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1. Closure of certain establishments

The orders of March 14, 15 and 16, 2020 providing various measures to limit the spread of covid-19 list the establishments concerned by the ban on the opening to the public. In particular, the following are covered by this ban:

1. shops and shopping centers (except for their delivery and order withdrawal activities);
2. restaurants and bars, except for their delivery and room service activities for hotel restaurants and bars and contract catering;
3. day-care centers, educational and training establishments, holiday centers, leisure centers without accommodation;
4. dance halls and game centers;
5. libraries and document centers;
6. exhibition halls;
7. indoor sports facilities;
8. museums;
9. circus tents, tents and structures;
10. outdoor establishments ;
11. the sports facilities mentioned under Articles L. 322-1 and L. 322-2 of the Sports Code must now close and this until April 15, 2020.

These orders also provide additional information on establishments which may continue being open to the public, such as hotels and similar accommodation or financial and insurance activities, opticians and motor vehicle rental and leasing businesses for example.

The order of March 17, 2020, published on March 18, 2020, provides that retail businesses and specialized stores of tobacco products, electronic cigarettes, vaping equipment and devices can accommodate the public.

The order also provides for a suspension, until 5 April 2020, of the holding of national public and private education examinations and competitions and of tests contributing to the recruitment, advancement and promotion of civil servants and magistrates. It adds that these exams can be held remotely when the nature of the tests and the conditions for their organization allow it.

2. Telework as a rule

In the face of events, medical and governmental authorities encourage "social distancing", and thus telework, which becomes the imperative rule for all job positions that allow it.

On March 16, 2020, the President of the Republic of France decided to take measures to reduce contacts and displacements to a strict minimum throughout the country as from Tuesday 17 March at 12.00 noon and for a minimum of fifteen days.

However, exemptions on the basis of a certificate will be possible within the framework of :

- displacements between home and the place of work, when they are essential for the exercise of activities that cannot be organized in the form of telework (upon permanent proof) or business trips that cannot be postponed;
- displacements to make essential purchases in authorized establishments (list on gouvernement.fr);
- displacements for health reasons;
- displacements for imperative family reasons, to offer assistance to vulnerable individuals or for childcare;
- short outings, close to home, related to the individual's physical activity, to the exclusion of any collective sporting practice, and for the needs of pets.

Individuals wishing to benefit from one of these exceptions must, during each displacements/outings, carry a document enabling them to prove that the journey in question falls within the scope of one of these exceptions. Failing to fill in such documents and carry them, police services will inflict fines.



You will find enclosed the displacement certificate and the proof of displacement (in French), which can be filled in on plain paper.

We draw your attention to the fact that fraudulent links are currently spread on the Internet to collect personal data or money, please only use the forms hereto attached.

3. Distancing measures if telework is not possible

It is imperative to follow the distancing rules for jobs not eligible to telework:

Distancing rules for positions not eligible for telework must be respected:

Companies are invited to rethink their work organization to :

- Limit meetings to what is strictly necessary:
 - o most of them can be organized remotely;
 - o the others must be organized in accordance with the rules of distance;
- Limit employee groupings in small spaces.
- Non-essential displacements must be cancelled or postponed.
- Work organization must be adapted to the maximum extent possible, for example, through team rotation.

Company canteens may remain open. They must be arranged so that there is a distance of one meter between people at the table. The spread out of meal times is recommended.

Most companies have either negotiated a collective agreement or drawn up a charter setting out the rules applicable to telework (applicable cases, practical arrangements for telework, monitoring of working time, etc.). In order to use telework, they must then simply obtain the agreement of each employee concerned by this measure, following the procedure laid down in the agreement or charter.

Companies which do not (yet) have such a legal framework internally, can nevertheless also easily use telework. All they have to do is to formalize their agreement with the employee by any means. This can be an amendment to their employment contract, or, in a less formal way, an exchange of letters or even emails. The written agreement should of course organize the framework of telework and specify, in particular, the dates, the place of work, the equipment made available, the working time and the monitoring means, and the payment of any work expenses.

The definition of the workplace is seemingly insignificant, but it is particularly important because there is no possibility for the employee to set up in a public place (e.g. a local café or bar), in disregard of current health imperatives but also of the constant need to preserve the confidentiality of company data.

Aside from the current emergency, however, we recommend the scheme of the company agreement or charter which allows to set up, in advance, a global framework specific to the

company governing telework. This will then make it possible to lighten the formalities to be carried out with each employee concerned in order to switch to telework, be it occasional or regular.

