

Practical INSTRUCTIONS

#SOCIAL

APRIL 7, 2021

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CHILDCARE

In a press release published on April 1, 2021 the Ministry of Labour discusses the impact of the closure of schools and nurseries on the lives of employees and companies.

INCENTIVES TO FACILITATE THE TAKING OF PAID LEAVE

Employers are invited to facilitate the taking of paid leave by their employees with children during the new school vacation dates (10 to 26 April 2021) when they had already planned their leave on later dates. This solution must «be implemented within the framework of dialogue between the employee and the employer»: no obligation, but an injunction to find a solution.

As a reminder, under ordinary law, the notice period for taking paid leave is one month. By agreement between the employee and the employer, it may be decided to modify the dates of leave initially planned within a shorter period.

ORCOM'S OPINION

It is recommended to keep a written record of the employee's request to change the holiday dates.

The press release recalls that in certain cases, the employer may require the employee to take paid leave or time off.

ORCOM'S OPINION

The Ministry is referring here to the system provided for from March 25, 2020 and extended by the order of December 16, 2020: in particular, to impose 6 days' leave, the signature of a company agreement or, failing that, the application of a branch agreement is necessary. In practice, this system is hardly applicable to VSE/SMB. This temporary text also allows the employer to impose the dates of certain days off, up to a limit of 10 days, by derogation from the rules of the Labour Code and collective agreements, until 30 June 2021. However, the employer must consult the CSE.

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Finally, if the employee cannot postpone his/her holidays, does not have childcare and is unable to work from home, he/she may ask to be placed on partial activity, including during the two-week holiday period. Only parents of children under 16 years of age or of children with disabilities without age limit are concerned.

ORCOM'S OPINION

Remember to ask your employee to provide a sworn statement that he/she does not have an alternative form of childcare and that he/she is the only one of the two parents applying for partial activity on the grounds of childcare.

COMPENSATION FOR PARTIAL ACTIVITY FOR CHILDCARE

The Ministry of Labour has announced that employees will receive compensation paid for by the State of 84% of their net pay or 100% for employees with minimum wage. In return for the payment of this compensation, the employer will receive an allowance from the State of the same amount, **so the remaining cost for the employer is «zero».**

- In terms of pay, this means that, for the employee, the allowance paid by the company will be equal to 70% of the hourly reference pay retained within the limit of 4.5 minimum wage (as it is already the case).
- The compensation paid to employees will be fully reimbursed to the employer, regardless of the sector of activity (a draft decree has been issued to provide for this).

The minimum amount of the compensation and the allowance will be equal to the net minimum wage, i.e. approximately €8.11 per compensable hour in the general case.

OTHER PARTIAL ACTIVITY SITUATIONS

Except in the case of childcare, employers will be able to mobilise partial activity under the conditions laid down in the regulations.

Will benefit from 100% coverage of partial activity, with no remaining costs for the employer:

- All establishments and companies closed by administrative decision;
- Companies demonstrating a 60% loss of turnover compared to the month before the start of a new lockdown or compared to the same month in 2019.

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Establishments and companies belonging to the protected sectors and, subject to a loss of turnover, to the so-called «related» sectors, will continue to benefit from 100% coverage of partial activity until April 30, 2021.

Establishments located in the catchment area of ski resorts may, under the conditions laid down in the regulations, also benefit from 100% reimbursement until June 30, 2021.

For other sectors, the remaining cost for companies is 15% until the end of April.

SELF-EMPLOYED WORKERS: FREELANCERS, ARTISTS, TRAINEES, ETC.

If it is impossible to work from home, the self-employed person may be granted a work stoppage.
[The declaration must be made on the declare.ameli.fr website](https://declare.ameli.fr) or declare.msa.fr (agricultural scheme).

This includes self-employed workers, non-salaried agricultural workers, artists and authors, trainees, liberal professions, liberal health professions, as well as salaried managers, public law contractual workers in the administration and non-full-time civil servants working less than 28 hours.

Only parents of children under 16 years of age or of children with disabilities without age limit are concerned.

Work stoppages for childcare are compensated without verification of the conditions for entitlement and without a waiting period, until June 1, 2021.