIONALE DES CHEMINS DE FER LUXEMBOURGEOIS (EMFCL) — LUXEMBOURG RAILWAYS MEDICAL INSURANCE ASSOCIATION (EMFCL):** See **sickness and maternity insurance fund**.
191. **ENTREPRISE — ENTERPRISE:** No generally applicable definition of the enterprise as a concept is given in Luxembourg labour law. It is, however, used in certain texts in its customary sense of an economic unit. (Luxembourg law prefers, in general, to use the term “employer” even when referring to a company.) It is in the legal provisions relating to employee representation in the workplace that the concept of the enterprise acquires a measure of importance (see **board-level employee representatives, employee committee, joint works committee**).
192. **ENTREPRISE DE TRAVAIL INTÉRIMAIRE — TEMPORARY-EMPLOYMENT AGENCY:** A private enterprise whose commercial activity consists in hiring and paying employees with whom it concludes a special **contract for a specific task** for the purpose of hiring out their services temporarily to a user enterprise with which it concludes a **contract for the provision of labour**. Temporary-employment agency work, which is on the increase in Luxembourg, is regulated strictly by the Law of 19 May 1994. All agencies must be licensed; they must expressly state, in any advertisements, the temporary nature of the job vacancies concerned; and they must submit monthly returns to the Minister for Labour detailing their contracts. See also **temporary-employment agency worker, transfrontier temporary-employment agency work**.
193. **ENTRETIEN PRÉALABLE AU LICENCIEMENT — PRE-DISMISSAL INTERVIEW:** Principle introduced under the Law of 24 May 1989 on the contract of employment, as a means of preventing over-hasty **dismissals**. All employers with 150 or more employees who are contemplating dismissing an employee must, before making any decision, send the individual concerned a written invitation to attend an interview. The employee has the option of being accompanied at the interview by a member of the **employee committee** or a union representative from outside (of a union represented on the committee), and a copy of the letter of invitation must be sent to the employee committee or, where none exists, to the **Labour and Mines Inspectorate**. During the interview, the employer or an employer’s

representative must explain the reasons for the proposed dismissal and give the employee and the person accompanying the employee the opportunity to answer and comment upon any allegations. Subject to giving advance notification of the fact in the letter of invitation, the employer or employer's representative may also be accompanied at the interview by a member of the workforce or an employers' association representative. Whether or not the employee chooses to attend the interview, any subsequent dismissal, with or without notice (see **notice of termination of the contract of employment, summary termination**), must not be notified to the employee any earlier than the day following the date of the interview or any later than 8 days after it. If the employer fails to follow this procedure properly, the dismissal is deemed wrongful and attracts liability to pay the employee compensation equivalent to up to one month's pay.

194. **ESSAI — PROBATION:** See **probationary period**.
195. **ÉTRANGER — ALIEN:** See **foreign worker, freedom of movement for workers, immigrant, medical screening of aliens, transfrontier commuter, work permit**.
196. **ÉTUDIANT — STUDENT:** In Luxembourg, schoolchildren and students (interpreted as covering young people aged 15-25 who are still in full-time education) may be employed for a period of up to two months per year during their holidays, subject to their having been hired under a special individual contract whose content conforms with a proforma laid down by law. Failing the conclusion of such a contract, there is a legal presumption that an ordinary **contract of employment** exists. Their pay must amount to at least 80 per cent. of the **minimum wage**.
197. **EXAMEN D'APPRENTISSAGE — APPRENTICESHIP EXAMINATION:** Examination which must be taken by all **apprentices** at the end of their apprenticeship. Its content and regulation are decided by the relevant **Chamber of Labour and Trade**, subject to government approval. Those who successfully pass the examination are entitled to an **apprenticeship award**.

F

198. **FAILLITE DE L'EMPLOYEUR — BANKRUPTCY OF THE EMPLOYER:** See cessation of the employer's business, guarantee of the employee's claims in the event of the employer's bankruptcy.
199. **FAUTE GRAVE — SERIOUS MISCONDUCT:** See termination of the employment contract for grave cause.
200. **FÉDÉRATION DES ARTISANS — FEDERATION OF SMALL AND MEDIUM-SIZED ENTERPRISES:** See employers' association.
201. **FÉDÉRATION CHRÉTIENNE DU PERSONNEL DU TRANSPORT (FCPT) — CHRISTIAN TRANSPORT WORKERS' UNION (FCPT):** Also referred to as Syprolux. See **trade union**.
202. **FÉDÉRATION DES EMPLOYÉS PRIVÉS/FÉDÉRATION INDÉPENDANTE DES TRAVAILLEURS ET CADRES (FEP-FITC) — FEDERATION OF PRIVATE-SECTOR STAFFS/INDEPENDENT FEDERATION OF EMPLOYEES AND MANAGERS (FEP-FITC):** The union with national representative status on behalf of **white-collar workers**. See **trade union**.
203. **FÉDÉRATION DES INDUSTRIELS LUXEMBOURGEOIS (FEDIL) — FEDERATION OF LUXEMBOURG INDUSTRIALISTS (FEDIL):** The dominant employers' organization in Luxembourg. See **employers' association**.
204. **FÉDÉRATION GÉNÉRALE DES FONCTIONNAIRES COMMUNAUX (FGFC) — LOCAL GOVERNMENT CIVIL SERVICE UNION (FGFC):** The equivalent, at local government level, of the central civil service union **CGFP**. See **trade union**.
205. **FÉDÉRATION LUXEMBOURGEOISE DES TRAVAILLEURS DU LIVRE (FLTL) — LUXEMBOURG PRINTING WORKERS' FEDERATION (FLTL):** One of the oldest unions in Luxembourg. See **trade union**.

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206. **FÉDÉRATION NATIONALE DES CHEMINOTS, TRAVAILLEURS DU TRANSPORT, FONCTIONNAIRES ET EMPLOYÉS LUXEMBOURGEOIS (FNCTTFEL) — NATIONAL FEDERATION OF RAILWAY AND TRANSPORT WORKERS, CIVIL SERVANTS AND WHITE-COLLAR WORKERS (FNCTTFEL):** Also known by the name *Landsverband Luxemburger Eisenbahner, Transportarbeiter, Beamter und Angestellten*. See **trade union**.
207. **FÉDÉRATION NATIONALE DES HÔTELIERS, RESTAURATEURS ET CAFETIERS (HORESCA) — NATIONAL FEDERATION OF HOTEL, RESTAURANT AND CAFÉ EMPLOYERS (HORESCA):** See **employers' association**.
208. **FEDIL:** Acronym used to refer to the Fédération des Industriels Luxembourgeois (**Federation of Luxembourg Industrialists**).
209. **FEMME ENCEINTE — PREGNANT WOMAN:** See **maternity, maternity leave, maternity protection against dismissal**.
210. **FEP-FITC:** Initials standing for the Fédération des Employés Privés/Fédération Indépendante des Travailleurs et Cadres (**Federation of Private-Sector Staffs/Independent Federation of Employees and Managers**).
211. **FNS:** Initials used to refer to the Fonds National de Solidarité (**National Supplementary Benefits Fund**).
212. **FONCTIONNAIRE — ESTABLISHED CIVIL SERVANT:** Category including only certain employees of central and local government or national and international institutions, who are not covered by private-sector labour law but enjoy a special status and fall under the jurisdiction of the administrative courts. They enjoy, in addition, advantages of tenure over **public servants** also falling under administrative law such as **non-established civil servants**. Many public bodies and departments also have employees who are neither established civil servants nor public servants and are subject to the same legislation as private-sector employees. See **public sector**.

213. **FONDS NATIONAL DE SOLIDARITÉ (FNS) — NATIONAL SUPPLEMENTARY BENEFITS FUND (FNS):** Public institution created in 1960 with the initial function of guaranteeing the elderly and those incapable of working sufficient resources to protect them from poverty, in the form of a state guarantee pension (*pension de solidarité*). This function was later extended to include maintenance payments (*pensions alimentaires*) and the **guaranteed minimum income**, which the local authorities advance to those in need and are then reimbursed by the Fund. It obtains its revenue from an annual government budgetary appropriation, contributions from local government, a quota of the yield from the national lottery, etc. Complaints against its decisions are heard by the **Social Security Tribunal**.

214. **FONDS POUR L'EMPLOI — EMPLOYMENT FUND:** Set up in 1976, the Employment Fund (initially called *Fonds de chômage*, i.e. Unemployment Fund) is administered by the Minister for Labour and covers forms of expenditure including: **unemployment benefit**; subsidizing the payment of employees on **short-time working**; guaranteeing the pay of employees affected by **bankruptcy of the employer**; reimbursement of employers for trainee allowances paid under a scheme for first-time jobs for young people (see **young unemployed person**); repayment to the organizers of temporary work schemes of the Fund's contribution towards young workers' pay under the **Youth Employment Scheme**; temporary aid to encourage workers in redundancy situations to accept new jobs at lower rates of pay (see **re-employment support**); flat-rate **geographical mobility allowances**; **aid for the creation of jobs classed as socially and economically useful**; **enterprise start-up grants**; and expenses associated with the employment or retraining of those receiving benefits from the **FNS** making up the **guaranteed minimum income**.

The Fund's revenue derives from a mixed system of financing based on contributions from private-sector employers (suspended since 1983) and commerce, and general taxation (including increased personal income tax and tax on petrol).

215. **FORMATION PROFESSIONNELLE — VOCATIONAL TRAINING:** In Luxembourg, the traditional route for vocational training was a system of apprenticeship (see **apprentice**) for skilled workers organized under the auspices of the **Chambers of Labour and Trade** in the occupations concerned, with recognized formal qualifications.

Nowadays, the apprenticeship system is in a state of crisis and many apprenticeship places are not taken up, particularly in the case of the craft trades, where the number of apprenticeship contracts concluded has dropped by 55 per cent. over the past 10 years. This situation is partly due to a decline in the perceived value and status of such occupations in Luxembourg society, a fact which motivates many young people to concentrate on administrative and commercial occupations. A growing number of small-business owners are individuals who have opted, instead, for the advanced technical education or university route. As regards the general trend among school-leavers, an increasing number are leaving full-time education without any formal qualifications at all, which could seriously handicap their professional future. See also **training course and probation course, work experience, youth employment traineeship.**

216. **FORME DU CONTRAT DE TRAVAIL — FORM OF THE CONTRACT OF EMPLOYMENT:** Under the Law of 24 May 1989 on the **contract of employment** as amended by the Law of 15 May 1995, both **contracts of indefinite duration** and **fixed-term contracts** must be concluded in writing for each employee individually, at the latest when employment commences, with each party retaining a copy. Details of the contract's obligatory content are specified, and include: statement of the identity of the parties; the date on which performance is to commence; the nature of the post to be occupied and the place where work is to be performed; daily or weekly working hours for the particular employee concerned (see **part-time work**); normal working hours; the relevant basic pay plus, where applicable, additional allowances, bonuses or benefits, and the intervals at which payment is to be made; annual holiday entitlement; the respective periods of notice of termination to be observed by employer and employee; the duration of any intended **probationary period**; any supplementary or exemption provisions agreed between the parties; where applicable, identification of any collective agreements regulating the employee's terms and conditions of employment. Separate rules are laid down on the posting of workers abroad. Any substantive variation of these elements by the employer must be notified in writing to the employee.

If there is no contract in writing, the employee may prove its existence and content by adducing any kind of evidence. Refusal by one of the parties to sign a written contract entitles the other, during a period of up to 30 days after the

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employment commences, to terminate the contract without notice and without liability. A fixed-term contract is subject to additional rules on obligatory written content, including expressly identifying its temporary nature; failing this, the legal presumption is that it is a permanent contract of indefinite duration.

217. **FRACTIONNEMENT DES CONGÉS — SEGMENTATION OF ANNUAL HOLIDAYS:** The general rule under Luxembourg law is that **annual holidays** must be taken in a single uninterrupted block. However, if the enterprise's needs or the employee's reasonable wishes so require, the holiday entitlement may be taken in separate segments (which is in practice the norm), provided that one consecutive period of at least 12 working days off is preserved.

G

218. **GARANTIE DES CRÉANCES DU SALARIÉ EN CAS DE FAILLITE DE L'EMPLOYEUR — GUARANTEE OF THE EMPLOYEE'S CLAIMS IN THE EVENT OF THE EMPLOYER'S BANKRUPTCY:** Where an employer is declared bankrupt, the **Employment Fund** guarantees, to the extent of the **reinforced right of preference** provided for in the Civil Code, the claims of employees (including apprentices) to all **pay** and allowances due relating to the final six months worked for that employer and those arising from the termination of the contract of employment. The guarantee for each employee is subject to a maximum of six times the **reference minimum wage**. The Fund is subrogated to the rights of any employee paid in accordance with this procedure. See also **preferential claim**.
219. **GRATIFICATION — SPECIAL BONUS:** Payment made by the employer to employees as a reward for good services and/or to enable them to share in the company's results. The term more literally means a gift, indicating its origin in a payment made at the discretion of the employer. Since then, however, such payments have come to be seen as an acquired right where they combine the three qualities of being permanent (paid regularly), fixed (a set amount or percentage) and general (paid to all employees) which are required to make them part of **pay**. Some element of the nature of a gift may nevertheless remain in that it is given at the employer's discretion.
- One established pay element which is clearly not in any sense a discretionary gift is the **thirteenth month's pay**, which is normally specified in the individual contract of employment or relevant collective agreement and constitutes a pay supplement. See **remuneration package**.
220. **GRÈVE — STRIKE:** In Luxembourg, the right to strike is based on a judicial interpretation (Supreme Court ruling of 1952) of the concept of **freedom of collective industrial organization** as enshrined in Article 11(5) of the Constitution. The right to commence strike action is subject to the observance of preliminary conciliation procedures. Every industrial dispute arising in one or more enterprises must be referred - before any stoppage or cessation of work - to the **National Conciliation Service**. When all possibilities of conciliation have been exhausted, the joint conciliation committee formed within the service draws up a

memorandum stating the points still in dispute. Over the next 48 hours one of the parties may refer the dispute to an arbitration panel composed of a chairperson nominated by the Government and an employer and an employee each designated by their organizations. The panel's decision must be delivered within eight days. If accepted, it is equivalent to the conclusion of a **collective agreement**. Otherwise, once the attempts at conciliation and arbitration have proved unsuccessful strike action may be initiated quite lawfully, and an employee's participation in such a strike does not constitute grounds for **dismissal**. Consequently, the "arbitration" element of these procedures is not really arbitration in the sense in which the term is used in English, but more akin to mediation in that the parties need not necessarily accept the outcome and may still go on to take industrial action. See **dispute settlement**.

H

221. **HEURES SUPPLÉMENTAIRES — OVERTIME HOURS:** Term used to refer quantitatively to hours worked in excess of the normal **working hours** laid down by law or collective agreement or by a contract for part-time work. Any such hours worked attract an enhanced rate of pay amounting to around 25 per cent. above the normal rate in the case of manual workers and 50 per cent. in the case of white-collar workers. See **overtime**.

I

222. **IMMIGRANT — IMMIGRANT:** Since the 1890s and the demand for labour opened up by the development of the iron and steel industry, Luxembourg has been a country of immigration. Except during the two world wars and the depression of the 1930s, when vast numbers of immigrants returned to their countries of origin, immigration has become a permanent feature of the Luxembourg economy, averaging 3,000 immigrants per year between 1923 and 1930 and over 1,600 per year since 1945. At present, foreign nationals represent over 30 per cent. of the resident population (34.2 per cent. in 1997), which is a European (if not world) record. Of the total of 142,800, more than 90 per cent. are EU nationals, with 70 per cent. originating from the Mediterranean and Latin countries (53,100 Portuguese and 19,800 Italians). There are, in addition, some 59,600 **transfrontier commuters**.

A special feature of immigration in Luxembourg is that it is not confined to manual workers, as was the case with the Italian seasonal workers who came between 1930 and 1970 and is still mostly the case with Portuguese immigrants. Many of the senior managerial and professional staff of the foreign-owned banks and companies and the European and international institutions located in Luxembourg are also foreign nationals. According to the official figures for 1981, foreign nationals then represented 41.8 per cent. of chief executives and senior managers in all economic sectors combined, and 82.4 per cent. in the rubber and plastics industry. And prior to 1930 the German immigrants who preceded the Italian seasonal workers also included many engineers and first-line supervisors. Hence it is possible to speak of a dual immigration culture in which “foreign nationals occupy the top and bottom of the social hierarchy, with Luxembourg nationals keeping the middle for themselves” (see Michel Pauly in the *Bibliography* at the end of the Glossary).

223. **INCAPACITÉ DE TRAVAIL — INCAPACITY FOR WORK:** Every employee who is rendered unfit for work by **illness** or accident must notify the employer on the first day of absence and produce a medical certificate within three days. Provided these requirements are fulfilled the employer may not, even on the grounds of just cause, dismiss the employee concerned (or summon them to a **pre-dismissal interview**): 1) in the case of manual workers, for a period of

26 weeks (see also **sickness benefit**); and 2) in the case of white-collar workers, for a period spanning the remainder of the current month plus the three following months. During this period white-collar workers are entitled to continue receiving their full pay and any other benefits deriving from their contract of employment. In the event of successive episodes of absence from work caused by the same form of incapacity, interspersed with periods back at work, the employer is not required to continue paying the employee for more than the above total time within any 12-month period.

Any dismissal effected in contravention of these rules is deemed to constitute **unfair dismissal**. However, this protection against dismissal is not applicable if incapacity for work is due to the employee's voluntary participation in a crime or misdemeanour or (except in the event of the employee's emergency hospitalization, which renders dismissal null and void: see **nullity of dismissal**) where notification of the employer and production of a medical certificate take place after the employer has sent a letter of dismissal or invitation to a pre-dismissal interview.

