

Mutualité des Employeurs

Luxembourg, November 12, 2008

Circular to all employers and future affiliated members

The Mutualité des Employeurs (Employers' Mutual Insurance Scheme) was created by the law of 13 May 2008 embodying the introduction of the unified statute for employees. The Mutual Scheme is governed by the relevant legal provisions and by the statute adopted by its Board of Directors and approved by decision of the Minister responsible for Social Security. The main provisions of these texts are set out in this letter in order to introduce this new social security scheme to its members.

Purpose of the Mutual Scheme

The purpose of the Mutual Scheme is to safeguard employers against the financial cost of general introduction of the principle of continued payment of salaries or wages to workers who become incapacitated; with effect from 1 January 2009, that obligation will apply to all employees. This principle requires the employer to continue to pay the remuneration of the employee who is unable to work until the end of the month in which the seventy-seventh day of incapacitation occurs within a reference period of twelve successive calendar months.

Beneficiaries

All employers whose personnel are covered by the legislation governing the employment contract (Art. L.121-1. et seq. of the Code of Labour Law) must be affiliated to the Mutual Scheme.

However, public sector employers are exempt from this affiliation requirement in the case of employees who benefit from continuing payment of their remuneration for an unlimited period of time; employers of domestic personnel in their own private home are likewise exempt.

Moreover, companies which took out an insurance policy prior to 31 December 2008 with a view to covering the risk of continued salary payments are not required to join the Mutual Scheme for a transitional period.

Persons who are not in gainful employment, i.e. self-employed persons together with

spouses and assistants occupied in their business, covered by the provisions of Art. 1, para. 1, Point 5, of the Code of Social Security Law, and self-employed intellectual workers, may voluntarily take out insurance with the Mutual Scheme.

Benefits provided by the Mutual Scheme

The benefits provided by the Mutual Scheme consist in the refund to employers of around 80% of the cost occasioned by the principle of continuing payment of remuneration described above. More specifically, the benefit is calculated by multiplying the basis of the employer's contribution to the National Health Insurance Scheme for the pecuniary health allowance by the ratio between the number of unemployed hours and the total number of hours of work put in and equivalent hours. Under this heading, employers must declare remuneration every month, together with the unemployed hours and the total hours worked in the previous month, to the Joint Social Security Centre.

The refund will cover amounts paid out by employers in respect of absences caused by an occupational accident, leave on family grounds and accompanying leave and will be effected at monthly intervals by offsetting against the social security contributions to be collected by the Joint Social Security Centre. If the amount refunded exceeds the contributions, the balance will be paid out to the business concerned at its specific request.

Refunds in respect of absences on leave for family grounds and accompanying leave and absences during the probationary period for three months will be effected in full for the employer and will be definitively covered by the National Health Insurance Scheme.

Persons pursuing a professional activity for their own account are compensated at the rate of 80% of the basis on which contributions are calculated. If the period of compensation is less than one month, each duly certified day of absence is counted uniformly as one-thirtieth of a month.

Financing the Mutual Scheme

The benefits are financed on the basis of contributions paid by the affiliated members and, for a transitional period ending on 31 December 2013, by an additional premium payable by employees whose tasks are primarily manual. After this period, the State budget will contribute to the financing of the Mutual Scheme by an amount which is intended to neutralise the impact on the economy as a whole of the general introduction of the requirement for continuing payment of remuneration in the event of illness.

Contributions of affiliated members depend on their rate of financial absenteeism. Employers are in fact allocated to four different contribution classes on the basis of their absenteeism observed during a reporting period between 1 January 2007 and 30 June 2008 with a view to the determination of their contributions for the financial year 2009. This observation period will gradually increase until, with effect from the 2011

contribution year, it will cover the three years preceding by one year the contribution year, in this case the years 2007, 2008 and 2009.

Financial absenteeism is calculated on the basis of the sum of gross remuneration of employees on a pro rata basis, having regard in each case to their absences and, with effect from 2011, with reference to the benefits paid by the Mutual Scheme to the employers. The first classification of employers will be made in the month of November 2008; it will be renewed annually thereafter.

For the financial year 2009, the contribution classes will include employers whose financial absenteeism is less than 0.75%, those whose financial absenteeism is equal to or greater than 0.75% but less than 1.75%, equal to or greater than 1.75% but less than 2.75% and, finally, those whose absenteeism is equal to or greater than 2.75%.

The contribution rates corresponding to the different classes will be determined during the month of December 2008 in order to assure financing of the refunds stipulated for the particular class, together with the administrative costs and transactions against the reserves.

Final remarks

Self-employed persons will be invited by means of a form which they will receive during the month of December to submit, if they so wish, an application for affiliation to the Mutual Scheme. Employers who are automatically affiliated and do not wish to join the Mutual Scheme will likewise be invited to notify the insurance contracts covering the risk of maintaining salary and wage payments.

The Mutual Scheme will inform employers and affiliated members early in December of their classification and contribution rate for the financial year 2009.

For all other matters, readers are referred to the text of the law of 13 May 2008 and, more particularly, to the provisions of Art. 2, 11 amending Art. 52 to 58 of the Social Security Code governing this matter and the statute of the Mutual Scheme which can be downloaded from the internet site of the Joint Social Security Centre (<http://www.ccss.lu/site.htm>).

The federations and professional chambers will of course be happy to give their members additional explanations on request.

The Employers' Mutual Scheme will provide further information in due course.

The Board of Directors of the Employers' Mutual Scheme