

# Payroll & Labor Newsletter

July 2024

forvis mazars

**Each month, the Payroll & Labor Newsletter covers the key developments in labor and payroll law that affect your business and the economic environment in which we all operate.**

**We invite you to contact us for further information and support.**

**Enjoy your reading!**

# Payroll news

## The future of rural development zones (ZRRs) after the introduction of France rural development reform (ZFRRs)

*BOSS press release of 1-7-2024*

As a reminder, the Budget Act for 2024 provided for the replacement of the “Zones de Revitalisation Rurale” (ZRR) and “Zones de Revitalisation des Commerces en Milieu Rural” (ZoRCoMiR) schemes, due to expire on December 31, 2023, with a single simplified zoning called “France Ruralités Revitalisation” (ZFRR).

This new zoning, which came into effect on July 1, 2024, is divided into two levels: a base level (ZFRR) and a reinforced level (ZFRR “+”), offering differentiated tax benefits.

However, some municipalities classified as ZRR up to June 30, 2024 were not included in the ZFRR classification, and therefore no longer benefited from the advantages specific to these zones as from July 1, 2024.

Prime Minister Gabriel Attal told the French National Assembly during questions to the Government that ZRR municipalities not reclassified as ZFRR would continue to benefit from the tax and social exemptions specific to these zones.

**This extension, as of July 1, 2024, of the ZRR zoning for communes leaving the scheme and not included in the ZFRR scope, has now been included in the BOSS, which specifies that the communes listed in the TREB2416551A decree of June 19, 2024 continue to benefit from the same advantageous social regime.**

Please note:

Companies located in ZFRR or ZRR benefit, under certain conditions, from an exemption from employer social security and family allowance contributions for the hiring of the first to the 50th employee.

## Unemployment insurance reform suspended by government

Decree 2024-648 of June 30, 2024, OG of July 1

The unemployment insurance reform was one of the government's flagship reforms, aimed at tightening the conditions of access to unemployment insurance and reducing the maximum duration of compensation, with entry into force scheduled for December 1, 2024. In principle, the final decree should have been published on July 1, 2024.

**In light of the turnouts of the legislative elections, the government has decided to put its reform on hold.** As such, a decree has been published in the Official Gazette of July 1, 2024 to extend until July 31, 2024 the current unemployment insurance rules set by the amended decree of July 26, 2019, and which were due to expire on June 30. For the government, this means suspending the reform, not abandoning it. According to Matignon, “this reform may be the subject of adjustments and discussions between republican forces”.

## Value sharing: the main contributions of the June and July decrees

*Decree no. 2024-644, June 29, 2024, article 2: OG of June 30*

*Decree no. 2024-690, July 5, 2024: OG July 6*

### 1) Incentives and profit-sharing plans

The ‘Partage de la Valeur’ Act of November 29, 2023 allows **profit-sharing or incentive agreements** to provide for the payment, during the year, of **upfront amounts** due under these schemes. In such cases, these amounts can only be paid out to beneficiaries after obtaining their agreement. **The decree of June 29, 2024 specifies the procedures for informing employees and obtaining their agreement** before paying such amounts.

Accordingly, the employer must inform each employee of the possibility of benefiting from such an upfront amount, and of the deadline for giving their agreement. If the profit-sharing agreement does not specify the deadline, the employee has 15 days from receipt of the information to make his or her request. In the absence of the employee's explicit agreement, no upfront payment will be made.

The sum allocated under this scheme must be detailed on an information sheet separate from the pay slip, mentioning a number of items (see article D.3348-2 of the Labor Code), such as the amount of rights allocated under the scheme, the obligation and terms of repayment by the beneficiary in the event of overpayment, the beneficiary's agreement, and so on.

The decree also clarifies that **paternity and childcare leaves are treated as periods of presence when allocating profit-sharing or incentive schemes.**

**2) Employee savings plans**

The same decree now allows employees to place their **value-sharing bonus (PPV) in an employee savings plan or pension plan**, and thus benefit from the related tax exemption, or even a top-up. Employees wishing to invest all or part of their PPV in such a plan must submit a request within 15 days of receiving the document informing them of the amount allocated, which they may request to be paid out.

Employers with one of these plans must provide employees with an information sheet for each sum paid under the PPV, separate from their pay slip and containing the information specified in article 1 II of the decree, such as the amount of PPV allocated, the possibility of placing it into a savings plan, the deadline for making the request, etc.

