



# Mandatory formalities Related to Hiring

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# Preamble

Various mandatory formalities must be carried out by the employer for any recruitment, regardless of the nature of the contract and the duration of the contract. Specific formalities must be carried out for certain categories of employees.

We take stock of all the formalities in this note.

## 1. Prior declaration of the employee

### 1.1. The pre-employment declaration



In **the 8 days** preceding the hiring of an employee, a **pre-employment declaration** (DPAE) must **be sent to the URSSAF**.

The DPAE allows you to carry out the following steps in one step:

- The employer's application for registration with the general social security scheme;
- The employee's registration with the primary health insurance fund;
- Creation or acquisition of a company employing employees;
- The application for affiliation to the unemployment insurance scheme;
- The application for membership in an occupational medical service;
- The request for the information and prevention visit.

On the other hand, according to Acoess, in the case of **successive contracts** with the same employer, there is no need to renew the DPAE (fixed-term contract, apprenticeship contract transformed into a permanent contract, etc.)

However, an employee working for **several employers** must be subject to a DPAE by each employer.

In addition, if the employee is an employee in the agricultural sector, the DPAE must be sent to the **MSA**.

## 1.2. Additional Statement

In addition to the DPAE, the employer must make a declaration, by registered letter, to **the labour inspectorate** prior to hiring:

- When a new employee is hired in an establishment that has stopped employing staff **for at least 6 months**;
- When declaring a **change in the company** (change of operator, industry or business, or geographical transfer).

# 2. Mandatory formalities

## 2.1. The single personnel register



An employee who has just been hired must be registered in the single personnel register.

Indeed, the personnel register is mandatory for all employers **as soon as the first employee is hired**, under penalty of criminal sanctions.

The single personnel register must contain **mandatory information**, in particular on **the employee's identification** (surname, first name, for example) or **his or her career** (job, qualifications, etc.).

It should be noted that these entries in the register must be **kept for 5 years** from the date on which the employee left the establishment.

## 2.2. Additional formalities specific to certain categories

The hiring of a **jobseeker** registered with France Travail (formerly Pôle Emploi) must be **notified within 48 hours** to the department to which he or she belongs. However, this formality is carried out through the DPAE.

Concerning **the hiring of young people**, and in particular minors **under the age of 16**, to carry out light work during the school holidays, the employer must send a prior declaration to **the labour inspectorate**.

Finally, there are also specific formalities for **foreign workers**. Indeed, an application for **a work permit** must be made when the residence permit does not already include such a mention and **an application for a residence permit** by the foreigner must be made. Subsequently, 48 hours before hiring, the employer must ask the prefecture of the department of the place of hiring, for the **authentication** of the residence permit or work permit of the foreign employee.

## **2.3. The information and prevention visit**



An **information and prevention visit** must be organised with the occupational doctor within **3 months of hiring**. However, it can be organised within 2 months in the case of an apprentice.

On the other hand, for workers assigned to a post presenting particular risks to their health or safety, a **medical fitness examination** replaces the information and prevention visit.

## **2.4. Affiliation with pension institutions, provident funds and health expenses**

- **Retirement affiliation:**

Companies are required to register all persons holding an employment contract, whatever its nature or regardless of their functions, with **the supplementary pension institutions of Agirc-Arrco**. This affiliation is carried out by sending the nominative social declaration (DSN) to all the bodies that manage the social protection of employees.

- **Mutual insurance/health expenses:**

Since 1 January 2016, private sector employers (excluding individual employers) must offer **supplementary group health coverage** to all their employees. This obligation applies regardless of the employee's seniority in the company.

A "company health insurance" or "company health insurance plan" allows any employee to supplement their health reimbursement expenses in addition to the part reimbursed by Social Security.

**The employee is required to be affiliated to the mutual insurance scheme/health expenses,** unless he or she invokes a case of exemption. In this case, keep in your files proof of the use of the exemption case by the employee.

