

Covid-19 in France: New Lockdown and Employer Obligations

31 October 2020



France entered into a new lockdown as from 30 October 2020

The French authorities announced on 28 October a new lockdown to fight the spread of the Covid-19 pandemic. This lockdown, which is not as strict as the one implemented last spring, is scheduled to be in force at least until 1 December 2020.

The lockdown measures aim at « *reducing as much as possible interactions and travel* » while maintaining business activities. Travel is therefore prohibited, subject to derogatory circumstances allowing the continuation of designated business activities.

What are the employer obligations during this new sequence? What tools are available to them?

Work Organization

The Government issued a new national Protocol to safeguard employees health & safety in the context of Covid-19:

<https://www.gouvernement.fr/sites/default/files/cfiles/protocole-national-sante-securite-entreprise.pdf>

What is not changing:

Protect

Companies are still required to take all necessary measures “to ensure the employees’ safety and protect their physical and psychological health”.

As such, the employer may implement constraining rules to comply with this obligation and protect their employees after an assessment of the contagion risk within the company.

Maintain and enforce sanitary provisions

Companies are still required to enforce hygiene, cleaning and disinfection rules, social distancing, systematic facial mask wearing on company premises in « *enclosed collective areas* », specific protection rules (barrier postures, setting up movement flows in the company, changing work shifts, ventilation, etc.).

Assess

The employer is required to regularly assess professional risk. Facing an evolving situation, amending the legally required Risk Assessment Document (“*DUERP*”) may be necessary.

Inform

Employer ongoing information is required on proper behaviors, barrier postures and on any decision that may be taken by the company (shutdown, remote work, change in work conditions, etc.).

What is changing:

Administrative shutdown of non-essential stores and businesses receiving visitors

However, the scope of this shutdown is not as strict as the one implemented last spring.

Remote Work is “Not an Option”

- Where feasible (*i.e.*, for employees who can perform all of their tasks remotely), remote work is compulsory on a full-time basis;
- In other cases, the work organization must allow to reduce commute time and adjust on-site presence time.

Audio or video-conference calls are the new norm and face-to-face meetings are the exception.

The employer must negotiate and strike the right balance to avoid psychological risks, notably triggered by isolation.

Documentation

Companies must provide certificates of business-related travel to employees who cannot work remotely and who need to commute:

<https://www.interieur.gouv.fr/Actualites/L-actu-du-Ministere/Attestations-de-deplacement>

They must also inform employees of the existence of the tracking app

TousAntiCovid and of the benefits of activating this app during working hours.

Testing voluntary employees

Subject to compliance with regulatory provisions, the employer may offer testing to employees on a voluntary basis.

Aids Available to Companies

Partial Activity (Furlough)

Current partial activity regimes are extended (without changes) until 31 December 2020. The reduction in Government financial support which was originally scheduled as of 1 November will not be enforced.

Exemption from Social Security Contributions

According to the Ministry of Economy, business shutdown by administrative decision and companies in sectors heavily impacted by the pandemic such as tourism or business events (the current list of sectors should remain unchanged) will be fully exempt from social security contributions upon losing 50% of their revenues.

Other Aids and Support Measures

A revised Budget Bill for 2020 should be discussed by mid-November to set up new measures. According to the Ministry of Economy, one of these measures could include an indemnity of up to EUR 10,000 to all businesses and companies shutdown by administrative decision.

Assistance of EY Société d'Avocats

Our team of 50 lawyers specialized in labor & employment law can assist you to manage the crisis caused by the Coronavirus outbreak.

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