

# France

## Company

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### **Social Security measures (deferrals, reductions)**

- Under the 2021 Social Security Financial Law and Decrees of 27 January 2021 and 12 April 2021:
  - an exemption from some of the Social Security contributions is provided for:
    - companies with fewer than 250 employees operating in certain sectors (e.g. tourism, events, sports, culture, and air transport), which were either forced to close by the Government or which suffered a 50% decrease in turnover compared to the same period in 2019; and
    - companies with fewer than 50 employees that do not operate in the sectors listed above but which were forced to close by the Government;
  - the exemption will last a maximum of three months and will cover Social Security contributions due for periods of employment:
    - beginning on 1 September 2020 for employers located in areas that were affected by the curfew which lasted from 17 October 2020 to 30 October 2020 (which applied to 54 French departments); or
    - beginning on 1 October 2020 for other employers,
  - as an exception, companies subject to administrative closure beyond 28 February 2021 can benefit from this exemption until the last day of the month preceding administrative authorization to reopen.
- Under the Decree of 27 January 2021, the exemptions received under (i) the third Amending Finance Law 2020 and (ii) the 2021 Social Security Financial Law are capped at €800,000 in total.
- Companies will receive aid to help them pay any further Social Security contributions due. Such aid will equal 20% of the income which is used as part of the calculation for Social Security liabilities.
- All companies were allowed to defer all or part of their employee and employer Social Security contributions which were due on 5 or 17 May 2021, subject to an application to the Social Security Authority (URSSAF) 48 hours prior to the due date. If the URSSAF did not respond within 48 hours, the application was deemed to be granted. No penalties were applied in relation to these deferrals. Details about any deferrals available for future Social Security contributions will be provided by the URSSAF in due course. A deferral was also available for supplementary

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retirement contributions until 25 May 2021, using the same procedure as for the Social Security deferrals.

- Payment schedules have started to be sent by the URSSAF for deferrals granted in 2020. Companies can negotiate a new schedule or request to receive a schedule at a later date.
- For the self-employed whose work is linked to the sectors most affected by COVID-19 (as set out in the Decree of 30 December 2020), Social Security contributions due from January to May 2021 have not been levied and will be deferred to an (unconfirmed) later date.
- Self-employed workers may also request, in relation to their Social Security contributions: (i) payment extensions; (ii) an adjustment of their contribution schedule; (iii) the intervention of social action (i.e. payment by the URSSAF of part or all of the contributions due (as a last resort only)); or (iv) the allocation of exceptional financial aid.

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# France

## Employer

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### **Sick pay (eligibility, obligations to pay, recovery from Government)**

- Under a Decree of 8 January 2021, individuals who: (i) are suffering from COVID-19 (including employees and self-employed persons); (ii) have been quarantined due to actual or potential contact with COVID-19; or (iii) have symptoms and are waiting for their COVID-19 test results, may be eligible for daily sickness benefits (without a waiting period).
- In addition to the indemnities paid by the French Social Security, employees who are subject to a “work stoppage” due to COVID-19 (i.e. unable to work because they have been infected with COVID-19) are entitled to additional compensation from their employer, to compensate them for any loss of salary.
- These measures apply from 1 January 2021 until 1 June 2021, however are likely to be extended.
- Under the Amending Finance Act 2020, an employee who is unable to continue working for one of the following reasons must be placed on “partial reduction of activity” (see “Reduction in pay and/or hours” section below):
  - the employee is one of the vulnerable persons at risk of developing a serious form of COVID-19 listed in a Decree of 10 November 2020; or
  - the employee is facing childcare constraints due to the closure of a childcare facility, a school, or a college, or when the child has been in contact with a person suffering from COVID-19.
- Pursuant to an Ordinance of 21 December 2020, this measure will apply until 31 December 2021 at the latest.
- The employer must make a request for partial reduction of activity (see “Reduction in pay and/or hours” section below), including where the employer company does not itself benefit from the partial reduction of activity scheme (i.e. where it has not been closed or reduced its working hours under the scheme).
- Any vulnerable person or employee facing childcare constraints who is placed under a partial reduction of activity scheme benefits from a specific indemnity, equal to 70% of gross hourly wage (with a minimum of €8.11), capped at four and a half times the minimum wage schedule (€4,896 per month for a full time employee in 2021). The employers also receive a specific state aid equal to 60% of gross hourly wage, capped at four and a half times the minimum wage schedule (with a minimum of €7.30 per hour). A Decree dated 13 April 2021 increased this state aid to 70% of gross hourly wage (with a minimum of €8.11 per hour), as of 1 April 2021.