4. Work leave for parents of children under the age of 16 years old

With regard to work leave for parents of children under the age of 16 years old, the measure, provided for by the Order N° 2020-227 of March 9, 2020, allowing parents whose child was affected by a confinement measure to benefit from a leave, has been extended to parents of children under the age of 16 years old or disabled children who have no other option than to keep their child and stay at home.

The employer can therefore, *via* the website *declare.ameli.fr* provided for this purpose, declare the employees concerned, regardless of their affiliation scheme and of their employment contract.

The leave can be granted for a period ranging from 1 to 14 days. It can also be split between parents: it is possible to split it up by filling in a request for each of the periods of stoppage.

It is specified by the Ministry of Labour that the employer must ask his employee to send him a certificate giving a sworn statement that he will be the only parent requesting the benefit of a work stoppage for childcare at home, indicating the child's name and age, the name of the school and the municipality where the child is being schooled and the period during which the school is closed. The purpose of this measure is to offer a social security indemnity (hereinafter "IJSS") for employees who are unable to work, without any waiting period.

Please note that the leave will only be covered for a parent whose position is not eligible for telework.

5. Access to the partial activity scheme

The Ministry of Labour considers the Coronavirus to be an exceptional circumstance allowing companies to use the "*partial activity*" scheme.

This is a compensation system that temporarily allows the employer, subject to an administrative authorization :

- to decide to close his business or reduce the working time of his employees under the usual working time, and

- to partially compensate the loss of salary resulting from its decision with a lump-sum financial aid paid by the State and *Unédic*.

If the Coronavirus causes the administrative closure of an establishment or company or the massive absence of employees essential to the continuity of its activity, the employer who plans to implement a partial activity scheme must:

- (i) consult the employee representatives, or in their absence, inform the employees of his decision ;
- (ii) issue a request for a prior administrative authorization, stating the reasons and with attached, where applicable, the minutes of the formal consultation of the staff representatives.

In principle, companies of at least 50 employees which have a CSE must set up a formal meeting and gather its formal opinion on the project of a partial activity scheme for the company. The information note will need to cover:

- the reasons of the need for partial activity;
- the occupational categories and the activities covered ;
- the level and the criteria of the working time reduction ;
- the training measures being considered or any other employer commitment.

The request shall be made electronically on <https://activitepartielle.emploi.gouv.fr/aparts/>.

Should be specified:

- the reason of the need for partial activity;
- the foreseeable period of the partial activity;
- the number of employees concerned.

The time limit for analyzing requests is in principle 15 days, but the administrative authority has been instructed to give priority to Coronavirus-related requests.

When the conditions are met and the administrative authorization is granted, the new working hours are posted in the company and the employer pays employees placed under partial activity a compensatory allowance of a minimum amount of 70% of their previous gross remuneration per hour not worked, it being specified that this allowance is exempt from social security contributions but subject to the CSG-CRDS contribution. When a training measure takes place during the partial activity period, this compensatory allowance covers up to 100% of the former net remuneration.

The partial activity allowance may only compensate employees up to the legal working time (*i.e.* 35 hours/week) or up to the contractual working time of the employees concerned if it is less than the legal working time. This means that overtime must not be compensated.

Once the authorization has been obtained, the company will file a claim for compensation to the ASP (Service and Payment Agency); this claim must provide various information, in

particular a list of the names of the concerned employees with, for each one, a statement specifying the number of hours not worked.

After which, the State will pay an allowance which it was initially announced would be increased to the amount of the net minimum wage, *i.e.* € 8.04 per hour. On March 16, the government announced that a decree would be issued in the next few days to reform the system of partial activity, in order to cover 100% of the compensation paid to employees by companies, up to the limit of 4.5 SMIC (*i.e.* 4.5 times the French minimum wage).

In order not to penalize companies, the Ministry of Labour has decided to give companies a 30-day period to file their applications, with retroactive effect.

We are awaiting clarification in this regard.

An online simulator of the Ministry of Labour allows companies to immediately know the estimated amounts of compensation they can expect to receive, and therefore the estimated amount of their outstanding balance. <http://www.simulateurap.emploi.gouv.fr/>

6. Postponement of social security contributions

The URSSAF (Social Security administration) is also mobilized.

Employers may defer all or part of the payment of employee and employer contributions due on March 15, 2020. These contributions may be deferred for up to three months: information will be provided at a later date. No penalty will be applied.

If the February 2020 DSN (nominative social declaration) has not been filed, it may be filed up to and including Monday 16 March, 2020, by modulating the SEPA payment within this DSN.