224. **INDEMNITÉ COMPENSATOIRE DE PRÉAVIS — PAY/COMPENSATION IN LIEU OF NOTICE:** Either party who, other than on the grounds of **serious misconduct**, terminates a **contract of indefinite duration** without observing the legally required **period of notice** is under an obligation to pay the other party a compensatory sum equal to the remuneration payable for the whole of or, where applicable, remainder of, that period of notice. This payment in lieu must not be confused with the **severance pay** due on the basis of a given length of service or with any **damages** awarded. See also **termination of the contract of employment**.
225. **INDEMNITÉ D'APPRENTISSAGE — APPRENTICESHIP ALLOWANCE:** Term denoting the allowance paid by the employer to **apprentices** during the years of their apprenticeship (as distinct from **apprenticeship awards**). The amount, fixed by ministerial decree, varies according to the particular occupation concerned, the years of apprenticeship served and the age of the individual apprentice. Since apprentices are not employees within the meaning of the law (see **apprenticeship contract**), the provisions relating to the **minimum wage** do not apply to them.

226. **INDEMNITÉ DE CHÔMAGE — UNEMPLOYMENT BENEFIT:** See **unemployment**.

227. **INDEMNITÉ DE CONGÉ PAYÉ — HOLIDAY PAY:** For each day of their **annual holiday**, all employees are entitled to receive a payment equal to their average daily pay over the preceding three months, including all supplementary components. Any permanent increases introduced by law, collective agreement or individual contract during this reference period must be applied to all three months. For employees whose pay is fixed as a percentage of the company's annual turnover, or is subject to marked variations, the reference period used for calculating the average is the preceding 12 months. Employers must pay employees their holiday pay at the time when they normally receive their pay.

228. **INDEMNITÉ DE DÉPART — SEVERANCE PAY:** Employees with a minimum of five years' continuous service with the same employer who are dismissed other than on the grounds of grave cause (see **dismissal**) and are not in a position to take up an entitlement to the normal **old-age pension** are entitled to a lump-sum severance payment from their employer. Small employers have the option of giving an extended period of notice in lieu of a severance payment, and enterprises in economic difficulties may be authorized to pay it in monthly instalments, plus interest. The amount payable varies according to the employee's monthly pay averaged over the preceding 12 months and **length of service**; it is subject to a minimum of one month's pay, and after 20 years' service is higher for **white-collar workers** than for **manual workers**.

This entitlement also constitutes the legally guaranteed minimum for employees who are declared redundant, provided they have completed the minimum five years' service, although in many cases a **redundancy programme** established as a collective agreement will provide higher levels of compensation.

229. **INDEMNITÉ FUNÉRAIRE — DEATH GRANT:** Payment made, on the death of an insured person, to their beneficiaries. In cases of illness or accident unrelated to employment it is paid by the relevant **sickness and maternity insurance fund**, and in cases of occupational illness and work-related accidents it is paid by the **Industrial Injuries Insurance Association**.

230. **INDEMNITÉ PÉCUNIAIRE DE MALADIE — SICKNESS BENEFIT:** Cash benefit payable by the relevant **sickness and maternity insurance fund** to compensate for the loss of income resulting from incapacity for work caused by illness or accident unrelated to employment, equal to the gross pay that the insured would otherwise have earned (subject to an upper limit of five times the **reference minimum wage**). For **employees**, entitlement runs from the first working day affected for a maximum period of 52 weeks (for the self-employed, entitlement is suspended until the first day of the fourth month following the onset of incapacity). **White-collar workers** are entitled by law to continue receiving their full pay from the employer for three months following the month in which incapacity commences; thereafter, the employer must make up the difference between the benefit received and their normal pay. For **manual workers**, benefit is payable by the relevant insurance fund from the first working day affected, but is advanced by the employer. See also **sickness and maternity insurance, illness of the employee**.
231. **INDEMNITÉ PÉCUNIAIRE DE MATERNITÉ — MATERNITY BENEFIT:** Cash benefit equal to **sickness benefit** which is payable during **maternity leave** (and **adoption leave**), subject to the insured having been affiliated to the relevant **sickness and maternity insurance fund** for at least six months during the year preceding such leave, to all those practising an occupation covered by compulsory **sickness and maternity insurance**. The benefit, which is paid by the state, is advanced by the insurance funds. Since the law is silent on the subject of benefits and supplementary payments (such as the **thirteenth month's pay**) that form part of pay, there is a presumption in favour of the maintenance of all benefits resulting from the contract of employment. See also **maternity**.
232. **INDICE DES PRIX À LA CONSOMMATION — RETAIL PRICES INDEX:** See **cost-of-living index**.
233. **INDICE DU COÛT DE LA VIE — COST-OF-LIVING INDEX:** In Luxembourg, the cost-of-living index, also referred to as the retail prices index (or, for short, *nombre-indice (n.i.)*, *i.e.* index number), is calculated according to the Laspeyres formula on the basis of the expenditure of households on a range of commodities and used to measure changes in the cost of living. All pay is index-linked (see

- sliding pay scale**), including all pensions, social security payments, etc. (see **social security calculation formulas**).
234. **INSERTION DES JEUNES DANS LA VIE ACTIVE — INTRODUCTION OF YOUNG PEOPLE INTO WORKING LIFE:** The amended Law of 27 July 1978 relating to measures to promote youth employment introduced the formula of the **work experience contract** and provided for the establishment of a **Youth Employment Scheme** under which young people may be temporarily assigned to socially useful work projects proposed or implemented by the Government, local authorities, public agencies or any other non-profit-making body, institution or group. In addition, the 1984 Finance Act introduced the formula of the **youth employment traineeship**. See also **young unemployed person, aid for the creation of jobs classed as socially and economically useful**.
235. **INSERTION ET RÉINSERTION PROFESSIONNELLES DES DEMANDEURS D'EMPLOI — INTEGRATION AND REINTEGRATION OF JOB-SEEKERS INTO EMPLOYMENT:** Subject to observance of the priorities and available financial resources of the **Employment Fund** and to the agreement of the Minister for Labour, the Minister with responsibility for vocational training may organize courses or schemes to aid integration into working life and intended for job-seekers registered with the **Employment Service**, and also supplementary training, retraining or advanced training courses or programmes. In cases where participation involves being temporarily assigned to public agencies or other non-profit-making bodies, institutions or groups, the job-seeker concerned may claim a supplementary allowance subject to the same conditions as job-seekers assigned to **community work programmes**. The award or continuation of **unemployment benefit** may be made conditional on the recipient's participation in such courses and schemes implemented in accordance with the law. Those who refuse may lose entitlement to benefit. See also **introduction of young people into employment**.
236. **INSOLVABILITÉ DE L'EMPLOYEUR — INSOLVENCY OF THE EMPLOYER:** See **guarantee of the employee's claims in the event of the employer's bankruptcy, preferential claim**.

237. **INSPECTION DU TRAVAIL ET DES MINES — LABOUR AND MINES INSPECTORATE:** (Also referred to by the initials ITM.) Public agency which, since employees are usually at a serious disadvantage as regards defending their rights by personally instituting legal proceedings, is given the principal task of monitoring and enforcing compliance by employers with the provisions laid down by law, regulation, administrative act and collective agreement regarding working conditions (over which the **joint works committee** has co-determination rights) and the protection of employees at work. Part of its broad remit includes seeking to prevent or settle disputes voluntarily before they reach the stage of being referred to a **Labour Tribunal** or the **National Conciliation Service**. In addition, in order to take effect all **collective agreements** must first be registered with the Inspectorate. It is impossible to define precisely the full scope of activity of this body, since in addition to those functions laid down by legislation it intervenes in a wide range of activities in practice.

The Inspectorate's competence covers every employer, enterprise or establishment with paid workers (although it has no powers with regard to established civil servants). For the purposes of its function of monitoring compliance with labour legislation and health and safety regulations, its labour inspectors, assisted by seconded employment inspectors (*contrôleurs*), possess extensive powers to visit premises without prior announcement, carry out all necessary investigations, question the employer or employees, demand access to documentary records, attend or convene meetings of the **employee committee**, etc. The Inspectorate is also responsible for resolving any problems that arise in the election of employee committee members. Where infringements of the rules on working hours and work on Sundays and public holidays are discovered, inspectors are empowered to order immediate cessation of the unauthorized work. If necessary, they compile official reports that are admitted as evidence by the courts. The great majority of inspections are made in the form of routine visits, but when they are made in response to employee complaints (see **complaints to the Labour and Mines Inspectorate**) the source of the complaint must be treated as strictly confidential. The Inspectorate's function has wider implications beyond the purely physical aspects of working conditions. It is responsible for supplying technical information and advice to employers and employees on the most effective ways of complying with the provisions concerned and alerting the Government to deficiencies and infringements which are not adequately covered by the existing provisions.

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Apart from these duties essentially related to the application of labour law, it is also responsible for the enforcement of mining legislation and legislation on employee protection against ionizing radiation and plays a leading role in the prevention of accidents at work. In addition, it monitors the application of statutory and regulatory provisions concerning all kinds of safety problems totally unrelated to employment, such as the marketing of certain dangerous substances and the safety of children's toys.

To assist it in performing its numerous and difficult tasks, compulsory notification of the Inspectorate is required by law in specified circumstances: all accidents at work and cases of occupational illness (with immediate notification in the event of fatal or serious accidents); any incident which could have caused a serious accident; following a major accident in certain industrial activities, the measures proposed to mitigate its medium- and long-term effects and prevent a recurrence; and written notification, before any employees commence work, of the intended opening of any establishment or temporary worksite of an industrial, artisanal or commercial nature.

- 238. INSPECTION GÉNÉRALE DE LA SÉCURITÉ SOCIALE — SOCIAL SECURITY INSPECTORATE:** Public agency created in 1974 whose functions include, under the authority of the Ministers for Labour and for Social Security, acting in a consultative capacity on projects and proposals concerning social security, monitoring the social security institutions, reviewing the situation of contributory pension schemes, collecting relevant statistics, helping to develop and monitor the implementation of Community and internationally agreed rules on social security for migrant workers, and assisting the operation of the **Central Office of Social Security**.
- 239. INTEMPÉRIES — EXTREME WEATHER CONDITIONS:** See **layoff due to extreme weather conditions**.
- 240. INTERDICTION D'EMPLOI DES RETRAITÉS ET DES PRÉRETRAITÉS — BAN ON THE EMPLOYMENT OF OLD-AGE AND EARLY-RETIREMENT PENSIONERS:** Under the extended Law of 24 December 1977 authorizing the Government to adopt measures directed at economic growth and maintenance of full employment, recipients of an **old-age pension** exceeding the minimum

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wage for unskilled workers may not engage in gainful employment without express authorization from the Minister for Labour. Such authorization may be granted: 1) in the case of individuals wishing to take up or continue a job involving normal working hours of more than 16 hours a week, for renewable periods of up to six months provided the local offices of the **Employment Service** have no applications from unemployed job-seekers or individuals seeking a change of job who meet the training, skill and qualification requirements of the job for which authorization is requested; 2) in the case of individuals wishing to take up or continue a job involving normal working hours of up to 16 hours a week, for a period to be specified by the Minister; and 3) in cases of proven individual hardship, for a period to be decided by the Minister.

Individuals who have opted for **early retirement** may engage only in insignificant or occasional economic activity that earns them, together with their early-retirement payment (*indemnité de préretraite*), a monthly income not exceeding their average monthly earnings during the year preceding their early retirement.

241. **INTÉRIMAIRE — TEMPORARY-EMPLOYMENT AGENCY WORKER:** See **temporary-employment agency work**.
242. **INTERPRÉTATION DES CONVENTIONS COLLECTIVES — INTERPRETATION OF COLLECTIVE AGREEMENTS:** See **collective agreement**.
243. **INVALIDITÉ — INVALIDITY:** Within the meaning of Luxembourg law, the term “invalidity” denotes the situation where the insured, as a result of prolonged illness, infirmity or physical exhaustion, has suffered a loss of capacity for work such that they are unable either to continue their last-practised occupation or to practise another occupation matching their faculties and abilities. For information on how benefits for invalidity are conferred in practice, see **invalidity pension**.
244. **IRREVOCABILITÉ DU LICENCIEMENT — IRREVOCABILITY OF DISMISSAL:** Judicial decisions in Luxembourg have consistently upheld the principle that, once notice of **dismissal** has been given, the employer cannot withdraw it without the employee’s agreement and oblige the

ITM

employee to continue working beyond the date prescribed when it was given. See also **notice of termination of the contract of employment**.

245. **ITM:** Initials used to refer to the Inspection du Travail et des Mines (**Labour and Mines Inspectorate**).

J

246. **JEUNE CHÔMEUR — YOUNG UNEMPLOYED PERSON:** Term denoting the status of entitlement to **unemployment benefit** for young people aged under 21 (this age limit may be raised by regulation to 28) who are without work at the end of full-time education or training, including **apprentices**. It applies whether or not they have successfully completed the course of education or training concerned (except where their training or apprenticeship has been terminated by the employer for just cause). Such status confers exemption from the normal conditions of eligibility for benefit. Entitlement commences after a waiting time of 39 weeks following registration as a **job-seeker** with the Employment Service (reduced to 26 weeks for, among others, those who have completed youth employment traineeships and other forms of vocational training provided for registered job-seekers (see **introduction of young people into employment**). The benefit payable is fixed at 70 per cent. of the **minimum wage** for unskilled workers (40 per cent. for juveniles aged 16 and 17 who have not passed an apprenticeship examination)).
247. **JEUNES TRAVAILLEURS — YOUNG WORKERS:** See **protection of children and young workers**.
248. **JOURS FÉRIÉS LÉGAUX — PUBLIC HOLIDAYS:** The law lists 10 official (*légaux*) public holidays in Luxembourg which count as guaranteed days off work (*chômés*), with pay, for all private-sector employees not covered by more favourable statutory or collectively agreed provisions. When one of these holidays falls on a Sunday it is replaced by an alternative public holiday. Work done on public holidays is in general paid at a 100 per cent. premium in addition to the pay already due for the holiday, *i.e.* the employee receives triple pay. In the case of **white-collar workers** any work on public holidays is subject to special authorization from the Minister for Labour, except for employees in the hotel and catering, entertainment, transport and health care sectors. Family employees, sales representatives who work outside the enterprise and senior managers whose presence in the enterprise is essential are also exempted from the requirement for authorization, but are not entitled to any enhanced rate of pay for such work. Special rules applying to employees in seasonal enterprises provide for time off in lieu rather than enhanced rates of pay. Employers must keep special records

relating to work done on public holidays available for scrutiny by officials of the Labour and Mines Inspectorate.

In the public sector, there are an additional three full days and two half-days over and above the 10 official public holidays, and employees who are required to work during these periods of guaranteed time off with pay are granted supplementary time off in lieu (*congé de compensation*).

249. **JUGEMENT PAR DÉFAUT (TRIBUNAL DU TRAVAIL) — LABOUR TRIBUNAL JUDGMENT IN DEFAULT:** If on the day appointed for the hearing one of the parties fails to appear in person or to send an authorized representative, a **Labour Tribunal** delivers judgment in default. The party against whom judgment is delivered has a time-limit of 15 days within which to apply for the judgment to be set aside, and the judgment subsequently delivered on that application is deemed to have been given in the presence of both parties. See also **labour jurisdiction, injunction procedure in Labour Tribunals**.
250. **JURIDICTION DU TRAVAIL — LABOUR JURISDICTION:** Under the Law of 6 December 1985 relating to labour jurisdiction, the formerly separate tribunals respectively competent for white-collar workers (*tribunal arbitral*) and manual workers (*conseil de prud'hommes*) were amalgamated into a single institution called a *Tribunal du travail* (Labour Tribunal). One such Tribunal exists in each magistrate's area of jurisdiction, and is competent to deal with individual disputes relating to contracts of employment that arise between employers and their employees, including those that occur after the employment has ended. Each Tribunal consists of a presiding magistrate and two assessors chosen by the magistrate, one from the employers' side and the other from the employees' side, from either white-collar workers or manual workers depending on the particular case (see **Labour Tribunal assessors**). In general the rules of procedure applicable to ordinary magistrates' courts are followed, with the new development that all judgments on pay are automatically enforceable. Labour Tribunals are courts of last instance for small claims. In all other cases, there is provision for appeal against their rulings (see **appeal against Labour Tribunal decisions**). For details on procedure and special powers, see **Labour Tribunal, injunction procedure in Labour Tribunals**.
251. **JURIDICTIONS DE LA SÉCURITÉ SOCIALE — SOCIAL SECURITY COURTS:** At the end of the Second World War a system of courts specializing in social security

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matters was created in Luxembourg, each composed of one or more magistrates and two assessors chosen from lists nominated respectively by the trade unions and employers' associations. The system comprises first-instance Social Security Tribunals (*Conseil arbitral des assurances sociales*) and an appeal instance (*Conseil supérieur des assurances sociales, i.e. Higher Social Security Tribunal*). Claims against these decisions are heard by the **Supreme Court**.