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## Enforced leave / use of holiday (paid vs unpaid)

- In exceptional circumstances, employers may change the order and start date of employees' holiday less than one month before the planned start date. Therefore, the employer may move an employee's scheduled holiday to another period in the future, to cover the 14-day period of quarantine. However, subject to the below, if the employee has not scheduled any paid holidays, the employer cannot force the employee to take them.
- Employers may require employees to take up to six days of paid holiday or change the date of up to six days of scheduled paid holiday on at least one full day's notice, provided that an in-house or an industry-wide collective agreement allows this. Employers may require employees to take this holiday in one block or in several periods without the employee's consent.
- Some industry-wide agreements have already been concluded to allow companies to make use of this emergency measure (e.g. in the metallurgy, automotive, and insurance broking industries). For example, the collective agreement concluded in the metallurgical industry business sector provides that employers who are members of an employers' union that has signed the agreement may require employees to take up to six days of paid holiday, subject to a notice period of two working days during the containment period (extended to five working days after the end of the containment period).
- An employer may require its employees to take up to 10 business days as rest days (i.e. days of reduction in working hours, days of rest affected on the employee time savings account, or days of rest of employees subject to a day-per-year scheme) or change the date of rest days already scheduled within the limit of 10 business days on one full day's notice, even in the absence of a collective agreement.
- Pursuant to an Ordinance of 16 December 2020, these measures shall apply until 30 June 2021.
- Any use of these emergency measures should be immediately reported to the employee representative bodies of the company which shall deliver a non-binding opinion on the measures within a one-month period.
- The employer may also prevent a couple working in the same company from taking leave at the same time if the presence of one of the spouses is crucial for the business.

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## Temporary layoffs

- No specific temporary layoff measures have been put in place at this time.
- Employers have an obligation to provide their employees with work. If they cannot provide sufficient work, their employees remain eligible for full pay.
- However, in specific circumstances, an employer may apply for a partial reduction of activity scheme ("activité partielle") subsided by the State and the "Union nationale interprofessionnelle pour l'emploi dans l'industrie et le commerce" ("UNEDIC") (see "Reduction in pay and/or hours" section below).

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**Reduction in pay and/or hours**

- Unilateral reduction of pay or hours by companies is prohibited.
- Businesses whose activity is affected by the COVID-19 pandemic may be eligible for the partial reduction of activity scheme which is implemented by reducing employee working time or closing all or part of the company.
- Except for protected employees, employee consent is not required. However, an Ordinance of 26 March 2020 reinforces the powers of the company vis-à-vis protected employees: partial activity may be compulsory for a protected employee without their employer having to obtain their consent when it affects all employees of the company, establishment, service, or workshop to which the protected employee is assigned or attached.
- Foreign companies with no place of business in France (i.e. where no company or branch is registered with the French Commercial Registry) can benefit from the partial reduction of activity scheme for any of its employees working permanently in France who are registered with the French Social Security system.
- Requests must be submitted on <https://activitepartielle.emploi.gouv.fr/> within 30 days of the partial reduction of activity, with retroactive effect, and implementation may require consultation with the company's Social and Economic Committee (the "SEC").
- The application must specify (i) the reasons justifying recourse to the partial reduction of activity scheme (e.g. administrative closure of the establishment, decrease in activity, supply difficulties, or the impossibility of implementing the preventive measures necessary for the protection of the employees); and (ii) its expected duration.
- If the company has already had recourse to the partial reduction of activity scheme during the 36 months preceding its application (initial or renewal, whether due to COVID-19 or not), it must subscribe to specific commitments specified in its application which will be definitively fixed by the labour administration.
- The maximum total duration of the administrative authorisation (including renewals) is in principle six months, but this duration has been extended to 12 months by Decrees dated 25 March 2020 and 31 March 2020.
- During the partial activity period, the company will pay employees (whose employment contract is suspended due to the company's closure) 70% of their monthly gross remuneration. The State and Unemployment Fund will co-finance reimbursement of all or part of this to companies at €7.74 per hour (for companies with fewer than 250 employees) or €7.23 per hour (for companies with more than 250 employees).
- A Decree dated 25 March 2020 increased the reimbursement allowance to 70% of gross hourly wage limited to four and a half times the minimum wage schedule (€4,896 per month for a full time employee in 2021).
- Under a Decree dated 29 June 2020, certain conditions for the partial activity allowance have been modified. The state reimbursement allowance has been reduced to 60% of gross hourly wage, capped at four and a half times the minimum wage schedule (except for employers in sectors subject to special statutory or regulatory restrictions due to the

