

Corona Pandemia & Partial Reduction of Activity in France

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Authors: [Alexandre Jaurett](#), [Valérie Menard](#)

Partial Reduction of Activity (“Activité partielle”)

All companies whose activity is reduced due to the Covid-19 and in particular, those that are subject to an obligation to close down in application of the Decree of 14 March 2020 (restaurants, coffees, malls, shops, etc.), are eligible for the Partial Reduction of Activity scheme. This scheme allows the State and the French unemployment agency (“Unédic”) to refund in most cases fully the sums paid by an employer to its employees.

Main Legal Requirements

Companies are entitled to benefit from Partial Reduction of Activity scheme if (i) the reduction of the weekly working hours below the legal working time, or (ii) the temporary closure due to the Covid-19 affects:

- A whole establishment or part of it, in particular a production unit, a workshop, a service, or a team in charge of carry out a project;
- All employees of this establishment or part of it, including part-time employees, home based employees and employees subject to a day-per-year or an hour-per-year scheme.

The consent of the employees to implement the Partial Reduction of Activity is not required (except for protected employees).

Formal procedure to apply for Partial Reduction of Activity

Due to the exceptional circumstances related to Covid-19, companies may reduce its activity before having:

- Informed and consulted the Social and Economic Committee (CSE); and
- Obtained the administrative decision of authorization.

However, the company will have to apply to the Partial Reduction of Activity Scheme by dematerialized means ([here](#)) within 30 days after the start of the reduction of activity.

This application must specify:

- the reasons justifying the recourse to the partial reduction of activity among the following:
 - Administrative closure of the establishment in application of a decree;
 - Decrease in activity and/or supply difficulties;
 - Impossibility of implementing the preventive measures necessary for the protection of employee health (teleworking, barrier gestures, etc.) for all employees.

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- its foreseeable duration which may, for the initial application, cover the period up to 30 June 2020; and
 - the number of employees affected.

It will also have to provide the administration with the opinion of the CSE within two months following its application for authorization. It will therefore be necessary to inform and consult the CSE. In the present context, the use of videoconferencing is to be preferred.

The administration has two days from the date of the application for authorization to make its decision. Its silence is deemed to signal acceptance.

If the company has already had recourse to the partial reduction of activity scheme during the 36 months preceding its application (initial or renewal, under covid-19 or not), it must subscribe to specific commitments specified in its application which will be definitively fixed by the labor administration. The Ministry of Labor nevertheless announced on 23 March 2020 that, in view of the exceptional circumstances, the commitments would be limited.

The decree on Partial Reduction of Activity of 25 March 2020 provides that the labor administration will be able to issue authorizations for a maximum period of 12 months (including renewals).

Amount of the Partial Reduction of Activity Allowance

When an employer reduces working hours or closes an establishment, it must continue to pay affected employees **an allowance equal to 70% of their gross monthly salary** and at least equal to the minimum wage (i.e., EUR 1,539.42 gross per month for a full time employee).

This allowance is exempt from social security contributions as well as taxes based on wages, but subject to CSG-CRDS at the rate of 6.7% on 98.25% of the amount; it is subject to personal income tax.

Given the legal requirements for Partial Reduction of Activity fulfilled, each month, the State and the Unédic will fully refund this amount to the employer subject to financial cap. The repayments by the State (70% of the gross monthly salary) are only paid up to a maximum per affected employee of 70% of 4.5 times the minimum wage (i.e., EUR 4,849.17 gross).

The Government will issue a decree in the next days to implement (with retroactive effect) these new modalities of calculation of the Partial Reduction of Activity Allowance.

It is still possible for a company to decide to pay more than 70% of the gross monthly salary to its employees, but the higher fraction would remain its responsibility. Please note that some collective bargaining agreements (CBA) require the employer to pay more than the legal rate. For instance, the Consulting Firm CBA provides compensation for employees affected by the partial reduction of activity ranging from 75 to 95% of their gross monthly salary. In such case, the supplement will remain the responsibility of the employer.

Examples of calculation of the Partial Reduction of Activity Allowance

- **Employee with remuneration less than 4.5 times the minimum wage**

An employee with a gross monthly salary of EUR 3,000 is placed in partial activity. His employer must pay him a monthly partial activity allowance equal to 70% of his gross remuneration, or EUR 2,100.

Insofar as the employee's remuneration is less than 4.5 times the minimum wage, the State will reimburse his employer the full amount paid to the employee, i.e., EUR 2,100.

- **Employee with remuneration above 4.5 times the minimum wage**

An employee with a gross monthly salary of EUR 7,697 (5 times the minimum wage) is placed in partial activity. His employer must pay him a monthly partial activity allowance equal to 70% of his gross remuneration, or EUR 5,388.

Insofar as the employee's remuneration is greater than 4.5 times the minimum wage, the State will reimburse his employer 70% of 4.5 times the minimum wage, i.e., EUR 4,849.17.

The employer will remain responsible for 70% of 0.5 times the minimum wage, i.e., EUR 538.83.

Further Financial Support

To face up to Covid-19, the French public authorities have announced immediate support measures for companies. Further details should be communicated in the coming days.

- **Payment deadlines for direct taxes:** companies can ask the French tax administration (“*service des impôts des entreprises*”) to defer without penalty the settlement of their next direct taxes (payroll taxes and tax-income instalments). If a company has already paid its taxes in March, it may still have the opportunity to oppose the SEPA Direct Debit at its bank. Otherwise, the company also has the option of requesting a refund. Deferred payment is granted for a period of 3 months at the company's request, without any justification. A request template has been made available to companies ([here](#)).
- **Remission of direct taxes, default interest or penalties:** A direct tax remission may be granted based on evidence of specific difficulties which cannot be overcome by deferral of payment.
- **Payment Deadlines for the social security contributions:** Companies may defer all or part of the payment of their employee and employer contributions without penalty. Companies can therefore modulate their payment according to their needs (amount at 0, or amount corresponding to a part of the contributions). The payment date of these contributions may be postponed up to 3 months.
- **Aid of EUR 1,500** for companies with a turnover of less than EUR 1 million which closed in March or suffered a loss of 70% of turnover in March compared with March 2019.
- **Obtaining or maintaining bank credit:** The French Bank Federation has announced (i) the implementation of accelerated credit appraisal procedures for tight cash flow situations and special attention for emergencies, (ii) the postponement of loan repayments for businesses for up to six months and (iii) the elimination of penalties and additional costs for deferrals and credit deferrals for businesses.
- **Mobilization of the State and the French state investment bank (“Bpifrance”) to guarantee bank lines of credit:** Bpifrance offers a guarantee of up to 90% for cash loans granted by French private banks to companies affected by the consequences of the Coronavirus. The State will also guarantee the loans contracted by companies from 16 March to 31 December 2020 to the tune of EUR 300 billion.
- **Support to negotiate a rescheduling of bank loans:** If needed, the company can request the assistance of the Credit Mediator (“*médiateur du crédit*”) to support it in its negotiations with its banking partners (denunciation of authorized overdraft lines, etc.).
- **Support in dealing with a conflict with customers or suppliers:** The Business Mediator (“*médiateur des entreprises*”) is called upon to help companies experiencing economic difficulties due to disputes caused by the detrimental effects of the Covid-19.
- **Suspension of water, gas, electricity and rent bills for the small businesses most in difficulty:** The company must directly apply to the companies it pays its bills to (gas, water or electricity supplier, lessor, etc.).

White & Case LLP
19, Place Vendôme
75001 Paris
France

T +33 1 55 04 15 15

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