The decree of July 5, 2024 provides for **3 new scenarios for early profit-sharing release**. By reference, they also apply to company savings plans (PEE), but not to retirement savings plans. The 3 new scenarios are as follows:

- **Expenditure allocated to energy renovation of principal residences**: this applies to generating events (expenditure or purchase) subsequent to the entry into force of the decree of July 7, 2024;
- **Activity of close caregiver carried out by the person concerned, his or her spouse or PACS partner** with a close relative as defined for close caregiver leave (article R3324-22 of the Labor Code). This case applies to requests submitted after the decree comes into force on July 7, 2024; in other words, the status of close caregiver may have begun before the decree came into force;
- **Acquisition of a "clean" vehicle :**
    - using electricity, hydrogen or both, if :
        - a vehicle designed and built for transporting people and seating a maximum of eight people in addition to the driver's seat (a vehicle classified M1 as defined in article R. 311-1 of the Traffic Code);
        - a van ;
        - or a 2 or 3-wheeled motor vehicle and motor quadricycles;
    - or a new pedal-assisted model.

This scenario also applies to events (expenditure or purchase) occurring after the decree comes into force (July 7, 2024).

The same decree also raises the ceiling for **employer contributions to the company's savings plan (PEE), in the event of unilateral payment by the employer, with a view to the acquisition of company shares:** previously limited to 8% of the PASS scheme for each beneficiary, this ceiling has now been raised to 16% of the PASS.

**3) On the new plan for sharing company profits**

The 'Partage de la Valeur' Act introduced a new optional scheme, the "Plan de partage de la valorisation de l'entreprise" (PPVE), which can be used by any company. It enables employees **to receive a bonus for sharing in the company's increase in value over a 3-year period**. This bonus benefits from a preferential social security regime (exemption from social security contributions for 2026, 2027 and 2028, except for CSG/CRDS), **and an income tax exemption for employees who place it in a savings plan.**

This PPVE, set up by a collective bargaining agreement, with a special report from the company's auditor, must be filed, along with its appendices, in electronic form on the "TéléAccords" platform. It is then subject to URSSAF (CGSS or CMSA) control, which has a 3-month control period before the social exemptions are deemed to have been acquired.

The decree stipulates that the employer must provide employees with an information sheet, separate from the pay slip, after the PPVE has been filed, indicating the reference amount allocated to each employee under the company's value-sharing bonus, as well as any modulation criteria applied (remuneration, classification or working hours). This bonus can then be invested in a savings plan, at the employee's request (within 15 days of receiving notification of the amount allocated), and is thus exempt from income tax, up to a limit of 5% of ¾ of the PASS per year.

**4) Calculating workforce size thresholds**

- Calculation of **the threshold of fewer than 50 employees** for entitlement to the enhanced tax exemption regime for the

value-sharing bonus: the **'Partage de la Valeur'** Act provides for the continuation of the enhanced tax exemption regime for the PPV in companies with fewer than 50 employees for a period of 3 years, from January 1, 2024 to December 31, 2026, for employees who received remuneration of less than 3 minimum annual wage (SMIC) during the 12 months preceding their payment, and up to a limit of €3,000 or €6,000 per year, depending on the case;

- Calculation of **the threshold of at least 11 employees** for mandatory value-sharing in companies with at least 11 employees that are not required to set up profit-sharing and that have made a net profit for tax purposes of least 1% of sales for 3 consecutive financial years and that are not required to set up profit-sharing ;
- Calculation of **the threshold of 11 or more employees** for compulsory value sharing in associations, foundations, cooperatives and mutual societies in the event of surplus profits:

The decree of July 5, 2024 specifies that the above-mentioned workforce thresholds are calculated according to the "social security" workforce rules - i.e. a workforce assessed at company level over the previous calendar year, all establishments included - but excludes the application of the 5-year moratorium in the event of an increase in the workforce threshold. As a result, a company with fewer than 50 employees that exceeds the 50-employee threshold will be immediately deprived of the reinforced exemption scheme, without being able to benefit from the 5-year moratorium.

## Labor news

### An employee may refuse a part-time position despite the company doctor's recommendations

*Cass. soc. 19-6-2024 no. 22-23.143*

In this ruling, an employee who had suffered an accident at work was declared fit to return to work by the company doctor. The latter recommended a part-time return to work, with limited load-bearing.

The employer is bound to take into account the company doctor's reservations and recommendations, in order to comply with safety obligation.