L

252. **LCGB:** Initials standing for the Lëtzebuenger Chrëschtleche Gewerkschaftsbond (**Luxembourg Confederation of Christian Trade Unions**).
253. **LÉGISLATION DU TRAVAIL — LABOUR LEGISLATION:** Luxembourg labour law is not codified. It is scattered throughout a proliferation of international conventions and treaties, national laws, grand ducal or ministerial decrees and regulations, and collective agreements. An inventory of the most important national texts in this field is given in the *List of Legislation* at the end of the Glossary.
254. **LËTZEBUERGER CHRËSCHTLECHE GEWERKSCHAFTSBOND (LCGB) — LUXEMBOURG CONFEDERATION OF CHRISTIAN TRADE UNIONS (LCGB):** One of the two leading trade union confederations in Luxembourg with national representative status for both manual workers and white-collar workers. Also known as *Confédération Luxembourgeoise des Syndicats Chrétiens*. See **trade union**.
255. **LIBERTÉ D'ASSOCIATION — FREEDOM OF ASSOCIATION:** Under Article 26 of the Constitution, all Luxembourg citizens possess the right to associate, which may not be made subject to any prior authorization. Although this constitutional provision mentions only Luxembourg citizens, in practice the right of association also exists for aliens, whether they are EU nationals (by virtue of the principle of non-discrimination established, in particular, by the Treaty of Rome) or non-EU nationals, subject to the right of the legislature to restrict this freedom of association in the case of the latter. In addition, the Law of 11 May 1936 provides that: “Freedom of association in all areas is guaranteed. No one may be compelled to join an association or to refrain from joining one.” The right of association (not to be confused with the right of assembly (*droit de réunion*)) entitles individuals to form themselves into a group, without prior authorization, for the purpose of defending their interests, supporting their claims or achieving certain common objectives. The **freedom of collective industrial organization** is a corollary of the freedom of association.
256. **LIBERTÉS SYNDICALES — FREEDOM OF COLLECTIVE INDUSTRIAL ORGANIZATION:** Freedom which is guaranteed in Luxembourg under Article

11(5) of the Constitution as revised in 1948 and the Law of 10 February 1958 ratifying ILO Convention No. 87. The right to organize (*droit d'organisation*) is a corollary of the **freedom of association** as guaranteed by Article 26 of the Constitution. As regards the **right to strike**, although it is not formally enshrined as such in the Constitution at the time of the latter's 1956 revision the Constitutional Chamber adopted an interpretative motion to the following effect: "This Assembly declares that the guarantee of freedom of collective industrial organization enshrined in the Luxembourg Constitution shall include the right to strike for the purposes of safeguarding the legitimate employment-related claims of those who work." See also **duty to bargain, trade union**.

257. **LIBRE CIRCULATION DES TRAVAILLEURS — FREEDOM OF MOVEMENT FOR WORKERS:** The general principles of freedom of movement for workers, freedom of establishment and freedom to provide services within the Community constitute one of the foundations of the Treaty of Rome. The Treaty guarantees free access both to employment as an employee and to activity as a self-employed person for all Community nationals, without any discrimination based on nationality, under the same conditions as the nationals of the particular Member State in which that employment or activity is to be carried on.

Luxembourg, like all Member States, has adopted these principles, but as in many other countries there have been instances where the European Court of Justice has ruled against its interpretation of the public-service exception allowed under Article 48(4) of the Treaty. One recent instance was Case C-473/93 *Commission v Luxembourg* [1996] ECR I-3248.

In many ways Luxembourg is the case *par excellence* of, even before the Treaty, freedom of movement for workers (see **immigrant**).

258. **LICENCIEMENT — DISMISSAL:** Termination of the contract of employment, with or without notice, which originates from the employer. See **collective dismissal/redundancy, termination of fixed-term contracts, termination of the contract of employment, unfair dismissal**.

259. **LICENCIEMENT ABUSIF — UNFAIR DISMISSAL:** Expression used synonymously with **résiliation abusive du contrat de travail par l'employeur**.
260. **LICENCIEMENT COLLECTIF — COLLECTIVE DISMISSAL/REDUNDANCY:** Situation which in Luxembourg law is deemed to exist when an act of termination of employment emanating from the employer affects at least 7 employees within a period of 30 days or at least 15 employees within a period of 90 days and is not based on any reason relating to the employees themselves. In practice, many such cases will be instances of *licenciement pour motif économique*, which is strictly what is meant by “redundancy” in English, although the legislation in Luxembourg defining dismissal does not specify this. Under the special rules governing collective dismissals, before proceeding the employer must enter into negotiations with employee representatives (if they exist, members of **employee committees** and **joint works committees**) and, where a collective agreement is applicable, the signatory unions, for the purpose of reaching agreement on a *plan social* (redundancy programme) aimed at avoiding or reducing the number of dismissals or mitigating their consequences. These representatives must be sent a written communication (copied to the **Employment Service**) stating the reasons for the action, the number of employees affected and the period of time within which the intended dismissals are to be carried out. In the event of failure to reach agreement on a redundancy programme within 15 days, the matter must be referred within three days to the **National Conciliation Service**, where a joint conciliation committee issues a memorandum within 15 days. Once a redundancy programme or National Conciliation Service memorandum has been signed, the employer may issue individual notices of dismissal, which take effect after a period of 75 days (without prejudice to any more favourable statutory or collectively agreed provisions and subject to reduction or extension by the Minister for Labour). Failure by the employer to follow this special procedure entitles employees to claim compensation for **unfair dismissal** or, if they prefer, apply within 15 days to have their dismissal declared null and void, resulting in the continuation of their employment or, where applicable and if they so prefer, **reinstatement**.
261. **LICENCIEMENT IRRÉGULIER POUR VICE DE FORME — WRONGFUL DISMISSAL:** In Luxembourg, the legislators make a distinction between **dismissal** which is

substantively unfair (for which it imposes a severe penalty: see **unfair dismissal**) and dismissal which fails to observe the prescribed formal procedures, which is merely deemed to constitute wrongful dismissal. Where a judicial decision finds dismissal not to be substantively unfair but to be in violation of the prescribed procedure, the employer is required to pay the employee compensation equal to up to one month's pay. There are two exceptions to this. The first is where the employer has failed to follow the proper procedure for collective dismissals, and the second is where women are dismissed on the grounds of their marriage or during pregnancy. In the case of both exceptions, the employee can insist on **reinstatement** provided an appeal is lodged within 15 days.

262. **LICENCIEMENT POUR MOTIF ÉCONOMIQUE — REDUNDANCY:** Dismissal, whether individual or collective, for economic reasons. See **collective dismissal/redundancy, geographical mobility allowances, re-employment support, termination of the contract of employment.**

263. **LIEN DE SUBORDINATION — LEGAL SUBORDINATION:** The essential criterion distinguishing work as an **employee** under a **contract of employment** from other contracts for the performance of work is that the employee is placed in a position of legal subordination to the employer's authority and control as regards the work to be performed and supervision of the result. The defining element of a contract of employment is therefore that the employee thereby undertakes to work subject to the rules and practices of the employer's establishment, such as working hours, work discipline and instructions to be followed: the name given to the contract by the parties themselves is irrelevant, and registered membership of the general social security scheme is not an automatically determining factor.

In deciding whether a relationship of legal subordination exists or not, the courts take into consideration not only the terms of the contract concluded between the parties but also all the features of the particular situation indicating their real intention. Employee status signifies protection by all the provisions of labour and social security legislation, whereas if work is performed not within a relationship of legal subordination but in a self-employed capacity (*indépendant*), as is often the case with, for example, sales representatives,

journalists and translators, the worker is not covered by this legislation and hence does not enjoy the same benefits.

264. **LOCK-OUT:** Term used in English in Luxembourg to denote action on the employer's side in the event of an industrial dispute, consisting in denying employees access to the enterprise and refusing to pay them. As in the case of **strike** action by employees, any lock-out which is initiated before the conciliation procedure within the **National Conciliation Service** has been exhausted, leading to the issue of a memorandum of failure to reach agreement, is unlawful. Furthermore, although the matter has never yet been ruled on by the courts there is every likelihood that (save in exceptional circumstances equivalent to an instance of *force majeure*) a lock-out would be deemed to constitute culpable conduct on the part of the employer in failing to fulfil the obligation to provide employees with work and to pay them.

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265. **MAJORATION DE RÉMUNÉRATION — PAY PREMIUM:** Term denoting an enhanced rate of pay paid in various circumstances such as **night work**, **overtime**, work during the **weekly rest** and work on **public holidays**.
266. **MALADIE DU SALARIÉ — ILLNESS OF THE EMPLOYEE:** Within the meaning of Luxembourg law, an abnormal physical or mental condition rendering an employee temporarily unfit for work, as distinct from the permanent incapacity represented by **invalidity**. Subject to proper notification of the employer and production of a medical certificate, illness entitles the employee to **sickness benefit** and a specified period of protection against **dismissal** (see **incapacity for work**). Beyond this period, however, repeated or prolonged absence from work because of illness may constitute grounds for dismissal if it seriously disrupts the functioning of the enterprise. See also **occupational illness**.
267. **MALADIE PROFESSIONNELLE — OCCUPATIONAL ILLNESS:** Compulsory insurance against work-related accidents (see **industrial injury**, **Industrial Injuries Insurance Association**) has been extended under Luxembourg legislation to occupational illnesses, *i.e.* illnesses which, according to medical knowledge, are caused by specific influences to which certain groups of people are more particularly exposed by reason of their employment. A list of the occupational illnesses and corresponding occupations covered by such insurance, published in a Grand Ducal Regulation of 27 March 1986, identifies 55 illnesses that are presumed to be occupational in origin. To have any other illness recognized as occupational, claimants are required to prove that its origin is connected with their employment.
268. **MATERNITÉ — MATERNITY:** Under Luxembourg law, during the eight weeks before the anticipated date of her confinement a pregnant woman may not be employed unless she has expressly stated her wish to work and produced a medical certificate testifying to her fitness to do so. If the confinement takes place later than the anticipated date, this prohibition is extended up to the actual date of confinement without reducing the period of compulsory postnatal leave during which her employment is prohibited for eight further weeks (or twelve weeks in cases of premature or multiple births or for breastfeeding mothers: see **maternity leave**).

Pregnant women may not be employed on **night work** (defined in their case as work between 2200 and 0600 hrs) and this prohibition also applies to women who breastfeed their child beyond the periods of maternity leave specified above. Throughout the period of pregnancy and for three months after confinement (seven months in the case of breastfeeding mothers) it is also prohibited for the employer to assign women to arduous physical tasks or work exposing them to the harmful effects of noxious substances or radiations, dust, gases or emanations, heat, cold, humidity, impact or vibrations. See also **breastfeeding break, maternity protection against dismissal**.

269. **MÉDECIN DU TRAVAIL — COMPANY MEDICAL OFFICER:** See **company medical services**.
270. **MÉMORIAL:** Name of the official gazette of the Grand Duchy of Luxembourg. All legal texts (statutes and grand ducal enactments) are published in its Series A and identified by a *Mémorial* year and page reference. See *List of Legislation* at the end of the Glossary.
271. **MINEURS D'ÂGE — MINORS:** See **protection of children and young workers**.
272. **MISE À PIED CONSERVATOIRE DU SALARIÉ — SUSPENSION WITH PAY:** Procedure whereby, in particular circumstances, an employee may be excluded from the enterprise with immediate effect. In such cases notification of summary dismissal may be given at the earliest on the day following suspension (see **termination of the employment contract for grave cause**), and in the interim the employer remains under an obligation to pay any wage, salary, allowances and other benefits normally due to the employee. This situation must not be confused with that of **suspension of employee representatives**.
273. **MISE À PIED DES REPRÉSENTANTS DU PERSONNEL — SUSPENSION OF EMPLOYEE REPRESENTATIVES:** Procedure whereby, in the event of serious misconduct on their part, employee representatives may be excluded from the enterprise with immediate effect (see **protection against dismissal of board-level employee representatives, protection against dismissal of employee committee members, protection against dismissal of joint works committee members**).

274. **MISE AU TRAVAIL TEMPORAIRE DES PERSONNES SANS EMPLOI — REQUIREMENT TO WORK FOR THE UNEMPLOYED:** Individuals who are without employment and in receipt of **unemployment benefit** or the **guaranteed minimum income** may (in the same way as the young unemployed may be required to accept a **work experience** placement or **youth employment traineeship**) be temporarily assigned by the **Employment Service** to a **community work programme**, on pain of losing their entitlement to benefit. This policy is beginning to be referred to in English as “workfare”.
275. **MOBILITÉ GÉOGRAPHIQUE — GEOGRAPHICAL MOBILITY:** See **geographical mobility allowances**.
276. **MODIFICATION DE LA SITUATION JURIDIQUE DE L'EMPLOYEUR — CHANGE IN THE EMPLOYER'S LEGAL IDENTITY:** See **transfer of undertaking**.
277. **MOTIF GRAVE — GRAVE CAUSE:** See **termination of the employment contract for grave cause**.
278. **MOTIVATION DU LICENCIEMENT AVEC PRÉAVIS — STATEMENT OF REASONS FOR DISMISSAL WITH NOTICE:** Under the Law of 24 May 1989 on the contract of employment, employees who have been given notice of dismissal are entitled to receive from their employer, upon request, a written statement of the reasons for their dismissal. This statement, which must be provided within one month of the request being made, may be added to by the employer in any subsequent legal proceedings provided the reasons given were reasonable and substantial ones relating to the employee's competence or conduct or to the operational needs of the enterprise. In addition, they must have been stated in sufficiently specific detail. Failure by the employer to comply with these requirements automatically renders dismissal unfair, but employees who fail to exercise the right to request such a statement retain the right to establish, by any type of evidence, that their dismissal was unfair. See **termination of the contract of employment, unfair dismissal**.

N

279. **NÉGOCIATION COLLECTIVE — COLLECTIVE BARGAINING:** Luxembourg law defines a **collective agreement** as an agreement on labour relations and general terms and conditions of employment concluded between one or more manual workers' or white-collar workers' unions on the one hand and, on the other, either one or more sectoral or occupational employers' associations or an individual employer or grouping of enterprises within a given occupation. Any employer who is asked by the relevant employee representatives to enter into negotiations with a view to concluding a collective agreement is under an obligation to do so. Where an employer expresses a preference to negotiate within a grouping of enterprises or in conjunction with other individual employers within the same occupation, if no such negotiations have commenced within a time-limit of 60 days the duty to bargain separately reverts to the individual employer concerned. If an employer refuses to enter into collective bargaining, or if in the course of negotiations the parties are unable to reach agreement, the **National Conciliation Service** procedure prescribed by the current legislation must be initiated.

Collective bargaining is based on a **single collective-agreement system**, *i.e.* for any given group of enterprises, enterprise or department of an enterprise there must be only one collective agreement covering all **manual workers** and one collective agreement covering all **white-collar workers**, with supplementary provisions specific to particular occupations annexed to this main agreement. The pay and conditions of **senior executives** are not governed by the agreement covering the white-collar category as a whole.

Approximately 60 per cent. of employees in Luxembourg have their terms and conditions of employment regulated by collective bargaining (some half of these by sectoral-level agreements and half by company-level agreements). Those excluded work primarily in the small firms sector. Bargaining at sectoral level, as for example in construction and banking, establishes conditions binding on all employers and therefore allows no company-level bargaining to take place. Where no sectoral agreement exists, bargaining at company level may take place in, for example, large retail outlets, major parts of the hotel and catering industry and large companies such as **ARBED**. In the public sector one national collective agreement, in effect, regulates terms and conditions of

employment for all employees who have a private-law contract of employment (see **public employee**).

A periodically updated list of all collective agreements in force is given in Marc Feyereisen's *Labour Law in the Grand Duchy of Luxembourg* (see the *Bibliography* at the end of the Glossary).

280. **NEUTRAL GEWERKSCHAFT LËTZEBUERG (NGL) — NEUTRAL UNION OF LUXEMBOURG WORKERS (NGL):** See **trade union**.
281. **NOMBRE-INDICE (N.I.) — INDEX NUMBER (N.I.):** Abbreviated expression used to refer to the **cost-of-living index**. See also **sliding pay scale**.
282. **NON-CONCURRENCE — NON-COMPETITION:** See **covenant in restraint of competition**.
283. **NON-DISCRIMINATION DE LA FEMME AU TRAVAIL — NON-DISCRIMINATION AGAINST WOMEN IN EMPLOYMENT:** Article 11(4) of the Luxembourg Constitution proclaims that “the law shall guarantee the right to work and enable every citizen to exercise that right”. As a result of the transposition into national law of the Community Directives on **equal pay for men and women** and **equal treatment for men and women**, exercise of the right to work must take place without any discrimination based on sex. Thus, direct discrimination exists wherever employees of different sex who are in an identical or comparable situation are treated differently without objective justification. Only the result is taken into consideration: the presence or absence of intention is immaterial. As regards indirect discrimination, although it is mentioned in the Law of 8 December 1981 on equal treatment no legal definition of the concept exists in Luxembourg law. See also **discrimination, female employment**.
284. **NULLITÉ DU LICENCIEMENT — NULLITY OF DISMISSAL:** In certain specific circumstances Luxembourg law pronounces dismissal that is carried out in breach of the law to be null and void (see **unfair dismissal, collective dismissal, maternity protection against dismissal, marriage clause**). If the employee concerned so requests, the court must then order that his or her employment within the enterprise should be continued. If the employer fails to

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comply with this main order, the court may supplement it with an order imposing a **periodic penalty payment**, without prejudice to any compensation otherwise payable.

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285. **OBLIGATION DE NÉGOCIER — DUTY TO BARGAIN:** See **collective bargaining**.

286. **OBLIGATION GÉNÉRALE — ERGA OMNES FORCE:** Luxembourg law distinguishes two types of **collective agreement**: 1) ordinary collective agreements; 2) collective agreements which are the outcome of a conciliation settlement or arbitration award within the **National Conciliation Service** and have been given *erga omnes* force, *i.e.* have been declared generally binding on all employers and employees in the occupation concerned through the process of extension of collective agreements (*déclaration d'obligation générale*), effected by grand ducal regulation and published in the **Mémorial**. The grand ducal regulation extending a given agreement ceases to take effect when the agreement concerned lapses through termination or non-renewal.

287. **OFFICE NATIONAL DE CONCILIATION — NATIONAL CONCILIATION SERVICE:** (Also referred to by the initials ONC.) Institution created by a Grand Ducal Decree of 6 October 1945, with the task of preventing or resolving **industrial disputes** in the private sector. Presided over by the Minister for Labour, it consists of a joint conciliation committee (*commission paritaire*) and an administrative service. The joint conciliation committee has six permanent members (three employer representatives and three union representatives) appointed by the Minister on the recommendation of the most representative employers' and trade-union organizations at national level, plus, in the event of a dispute, one or more representatives of the employers and the employees of the occupations or enterprises involved. It may also enlist the services of other experts in an advisory capacity. If conciliation by the committee fails, the fact is recorded in a memorandum and the dispute may, if the parties so request, be referred to an arbitration panel (*conseil d'arbitrage*). This process is not arbitration in the strict sense but rather mediation, since the arbitration decision ("award") is not technically binding on the parties, who may still opt to take industrial action. If they accept the arbitration panel's decision, it is equivalent to the conclusion of a collective agreement and may be declared generally binding (see **extension of collective agreements**).

