

LABOR LAW

NEWS - CORONAVIRUS N°1

24 MARCH 2020

We complete our "FLASH INFOS" of 20 March 2020 to inform you about the latest news:

- Adoption and publication in the Official Journal of the emergency law n° 2020-290 of 23 March 2020 to face the epidemic of Covid-19;
- Draft decree on partial activity (pending its adoption and publication).

1. The Emergency law to deal with the Covid-19 pandemic

This law authorizes the French Government, within three months from 24 March 2020, the day of its publication in the « *Journal Officiel* », to legislate by executive orders, i.e. in place of Parliament, in many areas and, in particular, concerning labor relationships.

These measures, which are temporary in nature, may be retroactive and enter into force, if necessary, from 12 March 2020.

In particular, the French Government could take the following measures:

- **Limit the termination of employment contracts and mitigate the effects of the economic slowdown.** In this respect, it is planned to facilitate and strengthen the recourse to partial activity in particular: by temporarily adapting the social regime applicable to the allowances paid in this context, by extending it to new categories of beneficiaries; by reducing, for salaried employees, the remaining amount payable by the employer and, for self-employed persons, the loss of income; by adapting its implementation methods; by promoting better coordination with vocational training and better consideration of part-time employees;
- **Adapt the conditions and procedures** for granting supplementary health insurance benefits as part of the monthly payment;
- **Authorize the employer to impose or modify the dates for taking part of an employee's paid leave, within the limit of 6 working days, subject to the existence of a company or branch collective bargaining agreement.** It would thus be possible to derogate from the usual rules laid down by the law and existing collective

agreements regarding notice periods and the procedures for taking such leave;

- **Authorize the employer to unilaterally impose or modify** the dates of days off in lieu of overtime pay (JRTTs), rest days provided for in package agreements and rest days assigned to the employee's CET. Once again, these measures could allow for derogations from the notice periods and the terms of use provided for in existing collective bargaining agreements;
- **Exceptionally modify the deadlines and terms** of payment of amounts to be paid under employee profit-sharing and incentive schemes;
- **Modify the deadline and terms of payment** of the exceptional purchasing power bonus (« *prime exceptionnelle de pouvoir d'achat* »);
- **To adapt the organization of the Labor court elections** by modifying, if necessary, the definition of the electorate, and to extend, on an exceptional basis, the terms of office of the Labor Court judges and the members of the regional inter-professional joint committees;
- **To organize the exercise of the missions of the occupational health services;**
- **To abolish the waiting period** for the benefit of compensation for work stoppages;
- **Adapt the procedures for informing and consulting** the staff representatives (CSE) to enable them to deliver the required opinions within the time limits laid down by the law;
- **To amend the provisions relating to vocational training,** in particular to enable employers, training bodies and operators to meet the legal obligations regarding the quality and registration of qualifications and authorizations, and to adapt the conditions of remuneration and payment of social security contributions for vocational training trainees;
- **To adjust the duration of unemployment insurance benefits;**
- **Abolish the three-month waiting period** usually imposed on French expatriates returning to France without work to access social security benefits, for those returning between March 1, 2020 and June 1, 2020;

- **Companies in sectors that are particularly necessary for the Nation's security or the continuity of economic and social life** could derogate from the rules of public order and the conventional stipulations relating to working hours, weekly rest and Sunday rest;

The relevant Executive Orders should be made public within a very short period of time.

2. Decree related to the partial activity

We are still waiting for the adoption and publication of the draft decree which should modify the partial activity mechanism provided for in Article R.5122-1 of the French Labor Code:

- **Only one application for several establishments**

Companies should submit a single application for a partial activity for several establishments (until now, an individual application needed to be submitted for each establishment).

The application should be addressed to the Prefect of the department where the company's head office is located.

- **The application for partial unemployment may be made within 30 days.**

The decree to be issued should make it possible to set up the partial activity and then send the request for partial activity to the Administration within 30 days.

- **The opinion of the CSE may be obtained a posteriori**

The application for a partial activity must in principle be accompanied by the opinion of the CSE.

In view of the context, the decree to be issued should make it possible to indicate in the application for partial activity the date on which the CSE will be consulted.

The opinion of the CSE must be sent within 2 months of the application for partial activity.

- **Extension of the partial activity authorization from 6 to 12 months**

The draft decree provides for the possibility of increasing the possible duration of partial activity to 12 months.

- **Revaluation of the partial compensation allowance paid to companies**

The allowance, per hour off work, is currently flat-rate and the amount is set at:

- 8.03 € in companies employing up to 250 employees;
- 7.23 € in companies with 251 or more employees.

The draft decree provides that the hourly rate of the partial activity allowance paid to the employer corresponds to 70% of the employee's previous gross hourly pay. It is limited to 4.5 times the hourly minimum wage.

- **The extended benefit of partial activity for executives whose working time is counted in hours or days over the year ("cadres au forfait")**

Until now, employees whose working time is calculated in hours or days over the year were only entitled to the partial activity allowance when the company was closed down completely.

The decree to be published should finally allow partial activity allowance for those employees in other circumstances, including in the event of reduced working hours.

- **Hours of partial activity mentioned on the pay slip**

The draft decree stipulates that the following must be mentioned on the pay slip:

- ✓ the number of hours compensated for the partial activity;
- ✓ the sums paid for the period in question.

Reinhart Marville Torre's Employment Law teams are fully mobilized to assist you on these points and are available to answer your questions.

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