

Newsflash

11 December 2007

Employment, Social Security and Immigration Law

New Outplacement Law is applicable as of 1 December 2007

As from 1 December 2007, employers have to offer outplacement on their own initiative to certain categories of employees that they want to discharge from their employment. Until today, the employer was only required to inform an employee of the outplacement procedure which became mandatory only if the employee made a specific request for outplacement.

This has been achieved by Collective Bargaining Agreement (CBA) No. 82-bis adapting CBA No. 82 with regard to the right to outplacement for employees who were made redundant.

This means that for every notification of a redundancy occurring as of 1 December 2007, a specific offer regarding outplacement must be made to any dismissed employee (who is not dismissed for serious misconduct/grave misdemeanour) aged 45 or above and who has a seniority of at least 1 year within the company. This proposal must be made within the 15 days that follow the termination of their employment contract. The offer must be sent by registered mail.

The obligation to offer outplacement does not apply to certain categories of employees who must not be available for the labour market (e.g. certain categories of employees benefiting from bridge pensions). The same exemption applies to part-time employees who work less than halftime. However, employees who are part of these exempted categories still have the right to apply for outplacement. If they do not apply for outplacement, they lose their right to take leave to seek employment.

The CBA takes into account the recent changes in unemployment benefit regulations. These regulations stipulate that dismissed employees aged 45 or above must accept and participate in outplacement counselling. They are also obliged to apply for outplacement if their employer has not offered the outplacement within the applicable timeframe of 15 days after termination of their contract. Employees failing to do so may suffer substantial sanctions regarding their unemployment benefits. Employers who fail to offer outplacement will be subject to a fine from the National Employment Office (RVA/ONEM) and might be subject to criminal sanctions or administrative penalties because of a violation of the mandatory CBA.



© 2007 Laga — www.laga.be — The content and lay out of this newsflash are the copyright of the law firm Laga or its contributors, and are protected under copyright and other relevant intellectual property rights laws and regulations. No reproduction in any form or through any medium is allowed without the explicit consent of Laga or its contributors.

For further information, do not hesitate to contact your usual Laga correspondent or Fabienne Fonder (ffonder@laga.be). Although Laga verifies the reliability of the information given, such information is general and Laga may not be held responsible in any way for any possible error that might occur or for any use or interpretation that could be made of this information without the assistance of Laga.

Another new development is that the employer must verify that the outplacement service providers perform their services properly. In this regard the CBA establishes the quality standards that the outplacement has to meet.

Additionally, employees who are made redundant and who give a counter-notice to start working for a new employer, maintain their right to outplacement. This entitlement stays valid for three months after the termination of the contract with the former employer.

The CBA also determines the procedure to follow and the conditions of the outplacement offer made by the employer. The offer must give the employee a clear idea of the outplacement guidance/services. Additional procedural rules can be determined by industry sector (in a Joint Committee).

Stefan Nerinckx, Partner, Tel.: +32 2 800 71 36, E-mail: snerinckx@laga.be



© 2007 Laga — www.laga.be — The content and lay out of this newsflash are the copyright of the law firm Laga or its contributors, and are protected under copyright and other relevant intellectual property rights laws and regulations. No reproduction in any form or through any medium is allowed without the explicit consent of Laga or its contributors.

For further information, do not hesitate to contact your usual Laga correspondent or Fabienne Fonder (ffonder@laga.be). Although Laga verifies the reliability of the information given, such information is general and Laga may not be held responsible in any way for any possible error that might occur or for any use or interpretation that could be made of this information without the assistance of Laga.