Mediation by the National Conciliation Service is obligatory in the event of any disagreement between the

parties to collective bargaining and must precede any resort to industrial action. See also **dispute settlement**.

288. **OFFICE SOCIAL — SOCIAL ASSISTANCE OFFICE:** Name nowadays used to refer to the local offices (formerly called *bureaux de bienfaisance*, i.e. welfare offices) organized within the **National Agency for Social Measures** for the purpose of administering the **guaranteed minimum income**.
289. **OFFRES D'EMPLOI — JOB VACANCIES:** Under Luxembourg law employers are required to notify the Employment Service of all job vacancies (see **compulsory notification of the Employment Service**), and all job vacancy advertisements are subject to strict anti-discrimination requirements (see **equal treatment for men and women**). In both cases, failure to comply is punishable by a fine.
290. **ONOFHÄNGEGE GEWERKSCHAFTSBOND LËTZEBUERG (OGB-L) — INDEPENDENT TRADE UNION CONFEDERATION OF LUXEMBOURG (OGB-L):** See **trade union**.
291. **ORGANISATION PROFESSIONNELLE DES EMPLOYEURS — EMPLOYERS' ASSOCIATION:** (The term *syndicat patronal* is also used.) The dominant employers' association in Luxembourg is the Federation of Luxembourg Industrialists (*Fédération des Industriels Luxembourgeois*, referred to as FEDIL), which unites 11 sectoral employers' associations and 350 directly affiliated enterprises employing some 45,000 employees and is a member of UNICE. The other major employers' associations are the Federation of Small and Medium-Sized Enterprises (*Fédération des Artisans*), the Confederation of Luxembourg Commerce (*Confédération du Commerce Luxembourgeois*), the Luxembourg Bankers' Association (*Association des Banques et Banquiers Luxembourg*, referred to as ABBL), and the National Federation of Hotel, Restaurant and Café Employers (*Fédération Nationale des Hôteliers, Restaurateurs et Cafetiers*, referred to as HORESCA).
292. **ORGANISATION SYNDICALE — COLLECTIVE INDUSTRIAL ORGANIZATION/TRADE UNION ORGANIZATION:** Term which, as used in Luxembourg law (e.g. the Law of 12 June 1965 on collective agreements), may

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signify a collective organization of either employers or employees. In practice, however, the general presumption is that it refers to a **trade union**.

293. **ORIENTATION PROFESSIONNELLE — VOCATIONAL GUIDANCE:** In Luxembourg there is a special Vocational Guidance Office within the **Employment Service** to which any individual wishing to pursue an apprenticeship must apply. Employers intending to hire **apprentices** must consult the Office and obtain from it a list of recommended candidates, although they may then choose, provided they inform the Office in advance, to enter into an **apprenticeship contract** with an individual who is not on the list.
294. **OUVRIER — MANUAL WORKER:** Term used in Luxembourg law to denote an employee whose work involves predominantly physical effort as distinct from a **white-collar worker**, whose work involves mainly, if not exclusively, mental effort. Despite the degree of uniform regulation of terms and conditions of employment for manual and white-collar workers introduced by the Law of 24 May 1989 on the contract of employment, some differentiation persists in aspects both of labour law and of social security. See **employee categories**.

P

295. **PAIEMENT DES SALAIRES ET TRAITEMENTS — PAYMENT OF WAGES AND SALARIES:** One of the remaining distinctions in Luxembourg law between **manual workers** and **white-collar workers** is that manual workers (with the exception of agricultural and domestic workers) must be paid their wages at least twice a month, at intervals of not more than 16 days, whereas white-collar workers must be paid the money component of their salary once a month, at the latest on the last day of the calendar month of reference. See **pay**.
296. **PARAMÈTRES SOCIAUX — SOCIAL SECURITY CALCULATION FORMULAS:** In Luxembourg a wide range of benefits in the five basic branches of **social security** (sickness and maternity insurance, pensions, industrial injuries insurance, family benefits and unemployment) are calculated according to clear formulas laid down by law, many of which link them to the *nombre-indice* (**cost-of-living index**) for automatic regular increases. For example, the **minimum wage** formula takes into account both age and qualifications in calculating the appropriate rates payable, and the **family benefits** formula (including both **maternity benefit** and the **childbirth grant**) takes into account both the number of children in the family and their age as well as such factors as handicaps. Full entitlement to 100 per cent. benefits is attained at the age of 18. See also **guaranteed minimum income**.
297. **PARTICIPATION — PARTICIPATION:** See **board-level employee representatives, joint works committee**.
298. **PAUSE D'ALLAITEMENT — BREASTFEEDING BREAK:** Luxembourg law entitles breastfeeding mothers to stop work for that purpose for a total of 90 minutes during the working day (divided into two 45-minute periods at the start and end of working hours in cases where the working day is interrupted by a break of one hour or more). The breastfeeding break counts as working time and attracts entitlement to normal pay. See also **maternity**.
299. **PENSION COMPLÉMENTAIRE — OCCUPATIONAL PENSION:** (The term *rente complémentaire* is used synonymously.) Expression denoting a company pension intended to supplement the statutory (compulsory) old-age or

invalidity pensions by guaranteeing employees a specified percentage of their last level of pay, provided either through the financing of a guarantee fund or through the payment of contributions, either by the employer alone or by both employer and employees, into a pension scheme with a private-sector insurer.

At present in Luxembourg there is no legal obligation on employers to provide such a company scheme, nor indeed any national legal regulation of the matter, despite the potential risks to employees in the event of their employer's insolvency. In its well-known *Barber* judgment (Case C-262/88 [1990] ECR I-1889), the European Court of Justice held that an occupational pension constitutes a component of pay within the meaning of Article 119 of the Treaty and that a difference between men and women in the age of entitlement to such a pension constitutes discrimination. As concerns statutory social security benefits, by contrast, Directive 79/7/EEC on the progressive implementation of the principle of equal treatment for men and women in matters of social security continues to authorize the maintenance of different provisions regarding the statutory retirement age. See **equal treatment for men and women, invalidity pension, old-age pension, remuneration package**.

- 300. PENSION D'INVALIDITÉ — INVALIDITY PENSION:** Cash benefit payable to any insured person who is forced for health reasons to cease practising their occupation before the normal age of retirement (65), subject to the condition (except where the cause is an accident of any kind or a recognized **occupational illness**) that they have paid at least 12 months' insurance contributions during the preceding three years (see **sickness and maternity insurance fund**). Within the meaning of Luxembourg law, **invalidity** is prolonged or permanent illness or infirmity that renders a person unfit to practise their last occupation or any other occupation matching their existing faculties and abilities. Individuals aged under 50 may be required, on pain of losing their pension entitlement, to undergo a form of re-training (*reconversion professionnelle*) to equip them for a different occupation as recommended by the **Social Security Medical Control Board**. The invalidity pension, which like all pay, pensions and social security benefits is index-linked, is replaced by the **old-age pension** when the insured reaches the age of 65. See also **industrial injury, social security contributions**.

301. **PENSION DE SOLIDARITÉ — STATE GUARANTEE PENSION:** See **National Supplementary Benefits Fund.**
302. **PENSION DE VIEILLESSE — OLD-AGE PENSION:** In Luxembourg entitlement to the old-age pension commences at the age of 65 for every insured person (both men and women) who has an insurance record of at least 120 months. However, individuals who have an insurance record of at least 480 months (counting both effective and equivalent periods) have the option of taking premature retirement (*retraite anticipée*) from the age of 60, and those with at least 480 months' compulsory pension insurance not including equivalent periods can claim a premature old-age pension (*pension de vieillesse anticipée*) on reaching the age of 57, subject to restrictions on gainful employment: see **ban on the employment of old-age and early-retirement pensioners.** (This premature entitlement must not be confused with the active employment-policy formula known as *préretraite*, *i.e.* early retirement.) Commencement of the old-age pension may also be deferred until the age of 68, provided that at the age of 65 the insured satisfies the eligibility criteria for the normal pension; this deferred old-age pension (*pension de vieillesse différée*) is then increased by an actuarial factor according to age. No old-age pension may be less than 90 per cent. of the reference amount when the insured has completed at least 480 months' compulsory or equivalent insurance, and all pensions are linked to the **cost-of-living index.**
303. **PENSION DE VIEILLESSE ANTICIPÉE — PREMATURE OLD-AGE PENSION:** See **old-age pension.**
304. **PENSION DE VIEILLESSE DIFFÉRÉE — DEFERRED OLD-AGE PENSION:** See **old-age pension.**
305. **PÉRIODE D'ESSAI — PROBATIONARY PERIOD:** Agreed period of not less than two weeks and not more than six months at the start of employment, during which special conditions apply to unilateral termination of the employment relationship (normally after a minimum of two weeks) by either party to a **contract of employment.** The Law of 24 May 1989 on the contract of employment states that, except where employment continues after the expiry of a fixed-term contract, every contract of employment must be subject to a non-renewable probation clause which, unless the relevant

- collective agreement** contains an explicit provision on the matter, must be drawn up in writing for each new employee individually. Otherwise, there is an irrebuttable presumption that a definite contract of unspecified duration has been concluded. The special provisions on protection against dismissal during pregnancy (see **maternity protection against dismissal**) and in the event of **incapacity for work** apply during the probationary period. If performance of the contract is suspended during the probationary period, the latter is correspondingly extended by up to one month. On expiry of the probationary period, the contract of employment automatically becomes a definite contract of unspecified duration dating from the commencement of the employment.
306. **PERMIS DE TRAVAIL — WORK PERMIT:** Permit conferring authorization to engage in gainful employment in the Grand Duchy of Luxembourg, granted by the Minister for Labour. Before they may be employed, a work permit is mandatory for all foreign nationals who are not citizens of the EU or of the signatory countries to the European Economic Area Agreement (with other exceptions including diplomats and their staff, occupants of international posts, and members of travelling circuses, touring theatre companies and the like). In certain circumstances a collective employment authorization (*autorisation de travail collective*) may be granted in respect of **foreign workers** who are temporarily seconded to the Grand Duchy to work for either a foreign or a Luxembourg company. See also **freedom of movement for workers**.
307. **PLACEMENT DES TRAVAILLEURS — JOB PLACEMENT:** Under Luxembourg law the function of job placement falls within the exclusive competence of the **Employment Service**, which is responsible both for helping people who are looking for work to find a suitable job and for helping employers to find suitable employees, using the registers it maintains for that purpose. It is stipulated that placement services must be free of charge, and carrying on placement activities as a business is a punishable offence. See also **job-seeker, job vacancies**.
308. **PLAINTES À L'INSPECTION DU TRAVAIL ET DES MINES — COMPLAINTS TO THE LABOUR AND MINES INSPECTORATE:** Before taking the step of instituting legal proceedings against their employer, all employees are able to address any complaints to the **Labour**

- and Mines Inspectorate**, which is responsible for monitoring the proper application of labour legislation. This route is less time-consuming and expensive for employees than taking legal action personally, and experience shows that in many cases it enables the matter to be resolved without poisoning relations between the parties, because the Inspectorate's staff are required to treat the source of any complaint reporting an infringement of legal or collectively agreed provisions or defects in equipment as strictly confidential and must not reveal to the employer that an inspection visit has been prompted by an employee complaint. See also **employee committee**.
309. **PLAN SOCIAL — REDUNDANCY PROGRAMME:** See **collective dismissal/redundancy**.
310. **PLEIN-EMPLOI — FULL EMPLOYMENT:** Situation in which the supply of jobs is equal to the demand, so that there is no **unemployment**. Although in the past Luxembourg experienced periods of full employment or even a shortage of labour, this ideal situation has nowadays given way to a level of unemployment which has necessitated the introduction of measures to check its growth and mitigate its effects.
311. **PRÉAVIS DE RÉSILIATION DU CONTRAT DE TRAVAIL — NOTICE OF TERMINATION OF THE CONTRACT OF EMPLOYMENT:** Except in cases of serious misconduct, termination of a **contract of indefinite duration** does not take effect until a specified period of notice, identical for both manual and white-collar workers, has expired. For dismissal by the employer, the contract terminates on the expiry of a notice period of 2 months, 4 months or 6 months for employees with a **length of service** in the enterprise of less than 5 years, more than 5 but less than 10 years or 10 or more years respectively. These periods run from the fifteenth day of the calendar month in which notice is given if it has been given by the fourteenth day, but otherwise from the first day of the following calendar month. For resignation by the employee, these specified periods are halved. See also **departure before notice expires, extension of the notice period, pay/compensation in lieu of notice, probationary period, severance pay, termination of the contract of employment**.
312. **PRÉRETRAITE — EARLY RETIREMENT:** (Not to be confused with *retraite anticipée*, i.e. premature entitlement to

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the normal **old-age pension**.) Term denoting a formula which, initially conceived in 1977 as a temporary scheme for compulsory early retirement as a means of coping with the crisis in the Luxembourg steel industry, has over the years become permanently enshrined in labour legislation as an active employment-policy measure offering optional early retirement and extended to employees in all sectors. It has multiple functions, constituting an instrument for:

- a. avoiding **unemployment** where there is a threat of dismissal owing to the restructuring of enterprises or to technological change;
- b. job placement for the unemployed or others threatened with the loss of their existing jobs, who are hired as replacements for those who opt for early retirement;
- c. reducing working hours;
- d. allowing enterprises to adjust the age composition of their workforce and the associated costs, by enabling them to hire an equivalent number of replacements.

Thus, it includes: *préretraite-solidarité* (early retirement for job creation, in which there must be no job losses, *i.e.* an equal number of new employees must be hired); *préretraite-ajustement* (early retirement for company restructuring, subject to approval by the Minister for Labour and intended mainly for the employees of enterprises which are closing down or in process of restructuring, but also extended to situations of employer bankruptcy, compulsory administration, etc.); *préretraite des travailleurs postés et des travailleurs de nuit* (early retirement of shiftworkers or night workers, where employees have been on shiftwork or permanent night work for 20 years); and, since 1995, *préretraite progressive* (phased early retirement, with a transitional move on to part-time work and the hiring of a new part-time employee).

In all cases, the early retirement formula gives employees the option of taking early retirement at the age of 57 and receiving, during the three-year period until their entitlement to the **premature old-age pension** commences at the age of 60, an early retirement payment (*indemnité de préretraite*) successively representing 85, 80 and 75 per cent. of their previous average earnings, subject to a maximum of four times the **reference minimum wage**. On the employer's side, provided that the enterprise is deemed eligible and that the jobs (or part-jobs) thereby released are filled from the list of **job-seekers** registered with the **Employment Service** or others threatened with the loss of their existing jobs, the costs incurred (early retirement payments) are reimbursed by the

- Employment Fund.** See also **ban on the employment of old-age and early-retirement pensioners.**
313. **PRÉRETRAITE-AJUSTEMENT — EARLY RETIREMENT FOR COMPANY RESTRUCTURING:** See **early retirement.**
314. **PRÉRETRAITE DES TRAVAILLEURS POSTÉS ET DES TRAVAILLEURS DE NUIT — EARLY RETIREMENT OF SHIFTWORKERS AND NIGHT WORKERS:** See **early retirement.**
315. **PRÉRETRAITE PROGRESSIVE — PHASED EARLY RETIREMENT:** See **early retirement.**
316. **PRÉRETRAITE-SOLIDARITÉ — EARLY RETIREMENT FOR JOB CREATION:** See **early retirement.**
317. **PRESCRIPTION DES RÉMUNÉRATIONS — LIMITATION OF ACTIONS REGARDING PAY:** Under Luxembourg law, all remuneration due to an employee, whether in money or in kind (see **remuneration package**), is subject to a limitation period of three years. Once that period has expired, the employee's right to bring a legal action in respect of any such claim lapses.
318. **PRESTATIONS FAMILIALES — FAMILY BENEFITS:** Generic term covering the branch of **social security** in Luxembourg which includes, in particular, the **maternity allowance**, **childbirth grant**, **child benefit** (graduated according to the age and number of children in the family and with a special supplementary benefit for disabled children) and **parental allowance**. See also **sickness and maternity insurance.**
319. **PRÊT DE MAIN-D'ŒUVRE — LOANING OF LABOUR:** Under the Law of 19 May 1994 to regulate **temporary-employment agency work** and the temporary loaning of labour, employers other than those running a temporary-employment agency as a business are permitted, subject to formal authorization by the Minister for Labour based on the opinions of the **employee committees** in the two enterprises concerned (or simply, where the arrangement made in respect of an individual employee does not exceed eight weeks during a reference period of six months, to notification of the **Employment Service**), to make their own

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employees temporarily available to another employer in cases of:

- a. a threat of dismissal or under-employment;
- b. the performance of occasional work for which the user enterprise cannot feasibly hire permanent staff, provided that the arrangement is between enterprises in the same sector;
- c. restructuring within a given group of companies.

By way of exception, such temporary loaning of labour is also permitted in other situations provided it is covered by a **collective agreement**.

During the period of any such arrangement, the contract of employment between the employee concerned and the enterprise of origin remains in force, without any loss of **pay** or entitlements. The employee's pay, for which the employer of origin bears sole liability, may not be less than that of an equivalent employee in the user enterprise. Any employer contemplating such a temporary arrangement to loan employees to another employer must first consult the **joint works committee** or, where none exists, the relevant employee committee.