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COVID-19 pandemic (e.g. tourism)). The indemnity paid to the employee, the treatment of this indemnity within the applicable social security framework, and any supplement paid by the employer remain unchanged.

- Pursuant to a Decree dated 28 April 2021, the following rules are applicable, as of 1 June 2021:
  - the indemnities paid to employees will be reduced to 60% of their gross hourly wage four and a half times the minimum wage schedule (€4,896 per month for a full time employee in 2021);
  - the state aid will be reduced to 36% of the compensation paid to employees;
  - the SEC should be informed on the expiry of each authorisation and, where appropriate, prior to each application for renewal of authorisation; and
  - employers are recommended to encourage employees who are placed on the partial activity scheme to take paid leave while on the scheme. However, employers cannot force employees to take paid leave.
- However, specific rules will apply to companies operating in certain sectors (as set out in the Decree of 28 April 2021):
  - (i) companies which operate in one of the sectors most affected by COVID-19 (listed in Appendix 1 of the Decree of 27 January 2021), provided that they have experienced a very significant decrease in turnover (of at least 80% compared to the same month in 2020 or in 2019); (ii) companies whose activity is closely linked to the above-mentioned sectors (listed in Appendix 2 of the Decree of 28 April 2021) provided that they have experienced a very significant decrease in turnover; and (iii) companies subject to administrative closure:
    - from 1 April 2021 until 30 June 2021: employees benefit from an indemnity, equal to 70% of gross hourly wage, capped at four and a half times the minimum wage schedule (€4,896 per month for a full time employee in 2021) and the employers receive a state aid equal to 70% of gross hourly wage, capped at four and a half times the minimum wage schedule; and
    - from 1 July 2021: (i) the indemnities paid to employees will be reduced to 60% of gross hourly wage capped at four and a half times the minimum wage schedule; and (ii) state aid will be reduced to 36% of the compensation paid to employees, capped at four and a half times the minimum wage schedule;
  - other companies (such as companies whose activity is listed in Appendix 1 of the Decree of 27 January 2021 and in Appendix 2 of the Decree of 28 April 2021 and have not experienced a significant decrease in turnover):
    - from 1 April 2021 until 31 May 2021: employees benefit from an indemnity, equal to 70% of gross hourly wage, capped at four and a half times the minimum wage schedule (€4,896 per month for a full time employee in 2021) and the employers receive a

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state aid equal to 70% of gross hourly wage, capped at four and a half times the minimum wage schedule;

- from 1 June 2021 until 30 June 2021, the indemnities paid to employees will be reduced to 70% of gross hourly wage, capped at four and a half times the minimum wage schedule, and the state aid will be reduced to 60% of the compensation paid to employees, capped at four and a half times the minimum wage schedule; and
- from 1 July 2021: (i) the indemnities paid to employees will be reduced to 60% of gross hourly wage, capped at four and a half times the minimum wage schedule; and (ii) the state aid will be reduced to 36% of the compensation paid to employees, capped at four and a half times the minimum wage schedule;

