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From the Individual Right to Training to the Personal Training Account: what will change on January 1, 2015?

The Personal Training Account (Compte Personnel de Formation or “CPF”) was addressed in our May 2014 e-newsletter. Two Decrees were published on October 2, 2014: one in relation to the list of training programs eligible under the CPF (Decree n° 2014-1119) and the other in relation to the conditions in which (i) hours can be accrued under the CPF and, (ii) the CPF can be used (Decree n° 2014-1120).

These Decrees bring some clarification on the obligations imposed on companies for the transition from the DIF to the CPF. This Article provides an overview of such obligations.

What will the DIF become on January 1, 2015?

Employers must inform their employees in writing of the number of hours accrued under their DIF on or before January 31, 2015.

Employees may use their DIF hours until December 31, 2021. After that date, such hours will be lost.

These hours will be recorded in the CPF but will not be treated as hours accrued under this new CPF scheme. As such, they will not be taken into account to determine whether the 150-hour threshold is reached.

When an employee will benefit from a training program under his/her CPF, the hours previously accrued under the DIF will be used on a priority basis.

Effective on January 1, 2015, the DIF-related mentions currently required by law to appear on the employment contract will be deleted.

Accruals of CPF hours

As from January 1, 2015, a CPF will be opened in the name of any person who is at least 16 years old and will remain in force until retirement. The CPF will be managed by the Caisse des Dépôts et Consignations (i.e. a state-owned financial organization) and credited with 24 hours per year up to 120 hours, and then 12 hours per year until an aggregate ceiling of 150 hours.

Decree 2014-1120 provides detailed information on the calculation method to be used in specific cases, e.g. incomplete year of employment, employees whose remuneration is not based on the duration of work, etc. The adopted approach is that of a pro rata calculation based on an annual duration of work of 1607 full hours, and an annual remuneration of 2080 times the hourly minimum wage for a full-time position.

Use of the CPF

Any employee wishing to benefit from a CPF training program that takes place, wholly or partially, during his/her working hours must seek the prior approval of the employer both on the training program content and schedule at least 60 days prior to the beginning of the training if its duration is below 6 months, and at least 120 days prior to the beginning of the training for all other training programs.

The employer must provide its response to the employee within 30 calendar days, and if it fails to do so, the employee's request will be deemed granted.

The employee will not have the obligation to seek the employer's approval on the content of the training program if such program is financed through hours credited as a result of the "allocation-sanction" mechanism (100 or 130 hours) for lack of training or career development review meeting (please cf. our May 2014 e-newsletter), or if the training is designed to acquire the "base of knowledge and skills" (to be defined in a forthcoming Decree), or to provide support for the validation of prior experience, as well as in other cases provided for by collective branch-level agreements.

If the employee elects to follow a training program outside his/her working hours, he/she can freely do so without having the obligation of seeking the employer's prior approval, or even informing it thereof.

Training programs eligible under the CPF

Training programs must be set forth in lists that will detail the programs eligible to employees (3 lists: branch list, national list and regional list) and to job-seekers (2 lists: national list and regional list).

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These lists shall be published, including but not limited to, on the web site of the French Professional Certification Commission (Commission Nationale de la Certification Professionnelle or “CNCP”). In addition, as from January 1, 2015, employees and job seekers will be able to consult the number of hours accrued under their CPF and to access a consolidated list of available training programs based on their own specific situation.

Status of employees on training

For training hours that take place during working hours, the employer must pay the employee at his/her normal pay rate. So-called Organismes Paritaires Collecteurs Agréés (i.e. accredited social partners’ bodies collecting and regulating funds for training or “OPCA”) can assume maximum of 50% of the aggregate training expenses, subject to the express approval of the relevant OPCA’s board of directors.

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