320. **PRIME D'APPRENTISSAGE — APPRENTICESHIP AWARD:** See **apprenticeship subsidies and awards**.
321. **PRIME DE MÉNAGE — HEAD-OF-HOUSEHOLD PREMIUM:** Term used to refer to a **pay** supplement provided for in some **collective agreements** to offset the extra expenses incurred by an employee with a dependent family as compared with an unmarried employee, modelled on the principle of the *allocation de famille* (dependent-family weighting) paid to civil servants. The conditions of eligibility for this premium were formerly at variance with the principle of **equal pay for men and women**, and legal action had to be taken (including recourse to the European Court of Justice: Case 58/81 *Commission v Luxembourg* [1982] ECR 2175) in order to enforce the principle of non-discrimination.
322. **PRIORITÉ DE RÉEMBAUCHAGE — PRIORITY FOR RE-ENGAGEMENT:** Under the Law of 24 May 1989 on the contract of employment, for a year following the date of leaving the enterprise any employee who was dismissed for reasons relating to the enterprise's economic requirements is entitled to claim priority for re-engagement (see **termination of the contract of employment**), subject to recording in writing the wish to exercise this right. The employer is then

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under an obligation to inform any such former employee of any job vacancy in the enterprise that becomes available in the occupation concerned.

323. **PRIVILÈGE — PREFERENTIAL CLAIM:** Article 42 of the Law of 24 May 1989 on the contract of employment amends Article 2101 of the Luxembourg Civil Code to include a preferential claim for employees over all other creditors in respect of outstanding **pay** or allowances of any kind relating to the last six months of employment and any entitlements payable on **termination of the contract of employment**, up to a maximum limit of six times the **reference minimum wage**. See also **guarantee of the employee's claims in the event of the employer's bankruptcy, reinforced right of preference for employees**.
324. **PROLONGATION DES DÉLAIS DE PRÉAVIS — EXTENSION OF THE NOTICE PERIOD:** Under Luxembourg law there are two situations in which the specified period of **notice of termination of the contract of employment** may be extended: 1) in the event of **collective dismissal**, when individual notices of dismissal may not be issued until an agreed redundancy programme (*plan social*) or **National Conciliation Service** memorandum has been signed and do not take effect until a period of 75 days has elapsed, the Minister for Labour may either reduce the latter period or extend it to 90 days; 2) in cases where **severance pay** is normally payable, employers with fewer than 20 employees have the option of giving an extended period of notice instead of paying severance pay.
325. **PROTECTION CONTRE LE LICENCIEMENT DE LA FEMME EN CAS DE MATERNITÉ — MATERNITY PROTECTION AGAINST DISMISSAL:** Special statutory protection against dismissal is provided for women throughout pregnancy and for twelve weeks following their confinement (see **maternity**). Notice of dismissal (or a summons to attend a **pre-dismissal interview**) issued before the employer has been informed of a woman's pregnancy takes no effect, provided she produces medical certification of her condition within eight days. Any woman who is dismissed in contravention of this statutory period of protection may, provided she lodges an appeal within 15 days, invoke **nullity of dismissal** and claim **reinstatement**. Alternatively, she may claim the normal severance pay

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provided by law and at the same time take legal action against her employer for **unfair dismissal**.

326. PROTECTION CONTRE LE LICENCIEMENT DES ADMINISTRATEURS REPRÉSENTANT LE PERSONNEL — PROTECTION AGAINST DISMISSAL OF BOARD-LEVEL EMPLOYEE REPRESENTATIVES:

Throughout their period of office, **board-level employee representatives** may not be dismissed without authorization by the courts. However, in the event of serious misconduct on their part in the performance of their work in the enterprise the employer may exclude them from the premises with immediate effect (see **suspension of employee representatives**) pending a court judgment. These protective provisions also apply (for three months) to employees who stand as candidates for election as board-level representatives and (for six months) to former board-level representatives.

327. PROTECTION CONTRE LE LICENCIEMENT DES DÉLÉGUÉS DU PERSONNEL — PROTECTION AGAINST DISMISSAL OF EMPLOYEE COMMITTEE MEMBERS:

To give them the job security essential to their proper functioning, the **dismissal** of both accredited and alternate members of all **employee committees** is prohibited throughout their term of office and for the six months following its expiry. The same protection applies (for three months) to employees who stand as candidates for election to employee committees. Any thus protected employee who is given notice of dismissal or summoned to attend a **pre-dismissal interview** may lodge an appeal to have it pronounced null and void or to claim **reinstatement**. However, in cases of serious misconduct the head of the enterprise may suspend the employee concerned with immediate effect, pending a court judgment. Continued entitlement to pay during this period of suspension may be claimed by the employee, subject to a time-limit of eight days. Contravention by the employer of the rules on the dismissal of employee committee members constitutes the punishable offence of **interference**.

328. PROTECTION CONTRE LE LICENCIEMENT DES MEMBRES DU COMITÉ MIXTE D'ENTREPRISE — PROTECTION AGAINST DISMISSAL OF JOINT WORKS COMMITTEE MEMBERS:

Status as an employee representative on a **joint works committee** confers special protection against dismissal, in that the dismissal of

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any such employee during their term of office is subject to the consent of the committee itself. However, in cases of serious misconduct the employer may suspend the employee concerned with immediate effect, pending a court judgment. A claim to continued entitlement to pay during this period of suspension may be lodged by the employee. Similar protection against dismissal applies (for three months) to employees who stand as candidates for election as joint works committee members and (for six months following the expiry of their term of office) to former committee members.

- 329. PROTECTION DES ENFANTS ET DES JEUNES TRAVAILLEURS — PROTECTION OF CHILDREN AND YOUNG WORKERS:** Under the Law of 28 October 1969 concerning the protection of children and young workers, the employment of children (minors up to the age of 15) is prohibited other than in the context of their education or the family household, and their participation in public performances or events is permissible only where it serves artistic, scientific or educational interests. Adolescents between this age and the age of 18 are classed as young workers, and their employment is subject to special protective provisions as regards **working hours** (a maximum of 40 hours a week and 8 hours a day), **overtime** and work on Sundays and public holidays (prohibited other than in cases of *force majeure* or essential safety requirements) and **night work** (prohibition on work between 2000 and 0600 hrs, or between 2200 and 0600 hrs in the context of continuous shifts and in the hotel and catering industry). In addition, young workers must not be employed on work which is disproportionately stressful to their physical or mental health, including piecework or conveyor-belt work where pay is governed by the speed of work.

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330. **RECONDUCTION DES CONVENTIONS COLLECTIVES DE TRAVAIL — AUTOMATIC RENEWAL OF COLLECTIVE AGREEMENTS:** See **collective agreement**.
331. **RECONVERSION PROFESSIONNELLE — RE-TRAINING:** See **invalidity pension**.
332. **REÇU POUR SOLDE DE TOUT COMPTE — RECEIPT ACKNOWLEDGING SETTLEMENT IN FULL:** (The term *quittance pour solde de tout compte* is also used.) See **settlement in full**.
333. **RÉÉDUCATION PROFESSIONNELLE DES HANDICAPÉS — OCCUPATIONAL REHABILITATION OF THE DISABLED:** See **disabled worker**.
334. **RÉEMPLOI — RE-EMPLOYMENT:** See **re-employment support**.
335. **RÉFÉRÉ AUPRÈS DU TRIBUNAL DU TRAVAIL — INJUNCTION PROCEDURE IN LABOUR TRIBUNALS:** See **Labour Tribunal**.
336. **REFUS DE DÉPÔT — REFUSAL OF REGISTRATION (OF COLLECTIVE AGREEMENTS):** Under the Law of 12 June 1965, if a **collective agreement** has been concluded between parties who do not possess the proper capacity to do so (see **representativeness of trade unions**), its official registration (and hence validity) may be refused by the Minister for Labour on the advice of the **Labour and Mines Inspectorate**. The contracting parties may lodge an appeal against such refusal, within one month of its notification, before the Litigation Division of the *Conseil d'État* (supreme administrative court).
337. **REGISTRE DES CONGÉS — HOLIDAY REGISTER:** Term used to refer to the record of employees' statutory **annual holidays** which the employer is required to maintain and keep available at all times for scrutiny, on request, by the staff of the **Labour and Mines Inspectorate**.
338. **RÈGLEMENT DES CONFLITS COLLECTIFS — DISPUTE SETTLEMENT:** Under Luxembourg law, every

RÈGLEMENT DES CONFLITS COLLECTIFS

collective dispute relating to terms and conditions of employment in one or more enterprises (see **industrial dispute**) must be referred to the **National Conciliation Service** by one of the interested parties, before any resort to **strike** or **lock-out**. The Service is charged with the task of bringing about a conciliation settlement for the parties in dispute, which is recorded in a memorandum. The law stipulates that this conciliation procedure is obligatory and declares it unlawful to initiate a collective stoppage of work without having first referred the matter to the Service, to refuse to submit to the Service's efforts at conciliation without legitimate grounds, or to hinder the representatives of the parties in performing their function in the conciliation procedure. It also declares it a punishable offence for employers and employees not to fulfil the obligations ensuing from agreements reached under the auspices of the Service. Settlements reached by this route regulate labour relations and terms and conditions of employment in those enterprises directly covered. They may also be declared generally applicable to all employers and employees in the occupation concerned (see **extension of collective agreements**).

If conciliation fails, the parties may ask for the dispute to be referred to a three-member arbitration panel (*conseil d'arbitration*) within the Service composed of respectively nominated Government, employers' association and union representatives. The arbitration decision ("award") must be delivered within eight days. Although awards are generally accepted, in Luxembourg law they are not technically binding on the parties, who may still opt for industrial action, and the process is therefore more akin to mediation than arbitration in the strict sense. If accepted by the parties, the arbitration award is equivalent to the conclusion of a **collective agreement**: it regulates labour relations and terms and conditions of employment in the enterprises directly covered and may also be declared generally applicable (see above). In the event of its non-acceptance, the arbitration award may be published if this is deemed useful in the general interest or from the point of view of resolving the dispute at hand.

The Law of 12 June 1965 on collective agreements expressly states that the parties in dispute are always able to take the alternative route of arbitration through the civil courts after an attempt at conciliation by the Service has failed (or even before this). If so, the names and official capacities of the arbitrators, the subject of arbitration and the procedure to be followed must be set out in writing.

339. **RÈGLEMENT INTÉRIEUR — WORKS RULES:** Term nowadays used more commonly than the older expression *règlement d'atelier* to denote the internal rules drawn up by employers to govern employee conduct and activity within the workplace. See **collective agreement, employee committee, employee committee member, joint works committee.**
340. **RÉINTÉGRATION (DU SALARIÉ) — REINSTATEMENT:** Term denoting the continuation or resumption of the employment relationship, with the employee retaining all previously acquired rights based on continuous **length of service** in the enterprise. In the specified circumstances in which Luxembourg law pronounces dismissal to be null and void (see **nullity of dismissal**), if the employee concerned so requests the court must order his or her reinstatement. In cases of **unfair dismissal**, in ruling on the damages payable to the employee the court may, if the employee so requests and if it deems the circumstances to be appropriate, recommend the employer to agree, instead, to reinstate the employee (which discharges the employer from liability to pay damages). An employer who refuses to agree to such reinstatement may, if the employee who has been subject to unfair dismissal so requests, be ordered to pay the employee compensation equal to one month's pay in addition to the damages awarded.
341. **RELATION DE TRAVAIL — EMPLOYMENT RELATIONSHIP:** See **contract of employment.** (For the use of the term in the plural form *relations de travail*, see the comment under **industrial relations.**)
342. **RELATIONS PROFESSIONNELLES — INDUSTRIAL RELATIONS:** Broad term denoting the study and application of processes regulating, shaping and otherwise influencing the world of employment, and in particular the employment relationship. It therefore covers not only the institutions and processes directly influencing relations between employers and employees but also their broad socio-economic context, including such issues, for example, as training and development, the broad role of the state with regard to employment generally and a range of legal institutions. In Luxembourg this is the preferred term: although the phrase *relations de travail* is sometimes used synonymously, it should more precisely be defined as the processes of regulation of the employment relationship; and

the phrase *relations industrielles*, although sometimes heard, is not used in Luxembourg.

343. **RÉMUNÉRATION EN NATURE — PAYMENT IN KIND:** Portion of pay that is paid in a form other than money. The most common examples are food and accommodation for domestic and agricultural workers, seafarers, etc., and fixing their money value in order to calculate total pay for purposes such as **social security** has always been a problem for the authorities. Other forms of payment in kind which are attracting growing interest, referred to in the taxation context as *avantages en nature* (fringe benefits or benefits in kind), include company housing, company cars, meal vouchers, supplementary insurance, etc. Despite recent tax regulations, these are also a constant source of litigation.
344. **RÉMUNÉRATION SALARIALE — REMUNERATION PACKAGE:** Term used to refer to the total remuneration received by the employee from the employer, including: 1) actual pay in the form of the money wage or salary; 2) other benefits and any additional payments such as **special bonuses**, profit shares, discounts, premiums, rent-free housing and other elements of the same kind. See also **payment in kind, payment of wages and salaries**.
345. **RENOUVELLEMENT DU CONTRAT DE TRAVAIL À DURÉE DÉTERMINÉE — RENEWAL OF FIXED-TERM CONTRACTS:** See **fixed-term contract**.
346. **RENTE COMPLÉMENTAIRE — OCCUPATIONAL PENSION:** Term used synonymously with *pension complémentaire*.
347. **RÉPARATION DE LA RÉSILIATION ABUSIVE DU CONTRAT DE TRAVAIL — COMPENSATION FOR UNFAIR DISMISSAL:** See **termination of the contract of employment**.
348. **REPOS COMPENSATOIRE — DAY OFF IN LIEU:** See **public holidays, weekly rest, working hours**.
349. **REPOS DOMINICAL — SUNDAY REST:** See **weekly rest**.
350. **REPOS HEBDOMADAIRE — WEEKLY REST:** The legal rules regulating the employment of **white-collar**

workers entitle them to an uninterrupted weekly rest of 44 hours, where possible including Sunday. If their work does not allow this weekly rest, they are granted an extra **annual holiday** entitlement of 6 days. Although for **manual workers** there is no similarly express provision, the Law of 22 April 1966 to introduce uniform regulation of annual holidays for private-sector employees entitles all employees, without distinguishing between the two categories, to one extra day of annual holiday for each 8-week period during which an uninterrupted weekly rest of 44 hours has not been granted.

The provisions regarding the weekly rest and work on Sundays were recast by the subsequent Law of 1 August 1988 on the weekly rest for white-collar workers and manual workers in the private and public sectors, which prohibits Sunday working (this does not apply to sales representatives working away from the enterprise, managerial staff or senior executives whose presence is essential, or to work such as routine cleaning and maintenance or urgent repairs). The range of activities which constitute permitted exceptions is very extensive, however, and includes retailing, agriculture, hotels and catering, entertainment, public utilities, transport, hospitals and pharmacies, domestic workers and enterprises using continuous shiftwork.

Employees who work on Sundays are entitled to a day off in lieu (*repos compensatoire*) as well as an enhanced rate of pay for the hours worked.

351. **REPRÉSENTATION DES SALARIÉS AU NIVEAU DE L'ENTREPRISE — EMPLOYEE REPRESENTATION AT WORKPLACE LEVEL:** Depending on the size and structure and private or public nature of the enterprise, workplace representation in Luxembourg takes place through: **employee committees** (in all private-sector enterprises with 15 or more employees and also in the public sector where there are 15 or more employees employed under a private-law contract), with special **safety representatives** designated by and from their members; **joint works committees** (in larger private enterprises with 150 or more employees); and **board-level employee representatives** (in companies with 1,000 or more employees). See also **young workers' representative**.
352. **REPRÉSENTATIVITÉ DES SYNDICATS — REPRESENTATIVENESS OF TRADE UNIONS:** In reserving the capacity to be a party to a **collective agreement** to the most representative trade union

organizations at national level, Luxembourg law excludes sectoral and enterprise-level unions as well as employee representatives within the workplace. The concept of national representative status dates from the creation of a legal basis for **collective bargaining** in the Law of 12 June 1965 concerning collective agreements, which states two criteria for such status: a significant number of members, and independence. Since then, the monopoly of the large union organizations has given rise to considerable criticism and extensive litigation regarding the rights of newly formed or minority unions. Case-law on the matter has concluded, among other things, that the numerical criterion must be interpreted pragmatically, *i.e.* in relation to the number of employees in the particular constituency and their degree of unionization, and that the organization must be able to establish its capacity properly to protect the employment-related interests of the employees covered.

At present, three trade union confederations are recognized as possessing national representative status: the Independent Trade Union Confederation of Luxembourg (OGB-L), the Luxembourg Confederation of Christian Trade Unions (LCGB) and the Federation of Private-Sector Staffs/Independent Federation of Employees and Managers (FEP-FITC): see **trade union**. Legal disputes on the subject remain, and a degree of uncertainty therefore persists. It is, in reality, not so much a legal problem as a question of the influence and power of the various union organizations and the political groupings to which they are (or are not) linked.

353. **RÉSILIATION ABUSIVE DU CONTRAT DE TRAVAIL PAR L'EMPLOYEUR — UNFAIR DISMISSAL:** (The term *licenciement abusif* is used synonymously.) See **termination of the contract of employment**.
354. **RÉSILIATION D'UN COMMUN ACCORD DU CONTRAT DE TRAVAIL — TERMINATION OF THE EMPLOYMENT CONTRACT BY MUTUAL AGREEMENT:** See **termination of the contract of employment**.
355. **RÉSILIATION DU CONTRAT DE TRAVAIL — TERMINATION OF THE CONTRACT OF EMPLOYMENT:** Term used to refer to termination of the contract of employment by both parties or by either party unilaterally. It is often called *démission* (**resignation**) when it originates with the employee and *licenciement* (**dismissal**)

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when it originates with the employer. The presumption in Luxembourg law is that the normal case is a contract of indefinite duration, and the Law of 24 May 1989 regulates the three basic ways in which it may be terminated.

1) *Termination by mutual agreement (résiliation d'un commun accord)*. If the parties reach an agreement to terminate the contract, the only requirement is that the agreement must be confirmed in writing.

