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Free initial advice

FRENCH LABOUR LAW

PARTIAL ACTIVITY OR PARTIAL UNEMPLOYMENT DURING LOCKDOWN?

Because of health risks and the drop in activity caused by government measures, employers and employees are questioning their rights and obligations.

1) Can my employer force me to take my annual leave during lockdown?

Until March 23, 2020, employers could not force employees to use annual leave over this period.

Since last night (23/03/2020), parliament ratified the government's orders:

In practice: employers can unilaterally demand that you take 6 days of leave if you have any left, unless a collective agreement states the contrary.

Employees working for large companies (+ 50 employees) will therefore be favored.

It remains to be seen whether, in the absence of accumulated annual leave, employers could oblige employees to take leave without pay?

In any case, it is to be expected that French labor law (legal working hours, RTT, right to annual leave,) will be reformed.

It also should be noted that ratified orders from last night did not mention any duration.

Does this mean that these recent changes will remain in effect, after the lockdown period?

It is too soon to know... but we will keep on eye out for you and will keep you informed.

2) Can my employer put me into partial activity (better known as technical unemployment or partial unemployment)?

Under French labour law, partial activity is possible in 4 cases:

"Employers can place his/her employees in a position of partial activity when the company is forced to temporarily reduce or suspend its activity for one of the following reasons:

- 1 ° Economical circumstances;
- 2 ° Shortage in supply of raw materials or energy;
- 3 ° Exceptional disaster;
- 4 ° Company's transformation, restructuring or modernization;
- 5 ° Any other exceptional circumstances ”.

In the context of the COVID 19 epidemic, several of these hypotheses can be chosen.

In fact, employers who no longer receive goods imported from China will have to stop their production line.

In any event, the lockdown ordered by the government represent special circumstances which may explain partial employment.

3) If I am put into partial activity, do I have administrative procedures to carry out?

Employees have no paperwork to fill.

However, employers must obtain authorization from French administration before any partial work is initiated.

Requests to do so must be filed on the dedicated government portal:
“activitepartielle.emploi.gouv.fr”.

Once the request has been filed, administration then has 15 days to study it. In the absence of any response, the request is deemed to have been accepted.

The Government has however instructed to process in priority (within 48 hours) requests related to Covid-19.

4) How long can partial activity last?

Partial activity authorization is granted to companies which request it for an initial maximum duration of 6 months, renewable once, or a maximum of 12 months in total.

5) How much will I get paid for partial activity?

Compensation paid by employers must be equal to 70% of the gross pay (received previously) and cannot be lower than minimum wage. This amount can be increased by employers.

French government has however guaranteed full compensation for all employees. It is up to employers to pay in advance all the costs and carry out administrative procedures through a portal online. Employers will be reimbursed by the state through the CESU.