
THE IMPLEMENTATION OF EXCEPTIONAL MEASURES DUE TO COVID-19

Since the start of the coronavirus epidemic, various measures have been put into place by the government.

One of the aims of these exceptional provisions is to put into place measures to support companies and their employees.

You will find here a summary of these various measures and the possibilities that they offer to companies.

Warning: all the information below could be subject to change in the following days. Our team will update this note in accordance with the measures taken by the government.

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Special procedure for parents whose children are subject to confinement measures

Following the announcement by the President of the Republic and the closing of schools, the procedure for parents has been simplified.

It is no longer necessary for parents to contact a doctor from the Regional Health Agency (ARS) in order to request sick leave.

- Your employee will give you the solemn declaration;
- The procedure is to be carried out by the employer via the online service <https://declare.ameli.fr>;
- The employer will receive an e-mail in return to confirm their declaration;
- The employer must then follow the usual procedure for all sick leave in order to trigger payment of the allowance. The usual procedure for sick leave must be followed.

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- ✓ It is up to the employer to request sick leave.
 - ✓ It must be impossible for the company to have the employee concerned work from home during the confinement period.
 - ✓ Only one of the parents can benefit from the system: therefore, a solemn declaration certifying that the parent is the sole person requesting sick leave for this reason must be supplied.
 - ✓ Only the parents of children under 16 years of age at the beginning of the sick leave can benefit.
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Sick leave will be granted for a minimum of 14 calendar days from the date of the declared sick leave, and if the conditions are met, the employee will be eligible to benefit from a specific Social Security daily allowance for coronavirus.

- It enables the employee to benefit from the Social Security daily allowance without a waiting period;
- And, if it is the case, from a complementary allowance paid by the employer:
 - Continued payment of salary as stipulated in the labour laws or collective labour agreements;
 - ✓ With no waiting period
- If the employee returns to work before the end date of the sick leave, the employer will inform Social Security in accordance with the usual procedure for sick leave.

It is necessary to apply the complementary allowance paid by the employer as stipulated in Article L. 1226-1 of the labour laws or in the collective labour agreement.

Wherever possible it is advisable to keep the employee's salary at the same level as the allowances paid by Social Security and by the employer for the employees concerned. In this case, the employer is automatically subrogated to the rights of the employee with regard to Social Security.

Special procedure for parents whose children are subject to confinement measures – cont.

PLEASE REFER TO THE SOLEMN DECLARATION BELOW:

Covid-19 version du 9 mars 2020



Declaration of home child-care

I, the undersigned, _____ do solemnly declare that my child _____, aged _____ is a pupil at the school _____, in _____, closed for the period of _____ to _____ due to the coronavirus epidemic.

I declare that I am the sole parent to ask for the benefit of sick leave to be able to care for my child at home.

Drawn up in _____, dated _____

Signature

Conditions relative to the payment of complementary allowance by the employer and the Social Security daily allowance

Reminder – Normal procedure (outside coronavirus cases)

Various cumulative conditions must be met for the employee to be paid the allowance that complements the Social Security daily allowance, he/she must:

- have worked at least one year in the company (calculated from first day of absence);
- unless otherwise stated, have sent the medical certificate to the employer within 48 hours;
- be covered by the Social Security and therefore eligible for the Social Security daily allowance;
- be treated in France or in one of the other EU member states ([Labour laws](#), Art. [L. 1226-1](#)).

In the case of non-professional sick leave, a waiting period of 7 days applies, unless the collective labour agreement stipulates a shorter waiting period. In practice, the employer will therefore start to pay the complementary allowance from the employee's 8th day of absence. (Labour laws, art. D. 1226-3).

Dispensation measures for persons who are subject to confinement measures

▪ Conditions of eligibility for cash benefits in case of sick leave

✓ Decree of 31 January 2020 (no. 2020-7)

- This decree gives the possibility of waiving eligibility conditions with regard to the minimum duration of activity or a minimum contribution (having worked at least 150 hours over a period of 3 months (or 90 days) or having paid contributions on a salary at least equal to 1,015 times the sum of the hourly minimum wage (SMIC) during the 6 months before the sick leave).
- It also enables the waiting period not to be applied in order to allow the payment of the daily allowance from the first day of sick leave by Social Security.