2) *Termination with notice*. Either party may terminate the contract by giving the required period of notice (see **notice of termination of the contract of employment**). In the case of dismissal by the employer, there must be reasonable and substantial grounds relating to the employee's conduct or competence or to the operational needs of the enterprise and the employee is entitled to receive, upon request, a written statement of these reasons (see **statement of reasons for dismissal with notice**). In addition, an employee with at least five years' length of continuous service is entitled to **severance pay**. In enterprises with 150 or more employees, notice of dismissal may not be given until after a **pre-dismissal interview**.

3) *Termination for grave cause (résiliation pour motif grave)*. Either party may terminate the contract without notice when there is grave cause deriving from an act or misconduct by the other party, with damages payable by the party whose act or misconduct has occasioned this summary termination (*résiliation immédiate*). For the purposes of this provision, the circumstances deemed to constitute grave cause consist in any act or misconduct which renders continuance of the employment relationship immediately and permanently impossible. In the case of summary dismissal by the employer, for which the general rules on a pre-dismissal interview apply (see above), in assessing whether the employee's conduct constitutes grave cause the courts take into consideration all influencing factors such as a possible history of misconduct and the consequences of such dismissal for the employee, who loses the normal entitlement to severance pay. Notification of summary dismissal for grave cause must be given in writing, stating the act or misconduct invoked, within one month of the date on which it came to the employer's knowledge (the same time-limit applies to summary termination for grave cause by the employee). Pending the date of notification of summary dismissal, the employer may exclude the employee concerned from the enterprise by imposing immediate **suspension with pay**.

Unfair dismissal

With both forms of unilateral termination of the contract by the employer, *i.e.* either with notice or without notice for grave cause, there are various circumstances in which the employee may claim unfair dismissal (*résiliation abusive* or *licenciement abusif*) on the grounds that the employer has failed to comply with the requirements of the law:

- a. in the case of dismissal with notice, the absence of reasonable and substantial grounds relating to the employee's conduct or competence or to the operational needs of the enterprise;
- b. failure by the employer to provide a written statement of the reasons for dismissal, upon request in the case of dismissal with notice and automatically in the case of summary dismissal for grave cause;
- c. in the case of **collective dismissal/redundancy**, failure by the employer to follow the required prior negotiation with employee representatives and selection of employees for redundancy as decided by the **joint works committee**;
- d. dismissal which essentially constitutes a reaction to a complaint, intervention by the Labour and Mines Inspectorate or legal action aimed at enforcing the principle of **equal treatment for men and women**.

Where an employee has claimed unfair dismissal, the burden of proof rests on the employer. Compensation for unfair dismissal (*réparation de la résiliation abusive*) consists in an award for damages or, where the court deems it appropriate, a recommendation of **reinstatement**. If the employer refuses to agree to the latter (under Luxembourg law the employee's right to insist on reinstatement exists only in certain cases of **wrongful dismissal**), the court may order the employer to pay the employee compensation equal to one month's pay over and above the damages awarded.

356. **RÉSILIATION DU CONTRAT DE TRAVAIL À DURÉE DÉTERMINÉE — TERMINATION OF FIXED-TERM CONTRACTS:** See **fixed-term contract**.
357. **RÉSILIATION DU CONTRAT DE TRAVAIL POUR MOTIF GRAVE — TERMINATION OF THE EMPLOYMENT CONTRACT FOR GRAVE CAUSE:** See **termination of the contract of employment**.
358. **RÉSILIATION IMMÉDIATE — SUMMARY TERMINATION:** See **termination of the contract of employment**.

359. **RÉSOLUTION JUDICIAIRE DU CONTRAT DE TRAVAIL — JUDICIAL RESCISSION OF THE CONTRACT OF EMPLOYMENT:** Employers are prohibited from dismissing employee representatives by special legal provisions establishing **protection against dismissal of board-level employee representatives, protection against dismissal of employee committee members** and **protection against dismissal of joint works committee members** (although in this last case only if the committee itself refuses its consent). An employer may, however, apply to the courts to have the contract of employment rescinded, and pending a final court ruling may exclude the employee from the enterprise by imposing immediate suspension (see **suspension of employee representatives**).
360. **RESPONSABILITÉ DU SALARIÉ — EMPLOYEE LIABILITY:** Under Luxembourg law, employees are liable for damage caused through deliberate intent or serious negligence on their part. Otherwise, it is the employer who assumes the risks inherent in the business activity of the enterprise (see **liability for business risks**).
361. **RESPONSABILITÉ QUANT AUX RISQUES DE L'ENTREPRISE — LIABILITY FOR BUSINESS RISKS:** Luxembourg law assigns liability for the risks inherent in the business activity of the enterprise to the employer, and **employee liability** is possible only in the event of deliberate intent or serious negligence on the part of employees personally.
362. **RETENUES LÉGALES SUR LES SALAIRES ET TRAITEMENTS — DEDUCTIONS FROM PAY PERMITTED BY LAW:** In addition to statutory deductions on behalf of the state, *i.e.* income tax and **social security contributions**, employers in Luxembourg are required to deduct from employees' **pay** the annual subscription to the **Chamber of Labour and Trade** to which an employee belongs and any debts owed under court orders (see **attachment and transfer**). Apart from these, the only direct deductions permitted are for fines, damage for which the employee is liable and advances paid early against pay (all three categories may not exceed, in total, one tenth of the employee's pay), and also for tools and materials supplied by the employer which are chargeable to employees in accordance with established practice or their terms and conditions of employment.

363. **RETRAITE — RETIREMENT:** See **old-age pension**.
364. **REVENU MINIMUM GARANTI (RMG) — GUARANTEED MINIMUM INCOME (RMG):** Non-contributory and means-tested benefit introduced under the Law of 26 July 1986 in order to provide a decent standard of living for every individual (normally those aged at least 30) who satisfies certain conditions, by guaranteeing them a minimum means of subsistence whose level depends on the composition of the domestic unit of which they are a member. The conditions of eligibility, which in addition to age and residence qualifications include availability to accept any offer of suitable employment made by the **Employment Service** and willingness to accept a place on a training scheme or temporary assignment to a **community work programme**, may be varied in particular cases. The benefit, which is called the *complément* (supplement) and makes up the difference between the minimum income guaranteed by law and the total resources available to the members of the domestic unit concerned, is paid by the **National Supplementary Benefits Fund** but may be advanced to claimants through local social assistance offices.
365. **RÉVISION DU CONTRAT DE TRAVAIL — VARIATION OF THE CONTRACT OF EMPLOYMENT:** On pain of being null and void, any change to the employee's disadvantage affecting a substantive term of the **contract of employment** must be notified to the employee in accordance with the same requirements as to form and timing as **dismissal** with notice (with the employee entitled to request a statement of the reasons). Any immediate change for **grave cause** must comply with the equivalent requirements applicable to summary dismissal for grave cause.
366. **RMG:** Initials widely used to refer to the **guaranteed minimum income**.

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367. **SAISIE-ARRÊT ET CESSION — ATTACHMENT AND TRANSFER:** Only part of **pay**, **pensions** and **unemployment benefit** is susceptible to direct deduction for the purposes of transfer or under the terms of an attachment order on behalf of creditors, and the permitted proportions are laid down in the Grand Ducal Regulation of 8 January 1993 for five income bands. There is an exception in the case of attachment to secure monthly payments due under a maintenance order, which may be deducted in full from the otherwise protected part.
368. **SALAIRE — WAGE/PAY:** In general terms, the sum paid to an employee in return for his or her work performance. Other terms used are *rémunération* (remuneration), *rétribution* (payment for services rendered), *traitement* or *appointements* (salary) and (in Luxembourgish) *paye* (wage). In practice, *salaire* is used to denote the wage of a **manual worker** as distinct from the salary of a **white-collar worker**. See also **deductions from pay permitted by law**, **minimum wage**, **payment of wages and salaries**.
369. **SALAIRE SOCIAL MINIMUM — MINIMUM WAGE:** (Also referred to by the initials SSM.) In Luxembourg, the institution of a statutory minimum wage, linked to the **cost-of-living index** and applicable to every employee of normal physical and mental ability, dates back to 1973. At present, there are different rates according to age and level of skill (an increased rate formerly applicable to employees with a dependent family was abolished in 1995): a lower 60-80 per cent. rate for young workers aged under 18, and a higher 120 per cent. rate applicable to skilled workers with recognized qualifications or experience. The amount of the minimum wage is fixed by law in the light of general economic conditions and income trends; in addition to its indexation, there is a review procedure whereby, every two years, the government submits a report to the Chamber of Deputies possibly proposing an increase.
- Although in principle the rates may not be reduced either by **collective agreement** or by the individual **contract of employment**, **disabled workers** may be employed at a level of **pay** below the minimum wage (fixed, in the event of dispute, by the head of the **Labour and Mines Inspectorate**). Also, an employer whose enterprise is undergoing economic and financial difficulties may apply

through the Inspectorate for government authorization to pay rates below the minimum wage.

370. **SALAIRE SOCIAL MINIMUM DE RÉFÉRENCE — REFERENCE MINIMUM WAGE:** The reference minimum wage is the value used as representing the **minimum wage** for the purposes of legislation on **social security** or social matters. Its monthly rate corresponds to the monthly minimum wage for an unskilled worker aged 18 or over. See also **cost-of-living index**.
371. **SALARIÉ — EMPLOYEE:** Term covering both a **manual worker** and a **white-collar worker** who works for an employer under a **contract of employment**, which implies a position of **legal subordination**. See also **employee categories**.
372. **SANCTION PÉNALE — PENAL SANCTION:** Many laws in Luxembourg in the field of labour and employment provide that infringement of the relevant legal and regulatory provisions or failure to fulfil obligations under **collective agreements** may lead to proceedings before the criminal courts, resulting in the imposition of fines or sentences of imprisonment. This applies, for example, in relation to the **minimum wage, working hours, work permits, annual holidays, the automatic cost-of-living adjustment of pay, the weekly rest, health and safety at work and the employee committee**. Any such proceedings are more likely to be based on official reports compiled by the **Labour and Mines Inspectorate** than on individual complaints, but in practice they occur only rarely.
373. **SANTÉ DES TRAVAILLEURS — HEALTH OF EMPLOYEES:** See **health and safety at work**. (Nowadays, the word *santé* tends to be used rather than *hygiène*, which is some 50 years out of date.)
374. **SECTEUR PUBLIC — PUBLIC SECTOR:** In terms of industrial relations, the public sector is interpreted as covering all activities and enterprises owned or controlled by the public authorities, such as central government, general services, the judiciary, public education, the armed forces and the police, the State Bank and all public agencies. Employment in the Luxembourg public sector is characterized by a very complex set of arrangements reflecting the fact that, as broadly defined, it includes both 1) several categories of employees whose

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appointment, employment and status are regulated by public law, and 2) employees who are employed under private-law **contracts of employment**.

Those in the first group are *fonctionnaires* (**established civil servants**) and *employés publics* (**public servants**), also referred to as *employés statutaires* and including both **non-established civil servants** (*employés de l'État*) and local government staff (*employés communaux*). Their major unions are the General Confederation of Civil Servants (CGFP) and the Local Government Civil Service Union (FGFC): see **trade union**. In addition to the security of tenure enjoyed by all established civil servants (and some non-established civil servants aged 35 or over with at least 10 years' length of service), whose employment is non-terminable other than on disciplinary grounds, they are covered by significantly advantageous pension entitlements whose proposed adjustment has given rise to acrimonious debate. Furthermore, the constitutional requirement of Luxembourg nationality as a general qualification for such status was the subject of a European Court of Justice ruling against the Grand Duchy in Case C-473/93 *Commission v Luxembourg* [1996] ECR I-3248, and in 1997 the Government announced its intention to introduce legislation bringing this situation into line with the principle of **freedom of movement for workers**.

Those in the second group, *i.e.* those who are employed in the public sector under a private-law contract of employment, include both white-collar workers (*employés privés au service de l'État*) and manual workers (*ouvriers au service de l'État*): see **public employee**. Their terms and conditions of employment are regulated, in effect, by one national collective agreement (see **collective bargaining**).

The **right to strike** was extended to the public sector under the Law of 16 April 1979, but excludes certain groups such as diplomats, the judiciary, senior civil servants and managers, the armed forces and the police, and medical and security personnel. See also **employee categories**.

375. **SÉCURITÉ ET SANTÉ DES TRAVAILLEURS AU TRAVAIL — HEALTH AND SAFETY AT WORK:** The Law of 17 June 1994 concerning health and safety at work (replacing 1924 legislation) transposes into national law, in particular, Framework Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work, by imposing obligations both on employers and on employees themselves (with penal

sanctions for employers) as set out in the Framework Directive. It also transposes Directive 91/383/EEC supplementing the measures in question in regard to those with a fixed-term or temporary employment relationship. Responsibility for its application is entrusted to a co-ordinating committee composed of representatives of the **Labour and Mines Inspectorate**, the Ministry of Health, the **Industrial Injuries Insurance Association** and the Customs and Excise Administration.

Apart from the 1994 Law there is an extensive range of legislative and regulatory texts on health and safety at work, and a backlog in transposing Community directives on the matter into Luxembourg law has been cleared. In addition, under the Law of 9 May 1990 on dangerous, unhealthy or noxious establishments prior authorization is required before any establishment likely to present dangers for its workforce or the environment may commence operating.

Pending an administrative reform to group the Labour and Mines Inspectorate, Occupational Health Division, National Safety Service in the Public Administration and Safety Division of the Customs and Excise Administration (all responsible for various aspects of the application of health and safety legislation) into a single structure, two inter-ministerial co-ordinating bodies have been created: a Co-ordinating Committee for Health and Safety at Work and a High Council for Health and Safety at Work. In total, the **safety representatives** prescribed by the Law of 18 May 1979 on **employee committees** and the “designated workers” prescribed by the Law of 17 June 1994 pursuant to the Framework Directive mean that over 3 per cent. of the working population in Luxembourg have responsibilities connected with health and safety. See also **company medical services**.

376. **SÉCURITÉ SOCIALE — SOCIAL SECURITY:** The social security system is intended to provide both a replacement income for gainfully employed individuals and their dependants to compensate for the reduction or loss of income resulting from certain events (illness, maternity: see **sickness and maternity insurance, accidents at work or occupational illnesses, invalidity, old age, unemployment, death**), and a supplementary income when certain expenses (medical care, family expenses: see **family benefits**) compromise people’s standard of living whether they are economically active or not. Since entitlement to this supplementary income is not contingent upon employment, it

- resembles the non-contributory benefits of a mixed type which borderline benefits such as the **guaranteed minimum income** represent, reflecting the gradual integration of public assistance into social security. See also **Social Insurance Code**.
377. **SÉGRÉGATION D'EMPLOI — JOB SEGREGATION:** See **female employment**.
378. **SERVICE DES TRAVAILLEURS HANDICAPÉS — DISABLED WORKERS SERVICE:** Department within the **Employment Service** which is responsible for the training, job placement and occupational rehabilitation and integration of people with **disabled worker** status.
379. **SERVICE NATIONAL D'ACTION SOCIALE (SNAS) — NATIONAL AGENCY FOR SOCIAL MEASURES (SNAS):** Body created by the Law of 26 July 1986 introducing entitlement to the **guaranteed minimum income**, under the authority of the Minister with responsibility for social security. Its function, essentially, is to ensure the implementation of supplementary social measures meeting identified situations of need by co-ordinating the activities of the **social assistance offices** and associations and organizations of a social nature.
380. **SERVICES DE SANTÉ AU TRAVAIL — COMPANY MEDICAL SERVICES:** The Law of 17 June 1994 (see **health and safety at work**) created three new structures for the purpose of protecting employees' health in the workplace through regular medical screening and promotion of the prevention of **occupational illnesses** and health protection in general. Every enterprise regularly employing over 5,000 employees (or over 3,000 in cases where at least 100 of them are exposed to the risk of occupational illnesses or safety risks) is required to set up a company medical service of its own (**service de santé au travail d'entreprise**) headed by a full-time company medical officer (*médecin du travail*). All other employers have three options: to organize their own company medical service, to join an inter-company medical service catering jointly for a number of enterprises (*service de santé au travail interentreprise*), or to use the National Occupational Health Service (*Service national de santé au travail*), which is financed entirely from contributions paid by user employers. The 1994 Law also stipulates that all potential employees must undergo a medical examination before they are hired, to

establish their fitness for their intended job. In practice, major sectors in Luxembourg such as banking have their own inter-company medical service at national level.

- 381. SOCIÉTÉ ANONYME (SA) — PUBLIC LIMITED COMPANY (SA):** Term denoting the most widespread form of joint-stock company, *i.e.* company limited by shares. Most major enterprises in Luxembourg are public limited companies, and from the industrial relations point of view the special feature of any such company employing 1,000 or more employees or with a state shareholding of at least 25 per cent. or a state concession is that the workforce has direct representation both on the board, the body with the widest decision-making powers (see **board-level employee representatives**), and also within the body of auditors.
- 382. SOLDE DE TOUT COMPTE — SETTLEMENT IN FULL:** Under Luxembourg law, if on the **termination of the contract of employment** employees sign a receipt testifying that any monies due to them have been paid in full by the employer (referred to as a *reçu pour solde de tout compte* or *quittance pour solde de tout compte*), unless they cancel it in writing, stating their reasons, within a time-limit of three months they are prohibited from subsequently claiming any pay or other entitlements whose payment was envisaged at the time when the receipt was drawn up.
- 383. STAGE DE FORMATION ET STAGE PROBATOIRE — TRAINING COURSE AND PROBATION COURSE:** Term denoting a period of employment within an enterprise on the basis of a *contrat de stage* (training agreement) which takes place within a purely educational context, organized by a Luxembourg or foreign educational establishment and outside the scope of the legal rules governing the employment of schoolchildren and students (see **student**). Such arrangements, which are regulated by the Grand Ducal Regulation of 10 August 1982, must not involve assignment to tasks requiring a work performance equivalent to that of normal employment.
- 384. STAGE DE PRÉPARATION EN ENTREPRISE — YOUTH EMPLOYMENT TRAINEESHIP:** Formula introduced under the 1984 Finance Act incorporating alternating periods of on-the-job training and theoretical training organized by the **Employment Service** for young job-seekers aged under 25 (see **young unemployed person**).