If the February 2020 DSN has already been deposited, it can be modified until Thursday 19 March, 2020 at 12:00 noon, by modifying the URSSAF payment according to the instructions available below: <http://www.dsn-info.fr/documentation/telepaiement-services-urssaf.pdf>

If the social contributions are paid out of the DSN, the amount of the bank transfer may be adjusted or the transfer may be deferred.

The employer who does not wish to opt for a deferral of all the contributions and prefers to pay the employee contributions, can spread out the payment of the employer's contributions, as usual by reporting his situation via the messaging system: "New message" / "A reporting formality" / "Report an exceptional situation".

For employers with a due date on the 5th of the month, information will be communicated at a later date, in view of the due date of April 5th.

The postponement or agreement of a deadline is also possible for supplementary pension contributions, by direct contact with the supplementary pension organization.

7. Postponement and remission of fiscal tax

Following the announcement made by the President of the Republic of France on Thursday 12 March 2020 on the possibility for companies to request the postponement of payment of social security contributions and taxes without justification, formality and penalty, the DGFIP (Tax administration) and the URSSAF clarified the situation on 13 March. A press release to be found in the attachment details these measures.

Regarding the taxes payable to the DGFIP's corporate tax services (SIE), you will find some useful details below:

Companies, or their expert-accountants, may request the postponement of the payment of direct tax due dates (advance payment of corporate tax, payroll tax and, where applicable, CFE, CVAE and property tax) to their SIE. The request must be made *via* a form (in attachment) set up specifically for this purpose.

Regarding the first corporate tax instalment due on March 15, 2020, the government has reportedly decided to postpone it until June 15. For companies which have already made their March payments, it is possible either (i) to oppose the SEPA direct debit if the amounts have not yet been debited, or (ii) to request reimbursement using the attached form. Finally, monthly payment contracts can be suspended on the impot.gouv professional section.

With regard to social security contributions, the URSSAF enable employers whose due date is March 15, to defer all or part of the payment up to 3 months without penalties.

Regarding self-employed workers liable for income tax, it is possible to modulate the rate and instalments for withholding tax at source at any time. It is also possible to defer the payment of their withholding tax instalments on their professional income from one month to the next up to three times if their instalments are monthly, or from one quarter to the next if their instalments are quarterly. All these procedures are accessible via their private section on impot.gouv.fr, under the heading "Manage my tax withdrawal at the source": any intervention before the 22nd of the month will be taken into account for the following month.

In the event that your company encounters excessive financial difficulties, in addition to the postponement measures that have been put in place, you can apply for remission of direct taxes, penalties or interest on outstanding tax debts by providing concrete information on your financial situation. The administration will assess on a case-by-case basis whether the hardship criterion is met on the basis of the information provided in the form (attached). In particular, the considerable drop in sales revenue, the existence of other debts to be paid, the cash flow situation will be taken into account.

Whether for companies or self-employed individuals, these exceptional deferral or remission measures do not concern VAT and assimilated taxes, the withholding tax (PAS) paid by collectors and the special tax on insurance agreements (TSCA).

In addition, the tax administration and all public and representative bodies of the State will reduce the time taken to reimburse claims (VAT credit, CIR, CICE etc.) and to pay invoices. Again, the form (in attachment) will have to be used for this purpose.

Finally, no new tax audit should be launched and no procedural documents should be sent for ongoing audits, unless prescribed or time-limited by law. In the context of ongoing audits, the inspector may request an appointment or documents, but the company will not be obliged to respond favorably to the request immediately.

8. Release of funds

The release of €1 billion was announced for small businesses (with a sales revenue of less than €1 million), particularly in the catering, tourism and food industries. Thanks to this fund, small businesses could receive a lump sum of 1,500 euros. To be eligible, they will have to have remained open and show a 70% loss between March 2019 and March 2020, linked to the epidemic. Supplements may be allocated on a case-by-case basis.

9. Bpifrance's emergency support plan for businesses

Bpifrance guarantees your company's bank :

- up to 90% if it makes a loan of 3 to 7 years;
- up to 90% of overdrafts if they are confirmed over 12 to 18 months.

Bpifrance provides cash directly:

- by an unsecured loan over 3 to 5 years of €10,000 to €10,000,000 for SMEs and several tens of millions of euros for ETIs, with a significant delay in repayment ;
- by mobilizing all the invoices and adding a cash credit of 30% of the volume mobilized;
- by the suspension of payments of loan maturities granted by Bpifrance as of March 16, 2020.

Bpifrance can be contacted at the following toll-free number: 0 969 370 240.

Do not hesitate to contact our experts to help you and to assess with you all the measures to be taken and the consequences of this crisis on your company.