The maximum duration during which the employee can benefit from the daily allowance is 20 days. This measure is planned for a duration of two months from 1 February 2020.

▪ Removal of the waiting period for the payment of the complementary allowances

✓ Decree of 4 March 2020 (no. 2020-193): This second decree came into force on 5 March 2020 and concerns directly **employers and employees exposed to coronavirus**. It carries on from the first decree of 31 January 2020 which removed the waiting period for the daily allowance.

- This decree allows the payment of the **complementary allowance paid by the employer** in addition to the daily allowance from the first day.
- The provisions of the present decree apply from the date of the present decree coming into force (5 March) within the limit of the duration stipulated in Article 3 of the aforementioned decree of 31 January 2020 (two months from the publication of the present decree).

In practice, the complementary allowance will be added to the daily allowance **from the first day of sick leave** for employees who are on sick leave due to coronavirus.

Immediate measures for support to companies

The Ministry for Economy and Finance announced the application of support measures in the case of serious difficulties, among others the possibility of part-time activity and the staggering of social and fiscal contributions.

- The postponement of social and/or fiscal contribution dates (URSSAF, taxes);
- Where necessary, a plan for staggering debts with the support of the State and the French national bank (Banque de France);
- Obtaining or keeping a loan via Bpifrance, which will guarantee all liquidity loans companies might need because of the epidemic;
- Financing employees through the system of short-time working (explanations below);
- Support for dealing with disputes with customers or suppliers.

Various possible measures for the company

WORKING FROM HOME

Article L.1222-11 of the labour laws gives the possibility to the employer to enforce working from home without the agreement of the employee in the case of epidemic risk.

These changes in the working environment can only be enforced in order to allow the continued activity of the company and to guarantee the protection of the employees.

In these cases, the implementation of working from home does not require any particular formality.

IF WORKING FROM HOME IS NOT COMPATIBLE WITH THE COMPANY ACTIVITY

- [It is not possible to oblige employees to take paid holidays](#)

On the other hand, if the employee has already asked for holidays, the employer can change the order and dates of departure, even if it is less than a month before the planned date of departure. These measures are possible as stipulated in Article L. 3141-16 of the labour laws (in the case of exceptional circumstances).

- [JRTT \(Reduced working hour days\) are planned through a company agreement or a branch agreement](#)

Depending on what is stipulated in the agreements, it is possible that the employer can freely place JRTT during the reference period. To modify their placement, the notice period stipulated in the collective agreement must be respected.

- [The possibility of restricting access to the workplace for the employee concerned](#)

If the employer cannot adapt the workstation with a view to limiting contact, the employer can ask the employee to remain at home.

The employee can contact the Regional Health Agency (ARS) (website or hotline – 0 800 130 000).

- The employee does not benefit from a sick note delivered by the Regional Health Agency: his pay is maintained and his period of absence assimilated to a normally worked period.
- The employee benefits from sick leave after having contacted the Regional Health

L'activité partielle

In the case of exceptional circumstances, Article R. 5122-1 of the labour laws offers the possibility of part-time activity.

This possibility applies among other things to the case of the closure of a facility, of a reduction in activity linked to the epidemic, of a (massive) absence of employees who are essential to the activity of the company, of the banning of public events, of limitation of transport etc.

In practice, these circumstances can lead to two types of situations:

- Either the temporary closure of the facility or a part of the facility;
- Or the reduction of the working hours practised in the facility or part of the facility to below that of the legal working time.

What are the consequences for the work contract?

The work contract of the employees is suspended and not terminated. It being a suspension and not a change in the work contract, the employee cannot refuse being placed in part-time activity.

An allowance for part-time activity must be paid by the employer. This allowance is equal to 70 % of the previous gross salary of the employee.