- **Affiliation to the mandatory pension scheme:**

Provident insurance is a **supplementary cover** that covers risks that may affect the life of an insured person, in particular in the event of: illness, maternity, disability, dependency, death, accident at work or occupational disease.

Provident insurance is **compulsory in companies for managers** or when it is provided for by a collective agreement or branch agreement or by decision of the employer.

When hiring, you should therefore think about enrolling your employees in the company's pension scheme.

## **3. Documents to be given to the employee**

### **3.1. Mandatory transmission of information to hired employees**



In all documents given to employees relating to the employment relationship that the employer is required to provide, the following information must be included:

- *The identity of the parties/business users,*
- *Employer's place of work/address,*
- *Job title, classification, duties, job category,*
- *The date of hiring and end date for a fixed-term contract, the trial period (duration and conditions),*
- *The right to vocational training provided by the employer,*
- *The duration of paid leave and the methods of calculation,*
- *The procedure in the event of termination of the employment relationship,*
- *The constituent elements of the remuneration (overtime increases, periodicity, method of payment of remuneration),*
- *Working hours: daily, weekly or monthly, the terms and conditions for the organisation of working time, the conditions for overtime or additional hours, the terms and conditions for changing shifts, etc.,*
- *The applicable collective agreements*
- *The compulsory schemes to which the employee is affiliated, the social protection and supplementary protection contracts as well as the seniority conditions, if applicable.*

The employer is required to respond to the employee's request for the transmission of information within **seven calendar days or one month at the latest**, depending on the nature of the information requested.

Some information may be communicated in the form of a reference to legislative and regulatory provisions or contractual stipulations (trial period, paid leave, termination of contract, etc.).

In the event of non-compliance with these deadlines, **the employee may refer the matter to the labour court** after having given notice to the employer to communicate or complete this information and request the payment of damages.

In practice, this information is transmitted through employment contracts or the provision of documents via the company's intranet.

*NB: specific information must also be sent to employees who are called upon to work abroad.*

## **3.2. The employment contract**



The **open-ended contract** is the normal and general form of the employment relationship. The submission **of a written document is not mandatory for this contract**, which is by nature consensual. The employer must still submit a written document containing the information contained in the pre-employment declaration sent to the URSSAF.

However, for many contracts such as fixed-term **contracts (CDD)**, **a written contract is mandatory**. In the absence of writing, the contract is deemed to have been concluded for an indefinite period. The fixed-term contract must be given to the employee within 48 hours.

*Remember **to keep a signed copy of the contract** in your personnel files and send a copy to your payroll manager.*

*Our employment law lawyers can help you in the execution of employment contracts relating to French labour law.*

### **3.3. Provident documents**

Employers who have taken out a company mutual insurance or a provident contract for their employees must provide the beneficiaries with the **information notices**. These notices are drawn up by the insurer and define the guarantees, the terms of application and the formalities to be completed in the event of a claim.

In addition, you must also provide the employee with **the legal document** by which you set up the pension scheme (unilateral decision or collective agreement).

Keep a **document signed by the employee attesting to the submission of all the documents indicated above**. In addition, in the event of an exemption from affiliation, keep a signed copy of the employee's request for exemption.

### **3.4. The collective agreement, the internal regulations, the IT charter, the guide on employee savings, the applicable company agreements, etc.**



The employer must give the employee a **notice** informing him of **the collective agreements applicable in the company or establishment at the time of hiring**. This document must also indicate to the employee the place where he or she can consult these documents. The employer can, for example, make them available **within the HR department** or put them on **the intranet**, if the company has one.

List of the most common documents: collective agreement, agreement on the organisation of working time, profit-sharing agreement, PEE, internal regulations, IT charter, teleworking charter, etc.

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*This sheet contains summarized information. Please contact us for advice tailored to your situation. We cannot be held responsible for misinterpretation.*

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