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Penalty payment in the private sector

Verified 14 February 2024 - Directorate for Legal and Administrative Information (Prime Minister)

A periodic penalty payment is a period during which, without being at work, the employee must be able to intervene if his employer so requests. The standby period may be compensated or recovered in the form of a compensating rest. We present you with the information you need to know.

What is a penalty payment? ^

A periodic penalty payment is a period during which the employee must remain at or near his home in order to be able to intervene and perform work for his employer. For example, they just need to be able to be reached by telephone.

The periodic penalty payment is not a period of actual work.

If, on the other hand, the employee makes an intervention during his stand-by duty period, the duration of the intervention and of the trip to the place of that intervention shall be considered as actual working time.

Who should make periodic penalty payments? ^

Periodic penalty payments may be fixed by treaty provisions.

In the absence of collective agreement or collective company agreement, they shall be fixed by the employer after consultation with the Social and Economic Committee (ESC) (<https://www.service-public.gouv.fr/particuliers/vosdroits/F34474?lang=en>) and labor inspection information.

The individual periodic penalty payments program shall be communicated to each employee concerned within a reasonable period of time.

This period is provided for in the collective agreement or company agreement.

In the absence of a time limit, the employer must inform the employee **15 days** in advance of the imposition of periodic penalty payments.

However, the time limit may be reduced in exceptional circumstances, provided that the employee is at least notified **1 free day** in advance.

Warning

The contract of employment may mention the penalty payment, but the employer may not impose it on an employee simply because that possibility is included in the contract of employment.

How is the penalty payment remunerated or compensated? ^

The periodic penalty payments made by the employee are compensated either financially or in the form of rest.

The conditions are set out in the company agreement or convention.

In the absence of an agreement, the employer shall lay down the conditions for compensation.

The employer must also ensure that, after his stand-by period, the employee benefits from the minimum legal period of daily rest (<https://www.service-public.gouv.fr/particuliers/vosdroits/F990?lang=en>) (**11 consecutive hours**) and weekly rest (<https://www.service-public.gouv.fr/particuliers/vosdroits/F2327?lang=en>) (**35 consecutive hours**).

This provision shall not apply if the employee has already fully benefited from the minimum daily and weekly rest period before the start of his stand-by duty.

At the end of each month, the employer provides each employee with a document specifying the number of hours of standby duty performed and the corresponding compensation.

Who can help me?

Find who can answer your questions in your region

- For more information

Telephone administrative information - Allo Public Service

 For more information on this topic, you can contact Allô Service Public.

Attention: the service does not have access to users' personal files and cannot therefore provide information on their status.

He **does not respond** questions relating to unemployment compensation and representations to **France Labor** (formerly Pôle emploi), the **officials** or **contractual** of the **public service**, the amount or payment of **contributions** social, wage or management.

 **Lundi** : de 08h30 à 17h30

Mardi : de 08h30 à 12h15

Mercredi : de 08h30 à 12h15

Jeudi : de 08h30 à 17h30

Horaires exceptionnels le jeudi 15 janvier de 08h30 à 11h15 et de 14h00 à 17h30

Vendredi : de 13h00 à 16h15

 Service **free**

 The informants who answer you belong to the ministry responsible for labor.

Statute and miscellaneous references

Labor Code: Articles L3121-9 and L3121-10 (<https://www.legifrance.gouv.fr/codes/id/LEGISCTA000033001537?lang=en>)

Organization of periodic penalty payments, situation of the employee, guarantees, consequences for working hours (public policy provisions)

Labor Code: Article L3121-11 (<https://www.legifrance.gouv.fr/codes/id/LEGISCTA000033001561?lang=en>)

Setting up and organization of periodic penalty payments (scope of collective bargaining)

Labor Code: Article L3121-12 (<https://www.legifrance.gouv.fr/codes/id/LEGISCTA000033001574?lang=en>)

Setting up and organization of periodic penalty payments (supplementary provisions)

Labor Code: Article R3121-2

(https://www.legifrance.gouv.fr/codes/section_lc/LEGITEXT000006072050/LEGISCTA000033441971?lang=en)

Organization of periodic penalty payments (public policy provisions)

Labor Code: Article R3121-3 (<https://www.legifrance.gouv.fr/codes/id/LEGISCTA000033442007?lang=en>)

Organization of periodic penalty payments (supplementary provisions)

FAQ

Does a European national employed in France have the same rights as a French employee?

(<https://www.service-public.gouv.fr/particuliers/vosdroits/F36444?lang=en>)