

COVID-19 CHECKLIST: PREPARING FOR THE GRADUAL RETURN TO WORK

6 April 2020, the French President announced the envisaged end of the lockdown in France as beginning on 11 May 2020.

28 April 2020, the French Prime Minister presented to the Parliament the “National plan for the end of the lockdown” (Plan). The Plan provides a general framework that may be adapted by each department and is composed of two phases as detailed below.

3 May 2020, the French Labor Ministry published a “National protocol regarding the end of the lockdown for companies to ensure health and safety of the employees” (Protocol)

✓ **Phase 1: from 11 May 2020 to 2 June 2020** – a follow-up report will be published on **7 May 2020** to confirm the end of the lockdown:

- **shops**: reopening of shops on 11 May subject to the protection of employees and clients by ensuring social distancing measures; bars, cafés, restaurants, and movie and other theatres will remain closed during phase 1;
- **schools**: gradual reopening of (i) nurseries (10 children maximum per group), (ii) kindergarten, junior school, and middle school on a voluntary basis (a limit of 15 children per class). Safety masks will be mandatory in middle school. High schools will remain closed until a follow-up at the end of May. Universities will not reopen until after summer;
- **travel**: it will be possible to go out without a travel certificate for no more than 100 km from home. No travel exceeding 100 km from home is permitted, except for an imperative reason or a family or professional justification. Interregional travel will be limited;
- **companies**: reopening subject to security measures and social distancing measures. Remote work should be favored whenever possible for at least three weeks;
- **public transportation**: safety masks will be mandatory for public transportation (buses, subway, taxis, etc.); the traffic will be adapted in order to comply with social distancing measures;
- **partial activity**: maintained until 1 June 2020

✓ **Phase 2: from 2 June 2020 until summer**-will be reassessed at the end of May in light of the situation.

In order to help our clients handle this situation and prepare for the gradual return to work in France, we have prepared the following toolkit with a list of questions and subjects to be considered **before** the return of employees to work.

Checklist

Key questions to anticipate for a return to work

1. Minimizing exposure to COVID-19 at work

▪ **Getting back to the company's premises? Am I ready?**

1. Do all employees have to return to work at the same time on the company's premises?
2. If not, who do I need to ask to come back first?
3. What services and functions require physical presence on premises?
4. Can work on the company's premises be organized on a voluntary basis?
5. Can employees keep working from home?
6. Should partial activity be maintained? For whom/what services? How many employees? Until when?
7. What about employees whose children will not be going back to school? Or will be going back to school on a less than full-time basis in light of the number of pupils in the class?
8. Do I have to update the document for the assessment of risks (*document unique d'évaluation des risques*)?
9. How will I inform the employees and employee representative body of the updated work organization?
10. Will employees be able to come to work? What about their transportation options and the risks of using public transportation?
11. Do I have the protection equipment necessary to ensure the employees' security (e.g., safety masks, hydroalcoholic gel, safety gloves)?
12. Can I organize the premises to comply with social distancing measures? How?
13. Is it possible to impose paid leave or a day of reduction in working time (RTT) (i.e., additional days off) after the lockdowns?
14. Can I implement shift work on the company's premises?
15. Can I organize staggered working hours?

2. Return to work after the closure period

▪ ***Necessary adjustments to the company's premises.***

16. Update the document for the assessment of risks in order to mention the potential risks and the measures to be taken to ensure the protection of employees.
17. Question employees regarding their situation.
18. Inform the employees of the next steps decided.
19. Order safety equipment for employees returning to work (safety masks, hydroalcoholic gel, safety gloves, etc.).
20. What about the physical organization of the premises?
21. How many people can be in an enclosed space at the same time?
22. How should I deal with "public areas" at work (e.g., open spaces, elevators, relaxing areas, coffee machines, kitchens, refrigerators, water coolers)?
23. What measures can I implement to limit the risks in the company's premises? (e.g., determine spaces at risk in light of the premises' configuration and draft clear rules of circulation; post safety and sanitary instructions in key places such as reception, hall, doors, etc., regarding health crisis and remind people of the barrier measures, securing deliveries and interventions by service providers; provide parking or secure storage for bicycles and encourage them to walk to work).
24. What about professional meetings? Internal meetings?
25. What about professional travel?
26. Can I implement temperature control of any person entering the company's premises?
27. Should there be screening tests for people who have access to the company's premises?
28. Is it necessary to decontaminate the premises? How often?
29. What about air conditioning?

- **Employees' health and safety.**

30. Can employees request medical examinations?
31. Should I need to involve the Labor doctor or the Labor inspector in the return-to-work planned organization?
32. Can I set up a psychological unit for employees who may need assistance, in particular, managers?
33. Do I need to appoint a reference employee to monitor the application of barrier measures?
34. How can I inform employees in a regular and updated manner on the prevention of contamination risks?
35. How can I encourage social distancing?
36. How can I ensure that the needs in terms of protection will be met?
37. What action plan will I implement in case of COVID-19 contamination in the company?
38. Should the company close again if confirmed cases of COVID-19 are discovered after 11 May 2020?
39. Can employees validly make use of their right of withdrawal (*droit de retrait*)* after the lockdown's end?