Eligibility as a host employer is conditional on being covered by a framework agreement with the Employment Service specifying that the employer must make a contribution to the **Employment Fund** of at least 50 per cent. of the **unemployment benefit** currently being received or, if the young person concerned is not receiving benefit, pay them at a level equal to at least 50 per cent. of benefit. Such a traineeship is intended as a next-higher stage following compulsory **work experience** or assignment to a **community work programme**. See also **introduction of young people into working life**.

385. **STAGE-INITIATION — WORK EXPERIENCE:** Within the framework of measures designed to stimulate economic growth and maintain full employment, the **Employment Service** may offer registered job-seekers aged under 30 (see **young unemployed person**) a work experience placement intended to ease the transition from full-time education to employment (see **introduction of young people into working life**). Refusal to accept such a placement, which is regulated by a standard work experience contract specified by ministerial regulation and attracts an allowance corresponding in principle to 85 per cent. of the **minimum wage** earned by an unskilled worker, entails loss of entitlement to **unemployment benefit**. When other suitable employment has been found for the young trainee, the parties must terminate the work experience contract unless they have agreed to convert it into a normal contract of employment or apprenticeship contract.
386. **STAGE PROBATOIRE — PROBATION COURSE:** See **training course and probation course**.
387. **SUPERPRIVILÈGE DU SALARIÉ — REINFORCED RIGHT OF PREFERENCE FOR EMPLOYEES:** The **preferential claim** in respect of employees' outstanding pay and entitlements which is recognized in Luxembourg law ranks as a reinforced right of preference, in that it is given absolute priority over all other preferential claims including that of the public exchequer.
388. **SYNDICAT — TRADE UNION/COLLECTIVE INDUSTRIAL ORGANIZATION:** As defined in Luxembourg law, any occupational group with an internal organizational structure, formed for the purpose of representing and defending the employment-related interests

of its members and improving the conditions of their existence. Strictly speaking, therefore, the term has the sense of a collective industrial organization including both an employees' trade union (*syndicat ouvrier*) and an employers' association (*syndicat patronal*). In practice, however, when used without further qualification it is interpreted as referring to a trade union.

The two earliest unions in Luxembourg, the *Berg- und Hüttenarbeiterverband* and the *Luxemburger Metallarbeiter-Verband*, of socialist tendency, were formed in the iron and steel industry during the First World War and merged in 1920 to form the *Metallindustriearbeiter-Verband*. When the social tensions of the early post-war years gave rise to mass dismissals and the workers who occupied the steelworks in 1921 were forcibly evicted, the overwhelming failure of the strike that followed led the unions to abandon any form of revolutionary agenda and the employers to attach great importance thereafter to industrial peace. The Government, for its part, was prompted during this era to introduce conciliation and arbitration bodies into the industrial relations system, starting in 1924 with the **Chambers of Labour and Trade** and ending in 1936, after a mass demonstration organized jointly by the two largest unions, respectively socialist and Christian socialist, with the creation of a National Labour Council composed of equal numbers of employer and employee representatives. That same year saw the establishment of the right to organize as a result of the abolition of the offence of *coalition*, *i.e.* collective organization, and the enshrinement of freedom of association. From then on, there was no longer any obstacle to prevent the unions from negotiating collective agreements.

More recently, attempts to unite the unions in a single organization met with resistance from, in particular, the Christian confederation LCGB and failed in 1978. They did, however, lead to the creation of the OGB-L (Independent Trade Union Confederation of Luxembourg), organizing many managerial staff and former members of other unions, and the LAV (Luxembourg Workers' Union), which in 1944, after the liberation from Nazi wartime occupation, took up the torch of the former *Berg- und Metallindustriearbeiter-Verband*.

At present, the trade unions in Luxembourg, which as a general rule are free associations without legal personality, may be grouped into the following three tendencies.

Unions of socialist tendency

- a. OGB-L (*Onofhängege Gewerkschaftsbond Lëtzebuerg* or *Confédération syndicale indépendante*), the Independent

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- Trade Union of Luxembourg, organizing manual and white-collar workers and established civil servants belonging to all occupations in all sectors of the economy;
- b. FNCTTFEL (*Fédération nationale des cheminots, travailleurs du transport, fonctionnaires et employés luxembourgeois*), the National Federation of Railway and Transport Workers, Civil Servants and White-Collar Workers, which is predominantly represented in the transport sector;
 - c. FLTL (*Fédération luxembourgeoise des Travailleurs du Livre*), the Luxembourg Printing Workers' Federation.

These three unions are united in the CGT (*Confédération Générale du Travail du Luxembourg*), the Luxembourg General Confederation of Labour which maintains links with the political left and covers some 45,000 members.

Christian unions

- a. LCGB (*Lëtzebuenger Chrëschtliche Gewerkschaftsbond* or *Confédération Luxembourgeoise des Syndicats Chrétiens*), the Luxembourg Confederation of Christian Trade Unions which, like OGB-L, organizes manual and white-collar workers and established civil servants belonging to all occupations, in all sectors of the economy;
- b. FCPT (*Fédération Chrétienne du Personnel du Transport*), the Christian Transport Workers' Union, also referred to as *Syprolux*.

The Christian unions maintain close links with the Christian Socialist Party, and cover some 25,000 members.

“Neutral” unions

The emergence in Luxembourg of “neutral” unions goes hand in hand with the expansion of the tertiary sector (commerce, banks, administration) and the growth in the number of white-collar workers. These unions, of which there are many, abjure any ideological slant or any link with political parties and represent specific categories of employees. The major ones are as follows:

- a. FEP-FITC (*Fédération des Employés Privés/Fédération Indépendante des Travailleurs et Cadres*), the Federation of Private-Sector Staffs/Independent Federation of Employees and Managers;
- b. NGL (*Neutral Gewerkschaft Lëtzebuerg*), the Neutral Union of Luxembourg Workers;
- c. ALEBA (*Association Luxembourgeoise des Employés de Banques et d'Assurances*), the Luxembourg Banking and Insurance Employees' Union;

- d. CGFP (*Confédération Générale de la Fonction Publique*), the General Confederation of Civil Servants;
- e. FGFC (*Fédération Générale des Fonctionnaires Communaux*), the Local Government Civil Service Union.

The CGT member unions and the two Christian unions represent the majority of employees and are affiliated to the ETUC (European Trade Union Confederation). The FEP-FITC, which has some 12,500 members, is affiliated to the European Association of Managers.

Most established civil servants belong to the CGFP, which has some 15,000 members and regularly negotiates the pay review agreements for the public service with the Government.

Present-day trade unionism in Luxembourg is characterized in three ways: high union density (*taux de syndicalisation*), with roughly 60 per cent. of all employees unionized; marked pluralism (there are numerous unions competing with each other within an employee population of around 206,000); surprising restraint and spirit of participation (since 1945, strikes have occurred only rarely, and at the time of the crisis in the steel industry during the 1990s the unions agreed to maintain industrial peace and collaborate in a tripartite meeting composed of government, employer and employee representatives).

Today, the unions are closely involved in the social and political life of the country.

1) They negotiate **collective agreements**, although only if they are recognized as possessing national representative status (currently confined to the three confederations OGB-L, LCGB and FEP-FITC), since sectoral unions, enterprise-level unions and employee representatives within the workplace are not authorized to sign collective agreements (see **representativeness of trade unions**).

2) They play a part in resolving individual or collective disputes (see **dispute settlement**) in the following arenas:

- a. conciliation and arbitration within the **National Conciliation Service**: the employer and employee representatives are appointed by the Minister on the recommendation of the employers' associations and the unions;
- b. labour jurisdiction: the employer-assessors and employee-assessors with seats on the **Labour Tribunals** (although only at first instance) are appointed by the Minister for Justice and chosen from a list of candidates submitted by the Chambers of Labour and Trade concerned, whose members are elected from lists of

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candidates submitted by the employers' associations and the unions;

- c. **Labour and Mines Inspectorate:** the **employment inspectors** seconded to the Inspectorate are appointed by the Minister for Labour and chosen from a list of candidates submitted by the unions with national representative status.

3) They have a presence on **employee committees** (most of whose members are elected from lists put forward by the unions), **joint works committees** and the boards of large companies (**board-level employee representatives** are elected from union lists put forward by the employee committee members).

4) They have seats in the Chambers of Labour and Trade (see above).

5) They participate in the management of the **sickness and maternity insurance funds** and **pension funds**, where they are represented on the management committee.

6) They have a presence on the **Economic and Social Council**, where the members representing employees are appointed by the Government from lists nominated by the unions with national representative status.

7) Within the context of the **tripartite meeting** and beyond, they exert a degree of influence on government policy.

8) Since 1937, one or more former union leaders have been members of several Governments and have often occupied the post of Minister for Labour and Social Security or, more recently, Minister for Health.

389. **SYNDICAT OUVRIER — TRADE UNION:** More precise expression for a trade union (as distinct from a **collective industrial organization** of either employees or employers) than the word **syndicat** used alone, although the latter is often found in this sense.

390. **SYNDICAT PATRONAL — EMPLOYERS' ASSOCIATION:** Term used synonymously with **organisation professionnelle des employeurs**.

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391. **TAUX DE SYNDICALISATION — UNION DENSITY:** See **trade union**.

392. **TRAITEMENT — SALARY/PAY:** The sum paid to an employee in return for work performed for the employer. This term is the one more widely used to refer to the salary of a **white-collar worker**, as distinct from the wage of a **manual worker**.

393. **TRANSFERT D'ENTREPRISE — TRANSFER OF UNDERTAKING:** Under the Law of 24 May 1989 on the **contract of employment**, in the event of a change in the legal identity of the employer through, for example, inheritance, sale, merger, formation of a partnership or conversion into a limited company, all existing contracts of employment are continued with the new employer. Transfer of undertakings effected by deed or contract or merger does not in itself constitute, either for the transferor or for the transferee, grounds for the dismissal of employees (see **termination of the contract of employment**). If a contract of employment is terminated because the transfer has resulted in a substantive change to the employee's disadvantage in the terms and conditions of employment, it is deemed to have taken place on the initiative of the employer. After the transfer, the transferee must maintain the pay and conditions stipulated by any applicable **collective agreement** for as long as it remains in force.

Both transferor and transferee are required to inform the **Labour and Mines Inspectorate**, the respective **employee committees** and, in the case of enterprises bound by a collective agreement, the signatory trade unions, of: 1) the reasons for the transfer; 2) the legal, economic and social consequences for employees; 3) any measures envisaged with respect to employees (which must be the subject of consultation and negotiations with the employee committees of their respective workforces, and the signatory unions, to seek an agreement). Where no employee committee exists, the employees concerned must be informed direct.

394. **TRAVAIL À TEMPS PARTIEL — PART-TIME WORK:** Term synonymous with the more precisely correct expression **travail volontaire à temps partiel**.

395. **TRAVAIL CLANDESTIN — UNDECLARED EMPLOYMENT:** Within the meaning of Luxembourg law,

concept which includes both carrying on an entrepreneurial activity without possessing the required operating licence for the activity concerned and also work performed as an employee in the knowledge that the employer is not properly licensed or that the situation is in breach of the conditions of declaration laid down by tax and social security legislation (see **deductions from pay permitted by law**). Both are prohibited under the Law of 3 August 1977 (incurring penal sanctions), with exemptions for an activity on own account carried on personally and unaided and an activity on another's account performed on an occasional and small-scale basis. Making use of the regular services of others engaging in undeclared employment, or hiring employees to perform work in a context of undeclared employment, is likewise prohibited and incurs, in addition, joint and several liability for all **social security contributions** payable in respect of such employment.

396. TRAVAIL DE DIMANCHE ET DE JOUR FÉRIÉ LÉGAL — SUNDAY AND PUBLIC-HOLIDAY WORK: See **public holidays, weekly rest**.

397. TRAVAIL DE NUIT — NIGHT WORK: No general regulation of night work exists in Luxembourg. The only provisions currently in force relate to three specific contexts. 1) In bakeries, work is in general prohibited between 2200 and 0500 hrs, but there are various exceptions for particular situations and emergencies and also provision for exemption. 2) Pregnant women (and, on their return to work after compulsory maternity leave, breastfeeding mothers) may not be employed between 2200 and 0600 hrs (see **maternity**). 3) As a general principle, there is a ban on the employment of young people under the age of 18 during the night, *i.e.* during a period of at least 12 consecutive hours which must necessarily include the interval between 2000 and 0600 hrs (see **protection of children and young workers**). However, exemption may be granted by the head of the **Labour and Mines Inspectorate** for night work as so defined for young workers in certain paramedical occupations and for the employment of young people under the age of 18 up to 2200 hrs in the context of an apprenticeship contract in the hotel and catering industry.

It is mandatory for **collective agreements** to provide for **pay premiums** of not less than 15 per cent. for night work. See also **early retirement of shiftworkers and night workers**.

398. **TRAVAIL INTÉRIMAIRE — TEMPORARY-EMPLOYMENT AGENCY WORK:** Term used in Luxembourg law to refer to work performed by employees (called *travailleurs intérimaires*) engaged by a **temporary-employment agency** under a special contract of employment called a **contract for a specific task** for the purpose of being hired out temporarily by the agency to a user enterprise, with which the agency must conclude a **contract for the provision of labour** in respect of every employee made available in this way. The agency bears sole liability for the employee's pay and allied taxes and social security contributions, while the user enterprise is liable for the proper observance of all health and safety regulations, etc.

This form of work, which is on the increase in Luxembourg, is regulated strictly by the Law of 19 May 1994. Any employer intending to use the services of temporary employees on the basis of a contractual arrangement of this kind must first consult the **joint works committee** or, where none exists, the relevant **employee committee**. When the arrangement expires, the same post may not be filled with the same or another temporary worker until after a period equal to one third of the arrangement's total permissible duration of twelve months (including renewals). These restrictions are not applicable in cases of the renewed absence of the permanent employee originally being temporarily replaced, urgent or seasonal work or work for which it is established practice not to employ permanent staff, or in the event of premature termination of the arrangement (or refusal to renew it as permitted) by the temporary-employment agency worker concerned. See also **transfrontier temporary-employment agency work**.

399. **TRAVAIL INTÉRIMAIRE TRANSFRONTALIER — TRANSFRONTIER TEMPORARY-EMPLOYMENT AGENCY WORK:** The provisions of the Law of 19 May 1994 on **temporary-employment agency work** are also applicable to cases where the contractual arrangements (**contract for a specific task** with the temporary employee and **contract for the provision of labour** with the user enterprise) are concluded by a **temporary-employment agency** located outside Luxembourg territory for work to be performed for a user enterprise located on Luxembourg territory, and vice versa. Where appropriate, this is in addition to the laws and regulations governing the employment of non-Luxembourg nationals.

400. **TRAVAIL SUPPLÉMENTAIRE — OVERTIME:** Save where otherwise provided for by law, work done in excess of normal daily and weekly working hours as established by law or by the parties (see **overtime hours**). Like **working hours** in general, overtime is regulated separately in Luxembourg for **manual workers** and **white-collar workers**, and special restrictive provisions apply to young people under the age of 18 (see **protection of children and young workers**). However, the basic rule is that, except in the event of danger, emergency or *force majeure*, all use of overtime is subject to prior authorization by the Minister for Labour, for which employers must apply to the **Labour and Mines Inspectorate**. Where enterprises have an **employee committee**, the committee's opinion must accompany the application.

In addition to the three exceptions to which such authorized overtime is in principle restricted (cases where perishable materials would otherwise be lost or the technical result of the work compromised; for occasional tasks such as compiling inventories; and in circumstances involving the public interest or national danger), authorization may also be granted in cases where the reasons for using overtime are duly presented and where there is no direct effect on the labour market. The Minister may impose a monthly or annual quota per employee. For manual workers, departures from the legal rules on working hours may be regulated by **collective agreement** in sectors, industries or enterprises where there is a shortage of labour, provided that total working hours do not exceed 10 hours a day and 48 hours a week. Such agreements also require ministerial authorization and their maximum duration is two years.

Any overtime worked must be paid at a premium of 25 per cent. (failing a more favourable rate laid down by collective agreement) in the case of manual workers and at least 50 per cent. in the case of white-collar workers, plus any other premiums due if the work is done on a Sunday or public holiday (see **weekly rest**). See also **part-time work**.

401. **TRAVAIL VOLONTAIRE À TEMPS PARTIEL — PART-TIME WORK:** (The inclusion of the word *volontaire* in the expression as used in the Law of 26 February 1993 regulating part-time work denotes that the situation referred to constitutes a free choice on the part of the employee. In general usage the less precise expression *travail à temps partiel* is found.) Within the meaning of the 1993 Law, a part-time worker is an employee who makes an agreement with the

employer on regular weekly **working hours** shorter than the statutory or collectively agreed normal working hours applicable in the establishment concerned. An employer contemplating the creation of part-time jobs must first consult the **joint works committee** or, if none exists, the **employee committee** if the enterprise has one, and any existing employees who have expressed the wish to change to part-time work must have priority in being informed of suitable part-time vacancies.

In addition to the mandatory content specified by law for all **contracts of employment**, a part-time contract must also state: 1) the weekly working hours agreed between the parties; 2) the distribution of these hours over the days of the week, which may then be changed only by mutual agreement; 3) where appropriate, the formalities governing the performance of **overtime**, which in this case is defined as work done in excess of the working hours stated in the part-time contract, must be voluntary, and may not increase the part-time worker's actual working hours to more than the normal working hours for a full-time employee in the same establishment. Part-time workers enjoy the same rights as those established by law or collective agreement for the establishment's full-time employees, and their **pay** is proportional (according to their working hours and length of service) to that of comparable employees occupying an equivalent full-time job. For the purposes of calculating entitlements linked to length of service, the length of service of part-time workers counts as if they had been employed full-time.