- An Ordinance dated 10 February 2021 extends to 31 December 2021 the possibility to modify indemnities' and allowances' rates, according to companies' sectors and difficulties.
- Pursuant to a Decree dated 26 February 2021, as of 1 July 2021 companies will only be able to benefit from the partial reduction of activity scheme for an initial period of up to three months, but this can subsequently be renewed for up to a maximum overall period of six months.
- The Law of 17 June 2020 has created an additional specific partial activity scheme. This scheme makes it possible to ensure, pursuant to an in-house collective agreement or a unilateral decision (i.e. where the employer's decision is solely based on the specific provisions of an industry-wide collective agreement) which is validated by the labour administration, the continuation of employment relationships in companies faced with a lasting reduction in activity, where a company's placement in the scheme does not jeopardise its survival. In exchange for Government support, the employer undertakes to maintain the employment of the affected employees. A Decree of 28 July 2020 provides further details, including the following:
  - the scheme is implemented retroactively from 1 July 2020 and will be available until 30 June 2022;
  - the scheme enables the Government to support employers experiencing a long-term decline in activity for six months (renewable up to two years), in exchange for the company committing to maintain employment relationships;
  - the industry-wide or in-house collective agreement must define the start date and duration of the scheme, the activities and employees to which the scheme applies, the maximum number of non-working hours, the commitments made (in terms of employment and training), and the procedures for informing the employee representatives;
  - the maximum duration of the scheme is 24 months in a period of 36 months (excluding any time in the period from 1 November 2020 to 30 June 2021, pursuant to a Ministerial Order dated 9 April 2021);

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- the maximum number of non-working hours may not exceed 40% of working time (or 50% in exceptional circumstances). Therefore, it would not be possible to benefit from the scheme if the company's activity ceases completely; and
- employees will receive from their employer the same gross hourly wage they would have received if they had been placed in classic partial activity and the Government will pay the employer the same amount it would have paid if employees had been placed in classic partial activity.

□ Note that an employee may not be placed in partial activity under both the classic partial reduction of activity scheme and the additional specific partial activity scheme. An employer may, however, make use of both schemes for different employees.

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## **Working hours and Sunday work**

- Certain companies (to be specified by a forthcoming decree) may depart from public policy rules on maximum daily and weekly working hours and daily rest periods. However, the weekly rest period of 24 consecutive hours per week remains unchanged.
- Companies in "sectors of activity particularly necessary for the security of the Nation and for the continuity of economic and social life" (which will be fixed by decree), may also derogate from the principle of Sunday rest and have their employees work on Sundays.
- Any use of these exemptions should be immediately reported to the employee representative bodies (but also to the labour administration for the working time exemption). The employee representative bodies will deliver a non-binding opinion on these exemptions within a one-month period.

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## **Terminations**

- Redundancies are not prohibited, but the Government encourages companies to implement partial activity as a remedy.
- If redundancies must be implemented, the company must comply with all French redundancy rules, including a valid economic justification, research of redeployment positions, and payment of severance indemnities. Notably, in the event of an ongoing economic dismissal procedure, the confinement situation will make it difficult, if not impossible, to comply with the prior internal redeployment obligation. If the company decides to make redundancies in this context, affected employees may seek damages in the labour court for non-compliance with this obligation.
- The Government has not announced any measures relating to ongoing dismissals. However, it is very likely that the ongoing procedures may be delayed due to the continuing issues.

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## **Employee representative bodies**

- Pursuant to an Ordinance of 25 November 2020 and a Decree of 3 December 2020, the use of videoconferencing is allowed beyond the normal legal limit of three meetings per calendar year for any meeting of a company's SEC, provided that elected members have been informed. It is also possible to use audioconferencing. Where videoconferencing or audioconferencing is not possible, meetings of the employee

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representative bodies can be held by instant messaging. This measure is expected to apply until 30 September 2021.

- A company's SEC may carry out information and consultation requirements in relation to emergency measures regarding paid leave, working time, and rest days taken by the employee at the same time as (and no longer prior to) the implementation of such measures.

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# France

## Workforce

### Teleworking

- The new version of the national protocol for health and safety dated 8 April 2021 indicates that employees should be asked to work from home whenever possible. The employer can make remote working mandatory for employees who refuse. However, employees who ask to return to the workplace should be allowed to do so one day per week. In addition, companies must establish a formal and written action plan to reduce the time employees spend on site. This plan should be communicated to the labour administration upon request.
- Since February 2021, the labour administration has increased on-site inspections to ensure compliance with the rules of the national protocol (in particular with regard to teleworking).
- For jobs that are not eligible for teleworking, it is essential to respect social distancing rules: limiting meetings to what is strictly necessary, limiting grouping employees in small spaces, implementing team rotation, cancelling or postponing non-essential travel, and ensuring that the workplace “barrier” measures (see “Preventive actions” section below ) are respected.

