

Practical INSTRUCTIONS

#SOCIAL
JANUARY 8, 2021

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PARTIAL ACTIVITY

Decrees and orders published in the Official Journal at the end of December 2020 make changes to the partial activity system.

ENLARGEMENT OF THE SECTORS BENEFITING FROM THE INCREASED ALLOCATION RATE

The decree n°2020-1628 of December 21, 2020 has expanded, once again and since December 23, 2020, the list of sectors benefiting from an increased partial activity allocation rate.

It should also be noted that some sectors have been transferred from Appendix 2 to Appendix 1.

Click here to find these annexes:

Appendix 1: https://www.legifrance.gouv.fr/loda/article_lc/LEGIARTI000042706893/2020-12-21

Appendix 2: https://www.legifrance.gouv.fr/loda/article_lc/LEGIARTI000042706890/2020-12-21

For example, Appendix 1 now mentions, as to demonstrate, film art agencies, carpooling companies, international rail passenger transportation companies, etc.

Appendix 2 includes new sectors, provided that at least 50% of their revenues have been generated by the company carried out with other company(ies) in connection with their activity. For example, kitchen installation and maintenance activities have been added to the list when at least 50% of sales are made with one or more companies of the restaurant sector.

If your company is subject to this turnover share criterion, then you must provide a sworn statement that a public accountant has certified the reality of this criterion. The declaration should be attached to your claim.

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MODULATION OF THE RATES OF THE PARTIAL ACTIVITY ALLOWANCE ACCORDING TO SECTORS

Since the decree n° 2020-1639 of December 21, 2020, the possibility to modulate the rates of partial activity allocation according to sectors is extended until a date to be set shortly by decree and at the latest until June 30, 2021. Decree no. 2020-1786 of December 30, 2020 specifies the different rates of activity allocation and their period of application as of January 1, 2021. These differ depending on your situation.

IF YOUR BUSINESS IS IN AN «UNPROTECTED» SECTOR

- For the hours off in January 2021: no change, the hourly rate of the allowance is set at 60% of the remuneration with a limit of 4.5 times the hourly rate of the minimum wage
- As of February 1, 2021: the hourly rate of the allowance will be lowered to 36%.

IF YOUR COMPANY FALLS UNDER A «PROTECTED» SECTOR OF SCHEDULES 1 AND 2

- For the hours off in January 2021: no change, the hourly rate of the allowance is set at 70% of the remuneration with a limit of 4.5 times the hourly rate of the minimum wage
- Between February 1 and March 31, 2021: the hourly rate of the allowance will be reduced to 60%.
- As of April 1, 2021: the hourly rate of the allowance will be reduced to 36% (unless a subsequent decree to the contrary is issued).

As a reminder, the allowance is increased:

- without any conditions for companies whose activity falls within the scope of Appendix 1.
- subject to a decrease in turnover of at least 80% between March 15 and May 15, 2020 for the companies of which activity is within the scope of Appendix 2.

IF YOUR ESTABLISHMENT HAS BEEN CLOSED BY ADMINISTRATIVE DECISION

- Between January 1, 2021 and June 30, 2021: the hourly rate of the allowance is set at 70% of pay up to 4.5 times the hourly rate of the minimum wage.

IF YOUR COMPANY IS LOCATED IN A RESTRICTED GEOGRAPHICAL AREA AND SUFFERS A DECLINE IN SALES OF AT LEAST 60%

- Between January 1, 2021 and June 30, 2021: the hourly rate of the allowance is set at 70% of pay up to 4.5 times the hourly rate of the minimum wage.

Attention

The decrease of at least 60% of the turnover is assessed each month until June 2021 at the employer's choice, i.e.:

- Compared to the turnover recorded during the month preceding this measure, i.e. the turnover of December 2020
- Or in relation to the sales recorded for the same month in 2019.

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EXTENSION OF PROTECTION FOR VULNERABLE EMPLOYEES

The order of December 21, 2020 also extended, until a date to be set shortly by decree and until December 31, 2021 at the latest, partial activity for «vulnerable» employees and those who must keep their child due to a measure of isolation;

The decree of December 30, 2020 specifies the hourly rates of the **partial activity allowance** in this case:

Until January 31, 2021

- The hourly rate remains that applicable to the sector of activity concerned, i.e. :
- 60% in the «not» protected sector
- 70% in the protected sector.

As of February 1, 2021 and until December 31, 2021 at the latest

The rate is 60% of the salary regardless of the sector of activity, up to a maximum of 4.5 times the hourly rate of the SMIC. It may not be less than 7.30 euros except for apprenticeship or professionalization contracts.

The hourly rate of the **partial activity allowance** remains fixed at 70% of the reference hourly remuneration until December 31, 2021 at the latest, with a limit of 4.5 times the hourly rate of the minimum wage. The hourly rate may not be less than 8.11 euros, except in the case of an apprenticeship or professionalization contract.

OTHER MEASURES

The order of December 21, 2020 extends from January 1, 2021 until a date set by decree and, as of later, on December 31, 2021, some of the measures previously put in place, in particular:

- Benefits of the partial activity scheme for certain employees and compensation arrangements for workers not in the workforce subject to legal working hours (senior executives, employees with an annual lump sum in days or hours, employees in equivalence, sales representative, etc.).
- Compensation for structural overtime related to an individual lump-sum agreement prior to April 24, 2020 or to a collective working time that exceeds the legal working time provided for by a collective agreement prior to the same date
- Possibility of taxing the partial employment of protected employees
- Possibility by collective agreement to individualize the investment in partial activity.

On the other hand, the 100% increase in compensation for employees undergoing training during off-hours is suspended.