402. TRAVAILLEUR ÉTRANGER — FOREIGN WORKER:

Almost 51 per cent. of the 206,000 employees working in Luxembourg are non-Luxembourg nationals; of these, almost 62,000 are **transfrontier commuters** and approximately 45,000 are resident in the country. In current Luxembourg legislation, the word *étranger* (foreign national or alien) has now replaced the word *immigré* (immigrant) used in earlier texts. Among foreign workers, a distinction is made between Community nationals and non-Community nationals. Since the entry into force of Regulation 1612/68/EEC, the requirement for a **work permit** has been abolished for Community workers (and also, since a Grand Ducal Regulation of 17 June 1994, for nationals of signatory countries to the European Economic Area Agreement), whereas no non-Community national may be employed on Luxembourg territory without a permit.

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The entry, medical screening and residence of foreign nationals and the employment of foreign labour are regulated by the Co-ordinated Text of 1 February 1996 of the Law of 28 March 1972 as subsequently amended. This text regulates, among other things, the issue, refusal, renewal or withdrawal of the special identity card which is obligatory for any foreign national intending to reside in Luxembourg. See also **immigrant, medical screening of aliens, freedom of movement for workers.**

403. TRAVAILLEUR FRONTALIER — TRANSFRONTIER

COMMUTER: Term used to refer to **foreign workers** who work in Luxembourg but live in France, Belgium or Germany. Transfrontier commuters are of growing significance: their number tripled between 1984 and 1993 (increasing by 40.4 per cent. between 1990 and 1993), and they nowadays constitute approximately 30 per cent. of the 206,000 employees in Luxembourg. They are mainly employed in manufacturing industry, construction and civil engineering, and market services.

404. TRAVAILLEUR HANDICAPÉ — DISABLED

WORKER: For the purposes of the Law of 12 November 1991, defined as: 1) any worker who has suffered a reduction of at least 30 per cent. in their capacity to work as a result of an **accident at work** sustained in an enterprise located on Luxembourg territory; 2) any Luxembourg or Community national who has suffered a reduction of at least 30 per cent. in their capacity to work as a result of events of war or occupation; 3) any Luxembourg or Community national, and any non-Community national born on Luxembourg territory, with a physical, mental or sensory handicap causing an impairment of at least 30 per cent. in their capacity to work.

Persons registered with the **Disabled Workers Service** within the Employment Service may apply to the **Disablement Assessment and Resettlement Panel** for recognized disabled worker status, in order to obtain assistance with training or occupational rehabilitation and placement in employment. Incentives for employers offer a subsidy (including the employer's share of **social security contributions**) of, in general, 40-60 per cent. towards a disabled worker's **pay**, which in principle may not be less than that resulting from the application of laws, regulations and collective agreements, and assistance towards the cost of adapting the workplace. Public sector employers are required to employ full-time a disabled worker quota of 5 per cent. of

their workforce, and in the private sector employers with 25 or more employees are subject to a quota of up to 3 per cent. (or payment of a monthly charge equivalent to 50 per cent. of the **minimum wage** for each quota post not thus made available).

Disabled workers are entitled to six extra days of **annual holiday**, for which the cost of their holiday pay is met by the state.

405. **TRAVAILLEUR INTÉRIMAIRE — TEMPORARY-EMPLOYMENT AGENCY WORKER:** See **temporary-employment agency work**, **transfrontier temporary-employment agency work**.
406. **TRAVAILLEUR MANUEL — MANUAL WORKER:** Term synonymous with **ouvrier**.
407. **TRAVAILLEUR QUALIFIÉ — SKILLED WORKER:** Within the meaning of the legislation on the **minimum wage**, term denoting a **manual worker** who holds one of a specified range of formal qualifications, attracting a 20 per cent. premium in minimum wage rates.
408. **TRAVAUX D'UTILITÉ PUBLIQUE — COMMUNITY WORK PROGRAMMES:** The award or continuation of **unemployment benefit** may be made conditional on the recipient's participation in a community work programme to which they are assigned by the **Employment Service**. Assignment to the performance of socially useful tasks classed as community work programmes entitles registered **job-seekers** to a supplementary allowance in addition to benefit. The amount is decided by the Minister for Labour according to the nature of the work.
409. **TREIZIÈME MOIS — THIRTEENTH MONTH'S PAY:** Pay supplement consisting in an additional month's **pay**, provided for under many **collective agreements** and individual **contracts of employment**. It constitutes deferred pay, normally paid at the end of the year together with the employee's pay for December (pro rata the number of months for which the contract of employment has existed during the reference year). It is therefore an agreed form of remuneration, in contrast to a **special bonus**, which in most cases represents a discretionary payment (often over and above thirteenth month's pay) granted unilaterally by the employer as a reward for good service and to enable the employee to share in the company's results.

410. **TRIBUNAL ARBITRAL — WHITE-COLLAR WORKERS' TRIBUNAL:** Name used for the tribunals which at one time in Luxembourg had separate jurisdiction over disputes between **white-collar workers** and their employers. Under a Law of 6 December 1989 this institution was merged with that of the **manual workers' tribunal** to form the institution now known as a **Labour Tribunal**, *i.e.* the bodies which today possess unified jurisdiction (see **labour jurisdiction**).
411. **TRIBUNAL DU TRAVAIL — LABOUR TRIBUNAL:** Name given to the tripartite judicial bodies (one in each magistrate's area) which nowadays possess unified jurisdiction to deal with individual disputes relating to the contract of employment that arise between employers and employees, *i.e.* irrespective of whether the latter are white-collar or manual workers (see **labour jurisdiction**). Each Tribunal consists of a presiding magistrate, one employee-assessor and one employer-assessor (see **Labour Tribunal assessors**). In general the rules of procedure are the same as those applicable to ordinary magistrates' courts, but in addition to the provision for an injunction procedure (*référé*) introduced under the Law of 6 December 1989, the presiding magistrate of a Tribunal also possesses special powers granted under the Law of 24 May 1989 on the contract of employment. These allow urgent rulings on **nullity of dismissal** and orders for **reinstatement** (see **maternity protection against dismissal, protection against dismissal of board-level employee representatives, protection against dismissal of employee committee members, protection against dismissal of joint works committee members**), and also the interim award of entitlement to **unemployment benefit** pending a final ruling on a claim against dismissal for **grave cause**. See also **appeal against Labour Tribunal decisions**.
412. **TRIPARTISME — TRIPARTISM:** Term denoting the "social partnership" that characterizes the Luxembourg model of consensual industrial relations (see **social concertation**).

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413. **UNICITÉ DE LA CONVENTION COLLECTIVE DE TRAVAIL — SINGLE COLLECTIVE-AGREEMENT SYSTEM:** Term used to refer to the system prescribed by the Law of 12 June 1965 on **collective agreements**. For any given group of enterprises, enterprise or department within an enterprise, there may be only one agreement covering all **manual workers** and one agreement covering all **white-collar workers**. See also **collective bargaining**.
414. **UNION DES CAISSES DE MALADIE (UCM) — UNION OF SICKNESS AND MATERNITY INSURANCE FUNDS (UCM):** Body with overall responsibility for administering **sickness and maternity insurance**, subject to the powers delegated individually to the nine **sickness and maternity insurance funds**.

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415. **VIEILLESSE — OLD AGE:** See **old-age pension**.

LIST OF LEGISLATION

LIST OF LEGISLATION

(The following list is not arranged in chronological order but structured so as to facilitate a more systematic study of the legislative provisions in the field of Luxembourg labour law. All texts are published in the Mémorial: see Glossary Entry 270.)

Law of 24 May 1989 on the contract of employment

amended by the Law of 24 December 1990 on early retirement, the Law of 5 July 1991 to establish derogations from the Law of 24 May 1989, the Law of 26 February 1993 concerning part-time work, the Law of 15 May 1995 to amend the Law of 24 May 1989 on the contract of employment and the Law of 31 July 1995 on employment and vocational training

Grand Ducal Regulation of 11 July 1989 implementing the provisions of Articles 5, 8, 34 and 41 of the Law of 24 May 1989 on the contract of employment

Co-ordinated Text of 5 December 1989 comprising the laws regulating the employment of white-collar workers

Law of 19 May 1994 to regulate temporary-employment agency work and the temporary loaning of labour

Law of 23 July 1993 introducing various measures to promote employment: Collective dismissals

amended by the Law of 15 May 1995

Law of 9 December 1970 to reduce and regulate the working hours of manual workers employed in the public and private sectors

Law of 26 February 1993 concerning part-time work

Law of 1 August 1988 on the weekly rest for white-collar workers and manual workers

Law of 10 April 1976 to reform the regulation of official public holidays

amended by the Law of 24 May 1989

Grand Ducal Regulation of 8 October 1976 concerning pay for work done on public holidays in enterprises of a seasonal nature

Law of 22 April 1966 to introduce uniform regulation of annual holidays for private-sector employees, as amended

Co-ordinated Text of 20 September 1979

amended by the Laws of 14 March 1988 and 12 November 1991

Grand Ducal Regulation of 26 July 1966 implementing the Law of 22 April 1966 to introduce uniform regulation of annual holidays for private-sector employees

Grand Ducal Regulation of 16 June 1976 concerning annual holidays for personnel employed in enterprises of a seasonal nature

Grand Ducal Regulation of 28 January 1976 concerning annual holidays for personnel employed in agriculture and viticulture

Law of 14 March 1988 to create adoption leave for private-sector employees

Law of 4 October 1973 concerning the institution of educational leave

amended by the Law of 1 June 1989

Law of 12 July 1895 concerning the payment of manual workers' wages

amended by the Law of 7 August 1906

Grand Ducal Regulation of 10 July 1974 on equal pay for men and women

Law of 12 March 1973 to reform the minimum wage

amended by the Laws of 23 December 1976, 24 December 1982, 28 March 1986, 28 December 1988, 24 April 1991, 12 June 1991, 26 February 1993 and 23 December 1994

Grand Ducal Regulation of 24 December 1982 defining an employee with a dependent family for the purposes of the provisions of Article 14 of the amended Law of 12 March 1973 to reform the minimum wage

amended by the Law of 23 December 1994 abolishing the concept of a dependent family within the meaning of the aforementioned Article 14

Law of 27 May 1975 to generalize the sliding-scale indexation of wages and salaries

amended by the Law of 1 July 1982

Law of 1 July 1981 to amend certain operational details of the sliding-scale indexation of wages and salaries

Law of 11 November 1970 on the transfer and attachment of earnings and pensions

amended by the Laws of 23 December 1978 and 27 July 1987

Grand Ducal Regulation of 8 January 1993 setting transferability and attachability rates for earnings and pensions

Grand Ducal Regulation of 5 March 1979 setting special transferability rates for earnings and pensions in the case of savings or loan agreements concluded by an agent with public status

Grand Ducal Regulation of 9 January 1979 concerning the procedure for transfer and attachment of earnings and pensions

Law of 30 June 1976 to 1) create an Employment Fund and 2) regulate the award of unemployment benefit

Law of 25 April 1995 on the award of a guaranteed compensatory payment in the event of layoff due to extreme weather conditions and involuntary layoff

Law of 8 December 1981 on equal treatment for men and women as regards access to employment, vocational training and promotion, and terms and conditions of employment

amended by the Law of 17 November 1986

Law of 28 October 1969 concerning the protection of children and young workers

amended and supplemented by the Law of 30 July 1972 and the Grand Ducal Regulation of 30 July 1972

Co-ordinated Text of 10 September 1981

amended by the Law of 17 June 1994 concerning company medical services

Law of 22 July 1982 concerning the employment of schoolchildren and students during their holidays

Grand Ducal Regulation of 10 August 1982 defining the conditions and formalities of the training and probation courses referred to in Article 1(2) of the Law of 22 July 1982 concerning the employment of schoolchildren and students during their holidays

Law of 3 July 1975 concerning 1) maternity protection for women at work and 2) amendment of Article 13 of the Social Insurance Code as amended by the Law of 2 May 1974

amended by the Law of 24 May 1989

Law of 18 May 1979 to reform employee committees

amended by the Laws of 3 April 1980, 3 November 1983, 23 May 1989, 26 February 1993, 13 July 1993, 19 May 1994 and 17 June 1994

Grand Ducal Regulation of 21 September 1979 concerning election procedures for the appointment of employee committees

amended by the Grand Ducal Regulations of 13 June 1988 and 13 July 1993

Ministerial Order of 2 February 1993 fixing the date for the renewal of employee committees for period 1993-1998 at 10 November 1993

Law of 6 May 1974 to institute joint works committees in private-sector enterprises and to organize employee representation in limited companies

Grand Ducal Regulation of 24 September 1974 concerning election procedures for the appointment of employee representatives on joint works committees and boards of directors

Grand Ducal Decree of 11 August 1974 listing the limited companies covered by Article 22(2) of the Law of 6 May 1974 to institute joint works committees in private-sector enterprises and to organize employee representation in limited companies

supplemented by the Grand Ducal Decree of 8 April 1989

Law of 12 June 1965 concerning collective agreements

Grand Ducal Decree of 6 October 1945 relating to the institution, powers and functioning of a National Conciliation Service

amended by the Law of 12 June 1965

Law of 4 April 1974 to reorganize the Labour and Mines Inspectorate

amended by the Laws of 9 May 1990 and 17 June 1994

Law of 6 December 1989 on labour jurisdiction

Law of 6 December 1989 on the injunction procedure in Labour Tribunals

Law of 3 August 1977 to (*inter alia*) prohibit undeclared employment

TABLES

TABLE 1

POPULATION IN LUXEMBOURG

<i>Population structure</i>	<i>1981</i>	<i>1991</i>	<i>1996*</i>	<i>1997*</i>
Total population (000s)	364.6	384.4	412.8	418.3
of which:				
Women	186.7	196.1	210.2	212.9
Luxembourgers	268.8	271.4	274.8	275.5
Aliens	95.8	113.0	138.0	142.8
Total aliens as %	26.3	29.4	33.4	34.2
of which by country of origin:				
Portugal	29.3	39.1	51.5	53.1
Italy	22.3	19.5	19.8	19.8
France	11.9	13.0	15.0	15.7
Belgium	7.9	10.1	11.8	12.4
Germany	8.9	8.8	9.7	9.9
UK	2.0	3.2	4.2	4.4
Netherlands	2.9	3.5	3.8	3.8
Other EU	10.6	6.6	8.2	8.7
Other		9.2	14.0	15.0
<i>Population by age group (as %)</i>				
Working age (15-64 years)	67.9	68.4	67.4	67.2
Children (0-14 years)	18.5	17.3	18.5	18.6
Over 65 years	13.6	14.3	14.1	14.2
<i>Long-term development (000s)</i>	<i>1922</i>	<i>1971</i>	<i>1981</i>	<i>1991</i>
Total population	262	340	365	385
of which:				
Women	129	173	187	196
		<i>1931-44</i>	<i>1945-80</i>	<i>1981-90</i>
Natural balance		9	22	3
Migration balance		-26	61	12

* Calculated as at 1 January

Source: STATEC Luxembourg, 1997

TABLE 2

EMPLOYMENT AND UNEMPLOYMENT

	1980	1990	1995	1996
	<i>(000s, annual average)</i>			
1. Domestic employment	157.6	187.1	213.5	219.0
Employees	137.0	170.4	197.5	203.0
Agriculture, viticulture, forestry	1.0	1.5	1.6	1.6
Energy and water	1.4	1.5	1.7	1.7
Mining and manufacturing industry				
of which:	40.9	36.2	32.5	32.1
Ores and metals	19.7	12.3	8.9	8.3
Construction and civil engineering	15.1	18.3	22.1	22.7
Market services				
of which:	58.8	86.0	107.3	113.3
Banking and insurance	8.1	16.9	18.6	18.9
Distributive trades and repairs	25.3	25.8	29.4	30.6
Other	10.3	43.3	59.1	61.8
Non-market services	19.8	28.1	32.2	33.3
Employers, self-employed, unpaid family workers	20.6	16.7	16.0	16.0
2. Net transfrontier workers				
(a) - (b) - (c)	6.8	25.2	47.0	51.1
a. Non-resident transfrontier workers	13.4	33.7	55.5	59.6
of which from:				
France	5.3	15.3	28.6	30.8
Belgium	6.4	12.3	16.9	17.9
Germany	1.7	6.1	10.0	10.8
b. Resident foreign workers	0.5	0.7	0.7	0.7
c. International employees and officials	6.1	7.8	7.8	7.8
3. National employment				
(1) - (2)	150.8	161.9	166.5	167.9
4. Unemployed	1.1	2.1	5.1	5.7
of which receiving benefit:	0.6	0.9	2.6	2.8
5. Economically active population				
(3) + (4)	151.9	164.0	171.7	173.6
6. Unemployment rate (%)				
(4) : (5)	0.7	1.3	3.0	3.3

Source: STATEC Luxembourg, 1997

TABLE 3

ENTERPRISES*Number of enterprises by sector (1994)*

Agriculture and viticulture	3 401
Energy and water	43
Mining and manufacturing industry	950
Construction and civil engineering	1 440
Market services	13 850
of which:	
Banking and insurance	750
Distributive trades	5 330
Transport and communications	750

*New enterprises**

<i>in operation in</i>	<i>1990</i>	<i>1994</i>	<i>1995</i>	<i>1996</i>
Number of new enterprises	91	120	132	127
Industrial enterprises (incl. construction)	63	85	89	94
Market and other services	28	35	43	33
Number of employees	7 154	9 758	10 494	10 892
Industrial enterprises (incl. construction)	5 109	7 397	7 912	8 933
Market and other services	2 045	2 361	2 582	1 959

Employees of new enterprises as a proportion of total employees (%)

<i>4.2</i>	<i>5.1</i>	<i>5.3</i>	<i>5.4</i>
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* Created since 1975 as part of the policy of economic diversification

Source: STATEC Luxembourg, 1997

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