### Travel (business and personal)

- Since 16 January 2021, a curfew has been applied to all the French territories from 19:00 to 6:00.
- Business travel:
  - as a consequence of the curfew order dated 16 January 2021, from 19:00 to 6:00, journeys between an individual's place of residence and their place of business (where teleworking is not possible), or business trips that cannot be postponed must be justified by a certificate issued by the employer. The certificates to be completed by the employer are available on the French Ministry of the Interior's website [here](#).
- Personal travel:
  - as a consequence of the national curfew order dated 16 January 2021, from 19:00 to 6:00 travel is only allowed for: (i) healthcare; (ii) childcare or providing assistance to the vulnerable; or (iii) to meet the needs of pets. Individuals leaving their home from 19:00 to 6:00 must fill in a certificate which is available [here](#).
- Travelling to France: the restrictions vary according to the country of departure:
  - individuals arriving from countries in Europe (i.e. from the EU, Andorra, the Holy See, Iceland, Liechtenstein, Monaco, Norway, San Marino and Switzerland) or from designated countries (i.e. from Australia, South Korea, Israel, Japan, New Zealand, United Kingdom, Singapore , Brazil, Argentina, Chile, South Africa, India, Bangladesh, United Arab Emirates, Nepal, Pakistan, Qatar, Sri Lanka and Turkey) can enter Metropolitan France. However, before boarding, individuals have to present: (i) a

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sworn declaration stating that they have not had symptoms of COVID-19 within 48 hours before boarding, and that they have not been in contact with a confirmed case of COVID-19 within 14 days before boarding; and (ii) a negative PCR test result, carried out no more than 72 hours before boarding; and

- individuals arriving from any other country can only enter France if their journey meets one of the criteria listed on the travel certificate (available [here](#)). Before boarding, individuals have to present: (i) a sworn declaration stating that they have not had symptoms of COVID-19 within 48 hours before boarding, that they have not been in contact with a confirmed case of COVID-19 within 14 days before boarding, and that they will undergo an antigen test or any screening upon arrival in France; and (ii) a negative PCR test result, carried out less than 72 hours before boarding.
- any individual who could not conduct a RT-PCR test in the country of departure and have a compelling reason, can travel to France if they request from the French embassy a specific document named “PCR Test Waiver”. Formalities depend on the country of departure, as follows:
  - if antigen tests are available in the country of departure, they have to present a negative test result, carried out less than 72 hours before boarding.
  - if not, they will submit to a specific procedure, including (i) an antigen test upon arrival in France; (ii) a seven-day isolation in one of the facilities designated by the French authorities; and (iii) a RT-PCR test at the end of the isolation period.

□ On 29 April 2021, the French President announced the following measures (decree to be published):

- As of 19 May 2021: (i) the curfew applied to all the French territories from 21:00 to 6:00; and shops, terraces, museums, cinemas and theatres reopened;
- As of 9 June 2021: (i) the curfew will apply to all the French territories from 23:00 to 6:00; and (ii) coffees, restaurants, gyms and exhibition halls will reopen; and
- As of 30 June 2021, the curfew will cease to apply.

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#### **Preventive actions (reception policy, public interactions, management infected employees)**

- Precautionary measures: in order to protect employees and the public, it is recommended to implement “barrier” measures such as regular hand washing, the use of hand sanitiser, the installation of a one-metre courtesy zone, the cleaning of high-touch surfaces with an appropriate product, and regular ventilation of rooms. On 28 April 2020, the Government asked companies to provide their employees with masks, if they have the means to do so. All precautionary measures are set out in the national protocol for health and safety available on the Labour Ministry website (available [here](#)). In light of rising temperatures in France during the summer months, the Labour Ministry has adopted recommendations on the use of cooling fans and air conditioners during the COVID-19 pandemic (available [here](#)).
- On 23 July 2020, the Labour Ministry recommended that companies begin stockpiling enough masks to last 10 weeks.

