

NEGOTIATED TERMINATION BY MUTUAL CONSENT RUPTURE CONVENTIONNELLE

The employer and employee may decide to terminate the employment contract by mutual consent.

Only permanent contracts can be terminated in this way (full-time or part-time). This includes work-study contracts concluded on a permanent basis.

This termination is the result of an agreement signed by both parties during a formal meeting. This agreement is subject to the provisions of employment law (art L1237-14 of the French Employment Code).

The « rupture conventionnelle » being a negotiated termination agreement , it entitles the employee to unemployment benefits.

PROCEDURE

1) Meeting

There must be at least one formal meeting during which the employee and the employer jointly agree to a termination of the employment by mutual consent (legal term : « rupture conventionnelle » in French).

During this interview, the employee may be assisted by :

- a company employee of their choice.
- or by an official advisor listed & recognised by the Labour Inspection or by the local council.

If they choose to be assisted, they must notify the employer before the date scheduled for the formal meeting.

The employer may also be assisted if the employee is also assisted. He may request the assistance of:

- either a member of the company's staff.
- or a member of an employers' union.

SEDI France SARL

18 rue Gambetta, 95 880 ENGHEN LES BAINS, France

Tel: +33(0)1 34 05 07 71

RCS Pontoise B 410 485 981 APE 7022Z

Website: www.sedigroup.com - Email: info@sedigroup.com

SEDI UK LTD

Wilberforce House, Station Road, NW4 4QE LONDON, UK

Tel: +44 207 953 4025

Company registered in England & Wales N°3494781

- or an employer in the same industry.

The employer must also notify the employee about the presence of a third party before the date of the formal meeting.

Please note that neither the employer nor the employee may be assisted by a lawyer during this meeting!

During this meeting, if both parties agree on the terms of termination of the contract (termination date and severance pay), they can fill in the **mandatory contractual termination form 14598*01** (known as the termination agreement) together.

Please note that from 1 April 2022, the contractual termination form must be submitted electronically via the **TELERC website** (the government website dedicated to this type of termination).

We recommend that you fill in the form online in order you can obtain the precise dates for the various steps of the procedure.

2) The termination agreement: content

- Contact details of both parties involve & any third parties presents to assist.
- The employee's job, qualifications and seniority (**seniority is assessed on the planned date of termination**, not on the date of signature of the termination agreement, and takes also into account uncomplete years).
- The applicable Collective Bargaining Agreement (Convention Collective Nationale).
- Gross pay during the last 12 months (**Please note that if the employee has been sick over the last 12 months, the full gross pay that they would have received for normal working hours should be declared**).
- The date of the ^{first} Formal meeting and any additional meetings
- The amount of the **severance pay**: this amount is at least equal to the redundancy pay provided for in the collective agreement (see your collective agreement) or the **statutory redundancy pay** (no less than 1/4 month's average salary calculated over the last 3 or 12 months, multiplied by the number of years' seniority in accordance with the French Employment Code / Code du Travail). It must be indicated in writing on the termination agreement. Please note that once the mandatory contractual form has been sent through TELERC and validated, you will no longer be able to change the amount of compensation.
- The proposed date for the termination of the employment contract. The day after the formal meeting & a minimum of 5 calendar weeks (Monday to Sunday) are required to determine the date of ultimate termination. The TELERC platform calculates the termination date based on the date of the formal meeting. It has to be highlighted that the parties can also agree on a date that is more convenient for both of them at a later stage than the legal date calculated by TELERC.

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- The date and signature of each party, including the written statement "read and approved". **Please note that if the parties conduct the formal meeting by videoconference, they must indicate the same date on the form.**
- The 15 days of the cooling off period starts when the mandatory document is fully completed and approved & signed by both parties. After this cooling period, if both parties have not reconsidered their approval, then the mandatory Cerfa form 14598*01 form must be transmitted electronically via the official platform TELERC.

More details:

No notice period applies in the event of a conventional termination of the employment contract.

Therefore, if the contract is due to end 2 months after the formal meeting, the employee is not entitled to a 3 months notice period as stipulated in the original employment contract for a traditional termination (resignation or redundancy).

The employer is always free to increase the severance pay to compensate the fact that there is no notice period when the contract is terminated via the Rupture Conventionnelle.

3) Approval of the conventional termination agreement :

Once the form has been uploaded via TELERC, the DREETS (Directions régionales de l'économie, de l'emploi, du travail et des solidarités = labour inspection) has 15 working days to process it (Sundays and public holidays are excluded). The processing period begins on the day following receipt of your application.

If NO notification is received from DREETS after this period, the termination agreement is deemed to have been approved.

If the approval is refused within this 15 working day period, one or both of the parties may appeal against this decision. The DREETS is usually justifying the refusal or explaining the issues with the dates if any.

**Since the implementation 52008° of the "rupture conventionnelle" to terminate a contract, every refusal was linked to a failure in the respect of the dates. In each case, we sent the applications back, correcting the dates, and the terminations were all approved.*

As long as the termination date specified in the agreement has not been reached, the rules governing the employment contract continue to apply. The employee may therefore take leave if the employer agrees.

An appeal to the Labour Court remains possible up to 12 months after the date of approval of the termination agreement. After that date, appeals are not admissible.

Sources: Ministry of Labour, CPAM.

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