

# COVID-19: RETURN TO WORK AND PARTIAL ACTIVITY (II)

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## French Labor, Employment, and Workplace Safety Alert

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The French government is willing to support companies in their efforts to return to a “normal” activity.

Consequently, regulations relating to partial activity have once again been adapted in order to facilitate a gradual return to “normal” activity in France.

## NEW VERSION OF THE NATIONAL PLAN FOR THE END OF THE LOCKDOWN

The [national plan for the end of the lockdown](#), updated on 24 June 2020, establishes rules applicable to companies into returning to “normal” activity. The updated plan includes the following requirements:

- Barrier gestures and physical distancing: a distance of at least one meter between people becomes the norm (see our [newsletter dated on 26 May 2020](#));
- When the distance requirement cannot be complied with, wearing a mask is mandatory for employees;
- Teleworking is no longer required but is still recommended; and
- Persons at risk of serious forms of COVID-19 must be able to telework or benefit from adapted measures in order to reinforce protection.

## NEW PROVISIONS REGARDING PARTIAL ACTIVITY

In order to limit termination of employment contracts due to economic difficulties, the French government is empowered to adapt various requirements regarding partial activity.

### Modification of the partial activity allowance ([Order of 24 June 2020](#) and [decree of 29 June 2020](#))

The partial activity allowance paid to employers is now set at 60 percent instead of 70 percent of the gross hourly wage, with the employer contributing the remainder.

For certain sectors particularly affected by the economic and financial consequences of the spread of COVID-19, the partial activity allowance paid by the State will be maintained at 70 percent. Those sectors include:

- tourism, hotel, catering, sports, culture, air transport, and related sectors
- transport activities; wholesale laundry and dry cleaning; service stations, and related sectors
- sectors whose main activity involves the reception of the public and have been interrupted due to the spread of the COVID-19 epidemic

This new partial activity rate will apply from 1 June 2020 to 30 September 2020.

### **Procedure for individual partial activity**

[Order of 22 April 2020](#) provides for the individualization of partial activity (see our newsletter of 24 June 2020). Individualization must be provided for by a collective agreement or by the employer's unilateral decision. Where the individualization is by unilateral decision, the employer must obtain approval from the company's Social and Economic Committee (CSE) or the Company Council (in French, "Conseil d'entreprise").

[Decree of 26 June 2020](#), provides details on registration of the collective agreement or the approval from the CSE or the Company Council with the labor authority.

The decree provides that the request for partial activity to the labor administration and the application for individualization of the partial activity need not to be simultaneous; a request to the labor administration for individualization of the partial activity may be made after the partial activity request.

This provision applies to employees placed on partial employment between 12 March and 31 December 2020.

### **Consultation with the CSE**

[Decree of 25 March 2020 provides](#) that if a company has a CSE, the CSE must be consulted on the partial activity's placement.

Decree of 26 June 2020 specifies that only companies with at least 50 employees are required to consult with the CSE. This provision is applicable from 28 June 2020.

## **THE PARTIAL ACTIVITY INDEMNITY PAID FOR EMPLOYEES UNDER A LUMP SUM AGREEMENT**

As a reminder, the amount of the partial activity indemnity paid to an employee depends on the employee's total gross basic remuneration. As a general rule, overtime hours are not included in calculating the partial activity indemnity ([see our newsletter dated on 22 April 2020](#)).

However, from 12 March to 31 December, 2020, for employees under a lump sum agreement, overtime hours included in a lump-sum agreement are taken into account for the calculation of the partial activity indemnity ([order of 27 March 2020](#)).

## **SUMS WRONGLY RECEIVED BY COMPANIES DUE TO AN ERROR**

In cases where overtime hours were erroneously included in the basis for calculating the partial activity allowance paid to the employer and the partial activity indemnity paid to the employer, overpayments made in March and April will not be required to be reimbursed to the French State.

## **WEARING OF MASKS IS NOW MANDATORY IN ALL ENCLOSED ESTABLISHMENTS OPEN TO THE PUBLIC**

Wearing a mask has been mandatory on public transport and in establishments open to the public (restaurants and drinking establishments, hotels, museums, etc.) since 11 May 2020.

Effective Monday 20 July 2020, masks are mandatory in additional establishments, such as shops, shopping centers, administrations, banks, and covered markets ([decree of 17 July 2020, published on 18 July 2020](#)).

Places of employment that are not considered public places are not bound by this legal requirement to wear masks. Instead, those employers must establish internal rules for employee mask wearing, consistent with the requirements of the national plan for the end of the lockdown.

## **FUTURE REFORM**

### **Towards a new amendment to the partial activity**

For companies faced with a durable reduction in activity that is not likely to affect their stability, [Act of 17 June 2020](#), institutes a specific partial activity scheme: "reduced activity to maintain employment".

The Act of 17 June 2020 provides that a decree, that will be published shortly, must specify the conditions and the amount of the partial activity allowance and also the percentage of the indemnity allocated to employees.

### **Recognition of a work-related disease for certain employees suffering from COVID-19**

In a [press release dated 30 June 2020](#), the French government established principles as to when COVID-19 will be considered a work-related disease.

Employees working in a hospital suffering from COVID-19 in its severe form will have their illness systematically and automatically recognized as a work-related disease.

For employees not working in hospitals, the procedure for recognition of COVID-19 as a work-related disease will be facilitated for employees who were working during the lockdown period, such as food store personnel.

This recognition will enable the employees to receive better compensation.

The health crisis has affected the way companies organize, work, and interact. However, through these multiple reforms, the French government is strongly demonstrating its determination to encourage a gradual return to "normal" activity in France, with consideration given to the needs of both employers and employees.

## **KEY CONTACTS**



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