It is however necessary to check the percentage stipulated by the branch collective agreement which is applicable in the company.

The amount of this allowance is topped to 100% of the previous net salary when the employees are in training during the part-time activity.

The number of hours which can be compensated under the part-time activity scheme, correspond to the difference between the legal working time (35 hours per week, 151.67 hours per month, 1,600 hours per year, with the solidarity day being deducted) and the number of hours effectively worked over the period in question.

If the work contract or the collective agreement stipulates a duration which is less than the legal working time, the latter must be taken into account for the calculation.

What are the measures in place to accompany employers?

To help employers pay this allowance, the payment of a lump-sum allowance is planned and cofinanced by the State and UNEDIC.

The amount is equal to:

- 7.74 euros per hour lost for companies with a maximum of 250 employees,
- 7.23 euros per hour lost for companies of over 250 employees.

This allowance might change. In fact, the government is considering increasing the sum to 8.04 euros for companies of less than 250 employees. This amount would correspond to the net minimum wage (SMIC).

Please note moreover that this payment is limited to 1,000 hours per year and per employee, no matter what professional branch.

L'activité partielle–suite

Under which conditions is part-time activity possible?

- Short-time working cannot only concern one employee, except where the company only has one employee. The implementation must be temporary and collective.
- The collective reduction of working hours can be applied individually to enable a rotation of production units. In this case, only the reduction of working hours below that of the legal working time can be compensated.

Which employees can benefit?

All employees can benefit from the part-time activity scheme.

- Part-time employees: employees can benefit from the scheme in the same way as full-time employees.
- Home-workers: they can benefit from the part-time activity system.
- Employees paid for a fixed number of hours or days: the employees concerned cannot benefit from the allowance where it is a question of a reduction in the working hours. They can however benefit in the case of the closure of the facility.
- Intermittent employees: they can benefit from the part-time activity scheme.
- Temporary workers: they can benefit from the scheme provided that the employees in the company where they work are also placed in part-time activity.

What are the internal formalities to be respected?

The labour laws stipulate an obligation for consultation together with an obligation to display the new working hours.

The employer must consult the Social and Economic Committee before making a request to the administration. If there is no Social and Economic Committee, the employees must be informed directly of the decision to use part-time activity.

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L'activité partielle–suite

How to request part–time activity?

Part–time activity requests must be submitted on the portal :

<https://activitepartielle.emploi.gouv.fr/aparts/>

This request must be submitted before effectively placing the employees in part–time activity. The requests will be dealt with within a period of 15 days. If there is no reply in this time, the request is deemed to be accepted.

This authorisation for the placement in part–time activity can be delivered for a maximum duration of six months. It can be renewed if necessary.

The allowance is paid on a monthly basis to the employer by the Agency for Services and Payment (Agence de services et de paiement).

FNE–Formation scheme: an alternative to part–time activity

Companies can ask to benefit from the FNE–Formation scheme instead of part–time activity.

- In the case of a prolonged reduction in activity or the total stoppage of activity;
- The FNE–Formation scheme is subject to an agreement between the 'Direccte' and the company;
- The training which can be dispensed is that which leads to one of the qualifications mentioned in Article L. 6314–1 of the labour laws, together with programmes allowing employees to validate their skills in accordance with the provisions of Article L. 6313–11 of the same labour laws.
- The State can give financial help of up to 50% of eligible costs, or 70% in the case of a mark–up.
- Companies undertake to maintain in employment the trained employees for a duration which is at least equal to the duration of the training contract, increased by 6 months.

How to keep up with the changes in the measures taken by the government?

See the websites:

⇒ <https://www.gouvernement.fr/info-coronavirus>

⇒ <https://www.economie.gouv.fr/coronavirus-soutien-entreprises#>

⇒ <https://travail-emploi.gouv.fr/actualites/l-actualite-du-ministere/coronavirus-questions-reponses-entreprises-salaries>

A freephone number is available for all your questions about coronavirus/COVID–19, 24/7:

[0 800 130 000](tel:0800130000).

This hotline cannot give medical advice.