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- From 20 July 2020, the wearing of masks has become compulsory in enclosed public spaces pursuant to a Decree of 10 July 2020.
- From 1 September 2020, it is also mandatory for employers to require their staff to wear masks in shared work places (e.g. open spaces, meeting rooms and corridors) under the national protocol for the resumption of activity (see “Teleworking” section above). As an exception, employees do not have to wear the mask whilst alone in their office. Wearing a mask does not exempt the employees from complying with social distancing and “barrier” measures (see “Preventive actions” section above).
- As of 29 January 2021, the national protocol for health and safety prohibits employees from wearing homemade fabric masks.
- A person infected (or suspected to be) with COVID-19 must remain at home and as such, benefits from a work stoppage and daily Social Security benefits without waiting periods. The persons in charge of cleaning the workplace must then be equipped with single-use gowns and household gloves. The cleaning of floors and surfaces must be carried out according to the strict conditions mentioned in the Labour Ministry Q&A (<https://travail-emploi.gouv.fr/actualites/l-actualite-du-ministere/article/coronavirus-questions-reponses-pour-les-entreprises-et-les-salaries>).
- On 3 February 2021, the Labour Ministry published a guide for good practice for employers. This guide provides that if a “cluster” appears in the company (i.e. if three employees have tested positive for COVID-19 within seven days), the employer must alert the regional health agency (ARS) and the labour inspector. The employer must then follow any instructions and notify the SEC of the cluster. However, the identity of the COVID-19 positive employees should not be notified. Under no circumstances shall the employer: create a list of employees who have tested positive for COVID-19; publish the names of any such employees; keep a record of an employee’s COVID-19 positive result(s); or force a COVID-19 positive employee to come to work.
- The national protocol for health and safety dated 8 April 2021 provides that the employer must inform the employee of the existence of the “TousAntiCovid” smartphone application and encourage the use of the application during working hours. However, employers cannot require employees to use the application.
- In addition to the testing facilities organised by the health authorities, employers can now offer optional COVID-19 testing to consenting employees. To this end, a list of authorised tests (found in pharmacies), together with any conditions of use, has been made available by the health authorities ([here](#)). Testing must be paid for, in full, by the employer and carried out so as to guarantee proper performance and the strict preservation of confidentiality. In particular, no results may be communicated to the employer or its employees. An Order dated 16 November 2020 and a Ministerial Circular dated 14 December 2020 state that employers organising COVID-19 tests should only do so where they suspect a cluster of infections or particularly active circulation of the COVID-19 virus. The employer must declare its intention to carry out COVID-19 tests to the Prefect (“*Préfet de Région*”) prior to carrying them out. These tests must also be carried out by a health professional (doctor, occupational physician, nurse, pharmacist or other authorised medical staff), with a strict protocol adhered to. This means: recording the employee’s consent; ensuring that the test can be carried out

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confidentially; and providing facilities for handwashing/sanitising. Any test results must be recorded on the same day in the computer system set up by the Health Ministry.

- From 25 February 2021, companies may organise a vaccination campaign of employees aged from 55 to 64, provided that (i) the occupational medicine is in charge; (ii) the principle of medical secrecy is applied (i.e. the employer cannot be informed of the identity of the employees who have (not) been volunteered); and (iii) employees can freely refuse to participate. Costs of the medical intervention are covered by the annual contribution to occupational medicine; and costs of the vaccine doses are funded by the Government.
- On 23 March 2021, the Ministry of Labour published a guide for good practice for employers relating to a company's canteen options (available [here](#)). Companies must now give priority to the implementation and use of take-away food baskets, particularly in situations where the employee can eat lunch alone at his or her workstation, or, in a space set up in compliance with health regulations.

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**Employees with children or older dependants**

- From 1 September 2020, employers are able to place employees with childcare constraints in the classic partial reduction of activity scheme (see "Sick pay" section above). Only one parent per household can benefit from this measure.

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**Adaptation of the Macron Merit Premium**

- For the year 2020, the "Macron Merit Premium" (*"prime exceptionnelle de pouvoir d'achat"*) regime initiated by the Law of 24 December 2019 had been adapted in consideration of the health crisis.
- On 15 March 2021 and on 28 April 2021, the French Government announced that the Macron Merit Premium would be renewed for 2021. According to the announcements, the amount of the Merit Premium would be up to €1,000 per employee. However, the amount of the Merit Premium would be increased to €2,000, provided that the company; (i) had implemented a voluntary profit-sharing scheme; and (ii) commits to implement actions promoting workers particularly exposed to COVID-19 (e.g. delivery staff, drivers, food sellers). This measure will only benefit those employees who earn up to a maximum of three times the minimum wage (€4,663.74 per month for a full time employee in 2021).

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