

Insights

FRANCE – COVID-19 – PARTIAL ACTIVITY : THE DECREE OF 25 MARCH 2020 MODIFIES THE PARTIAL ACTIVITY SYSTEM

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The decree on partial activity was adopted last March 25th, 2020. A Q&A was also published by the Ministry of Labor relating to the exceptional partial activity system.

In summary, the decree provides:

- **The retroactivity of the authorization request to the Direccte** (Labor Administration): The request for partial activity can be sent within 30 days of the assignment of employees on partial activity;
- **Consultation of the CSE (works council)**: Consultation of the CSE is necessary if the company has one;
- **Transmission of the opinion of the CSE to the Direccte up to 2 months after the authorization request for partial activity is filed**: The opinion of the CSE on partial activation can be obtained after the request to the Direccte for partial activity has been filed and transmitted within a maximum period of 2 months from this request;
- **Extension of the duration of the administrative authorization for partial activity**: the authorization can be granted for a period of 12 months (instead of six). This measure makes it possible to limit the cases of renewal of an initial request of short duration since a renewal must be accompanied by commitments which can be in particular maintaining the employees' employment (art R. 5122-9 of the Labor code);
- **The reduction in the delay of acceptance of the Direccte of the request for partial activity**: until December 31, 2020, the period at the end of which the silence of the Direccte constitutes tacit acceptance is reduced to 2 days instead of 15 days previously;
- **Calculation of the partial activity indemnity paid by the employer to employees**: the indemnity due to the employee covers at least 70% of his/her previous gross compensation (as used to calculate the indemnity for paid vacation), i.e., about 84% of the net salary.

The Labor Ministry specifies that the employer can compensate its employees beyond 70% of gross salary if it can / wishes to or if a collective agreement or a company collective agreement provides for this.

- **The maximum amount of the partial activity allowance paid by the State to the employer:** the partial activity allowance paid by the State to the employer covers 70% of the employee's gross remuneration (such as 'used to calculate the paid vacation indemnity) regardless of the size of the company. **The minimum amount of this allowance is €8.03 per hour and is capped at 70% of 4.5 the minimum wage (so-called "SMIC").**

The Ministry specifies that "the remainder to be borne by the company is therefore nil for employees whose remuneration does not exceed 4.5 times the minimum wage (SMIC). On the other hand, if the employer pays its employees a higher compensation than 70% of their previous gross remuneration, this additional share is not borne by the State. "

These provisions apply to compensation requests sent (or renewed) to the Service and Payment Agency as from the entry into force of the decree, including for the "assignment" on partial activity of employees since March 1, 2020; there is therefore a "retroactive effect" of these provisions.

A partial activity order should also be published in the coming days, in particular with regard to the social regime of compensation paid in this context.

We will keep you informed of further expected developments on partial activity.

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- Employment & Labor

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