Main steps to prepare for the gradual return to work

1. Preliminary steps

<i>Assess the risks and establish a safety record</i>	<p>Assessment of the risks associated with the spread of COVID-19 is key to the recovery of the company's activity.</p> <p>The mandatory risk assessment document (<i>Document Unique d'Évaluation des Risques</i>) must be adapted to the characteristics of the company and updated in light of the COVID-19 pandemic.</p>
<i>Define reliable barrier measures and preventive actions</i>	<p>It is essential to establish a plan regarding barrier measures prior to the workplace recovery and to enforce it.</p> <p>Main measures to be considered are as follows:</p> <ul style="list-style-type: none">– reorganizing work stations and collective areas;– ensure that employees avoid meetings, unnecessary outside gatherings, or close contacts (in particular in elevators or at the company's restaurant);– provide employees with as much as possible of the appropriate means of protection, such as soaps, hydroalcoholic gel, masks, and any other means recommended by the public authorities;– implement social distancing measures at work stations (i.e., 4 square meters around the employee, recommended by the Labor Ministry) and in all places of transit (hall, corridors, meetings rooms, etc.); and– inform employees on a regular and updated manner on the prevention of contamination risks.

Discuss with employees their personal situation

It is advisable to anticipate employees' personal situations in order to determine which department/employees should continue to work remotely as a matter of priority:

- favor remote work whenever possible;
- determine which employees are responsible for children under 16 years of age and if their children will return to school;
- consider the return of employees on a voluntary basis;
- invite employees to inform the company if they have recently visited risk areas;
- invite employees to inform the company if they have a health risk factor; and
- pay particular attention to employees who have developed symptoms of COVID-19.



Collection of personal information and data in light of COVID-19 must comply with the General Data Protection Regulation (GDPR).

2. What happens on 11 May 2020?***Do all employees have to come back to work?***

Even if the first day of the end of the lockdown is 11 May 2020, the French Prime Minister strongly recommended that remote work should be maintained, whenever possible, for at least three additional weeks following 11 May 2020.

In practice, it is recommended that an operational plan be established to determine which employees are physically needed on the premises of the company.

When remote work is not possible, alternative solutions should be considered, such as staggered working hours, rotation/shifts of employees on the premises of the company, etc.

In any event, it is highly recommended to implement a **gradual** return to work.



Dealing with partial activity and work stoppages

Companies will have to assess their needs in terms of staff in order to deal with partial activity. The French government already announced that the rules and compensation of partial activity would be reviewed in the next few weeks to adapt to the business recovery.

Employees on work stoppage due to the COVID-19 situation (e.g., for parents of a child who is less than 16 years old) are transferred to the partial activity regime as of 1 May 2020. Employers should proceed with such change.

3. Informing employees***On the organization of work and the arrangements on the company's premises***

It is essential to communicate regularly and clearly with employees on the measures taken by the company (e.g., organization of the return to work; maintenance of partial activity and part-time work; remote work; working time arrangements; barrier measures; social distancing instructions; implementation of temperature control, which must be exceptional and under certain restrictions). The French Labor Ministry specifies that screening test campaigns organized by companies for their employees are not authorized.

-  Do not forget to involve the Social and Economic Committee, which could be of help to handle the stress of the situation with employees.
-  Collection of personal information and data in light of COVID-19 must comply with the GDPR.

4. Return to work after a period of closure

<p><i>Implement a progressive return-to-work plan</i></p>	<p>It is recommended that the return of employees to work be anticipated.</p> <p>It may be prudent to draw up a plan over May and June 2020 by staggering the dates of return of employees or services, taking into account (i) the health data provided by the government, (ii) the personal situation of the employees and (iii) the company's economic imperatives.</p>
<p><i>Complying with the employer's safety and security obligation</i></p>	<p>Under French law, employers have a safety and security obligation towards their employees. The company and its legal representatives are criminally liable for this obligation.</p> <p>In practice, in the context of COVID-19, if remote work is not possible, employers must ensure that their employees' safety and security are protected.</p> <p>If employees are not provided with sufficient and appropriate protection tools to carry out their duties in a safe manner (i.e., soap, hydro-alcoholic gels, masks, minimum safety distance of one meter between each person, etc.) and if the barrier measures and social distancing are not complied with, employees could trigger the company's liability or action their right of withdrawal ("droit de retrait") (*). This is all the more likely if an employee is tested positive to the COVID-19.</p>

(*). Where the work situation presents a **serious and imminent danger** to the employee's life or health, he/she may leave or refuse to work without the employer's consent. This is the employee's right of withdrawal ("droit de retrait"). When the employee **legitimately** uses his/her right of withdrawal, the employer can neither withhold a part of the employee's remuneration nor sanction the employee for using his/her right of withdrawal.