The employer therefore offered the employee a part-time position on January 16, 2020, which she refused. She did not return to work and signed a mutual termination agreement" with her employer, ending her contract in July 2020. From January to July 2020, she was not paid. She therefore requested back pay for this period.

The Court of Appeal awarded her back pay for the period from January 9 to 16, 2020 only, as the employee did not provide any actual work thereafter. She therefore appealed to the Cour de Cassation.

**The Cour de cassation ruled in favor of the employee. The offer of a part-time position constituted a modification of her employment contract which required her agreement. She was therefore entitled to refuse. The employer could not impose this change and consequently reduce her salary without her agreement.**

The employee was therefore entitled to refuse the change to part-time work despite the company doctor's recommendations, as this constituted a change to her employment contract.

### The length of the trial period for fixed-term contracts leading to open-ended contracts

*Cass. soc. 19-6-2024 n° 23-10.783*

The June 19, 2024 ruling reiterates the rules governing the length of the trial period in the case of one or more fixed-term contracts (CDD) continuing into a permanent contract (CDI) for the same job.

**In this case, the duration of the fixed-term contract(s) is deducted from the trial period stipulated in the permanent contract, even if the fixed-term contracts have been separated by short periods.**

### The SYNTEC collective bargaining agreement: extension of the November 13, 2022 amendment

*Decree of June 12, 2024 extending the amendment of November 13, 2022*

A decree dated June 12, 2024 extended the amendment dated November 13, 2022. The

amendment's provisions therefore apply from July 1, 2024 to all companies under the scope of the SYNTEC collective bargaining agreement. **This amendment modifies the provisions governing fixed-rate day agreements. In particular, it enables fixed-term day agreements to be signed with employees having an Executive position 2.3**. For employees in this category, annual remuneration must be at least 122% of the conventional minimum for their category, on the basis of an annual fixed rate of 218 days worked, or on the basis of the fixed rate defined by the company.

In addition, the employer is now required to carry out at least one individual interview per year, instead of two previously.

**The amendment also modifies the provisions on time off and workload relative to the fixed daily rate.**

This amendment creates a new section on the right and obligation to disconnect. It establishes the employer's obligation to adopt the necessary measures and communicate them by any means to employees, the possibility of creating a warning procedure in the event of recurrent use of digital tools during time off, and the obligation of companies with more than 250 employees to appoint a disconnection coordinator. The role of this person is to make employees and managers aware of the challenges of disconnection, and to disseminate best practices for responsible connection. When the above-mentioned warning procedure is set up in the company, the coordinator must be involved.

## Mutual termination agreement and request for approval

*Cass. soc., June 19, 2024, n°22-23.143*

An individual mutual termination agreement between an employee and their employer must be “approved” (i.e. verified and validated) by the Administration (DREETS) before the termination of the employment contract can take place.

Once the Cerfa document has been duly completed and signed, and the 15-day withdrawal period has expired, the Labor Code stipulates that “the most appropriate party” (very often the employer) must forward the document to the DREETS via the online TéléRc platform. The Administration then has a period of 15 working days from receipt of the request to check that each stage of the procedure (mutual consent of the parties, compliance with the various deadlines, etc.), as well as the minimum amount of the legal/conventional indemnity to be paid to the employee on termination, have been respected.

If the Administration deems that the procedure has not been followed for any reason whatsoever, it will declare the request for a mutual termination agreement «unacceptable”.

What should you do in this case? Start a new application, thereby delaying the termination of the employment contract? Correct the Cerfa document manually in accordance with the DREETS instructions and terminate the employment contract? Ignore the Administration's instructions and terminate the employment contract on the date originally planned?

The Cour de cassation issued a ruling on June 19, 2024 (Cass. soc., June 19, no. 22-23.143). **The judges ruled that when the request for approval is declared unacceptable by the administrative authority, due to errors on the Cerfa document (in this case, the salaries to be taken into account for calculating the indemnity), but the employer has been able to provide convincing explanations to the administration, the latter does not have to restart the mutual termination agreement procedure from the beginning, and consequently sign a new Cerfa document.**

**Please note, that approval is subject to the discretion of the competent administrative authority. In this case, the explanations provided by the employer demonstrated that there had been no error in the salaries taken into account for the amount of the severance pay, and that for this reason alone, the administration had reversed the refusal to accept the application.**

# Contacts

**Anne-Laure Caratge**

Payroll Manager, Forvis Mazars, France

anne-laure.caratge@mazars.fr

**Laura Lessirard**

Legal Counsel in Labor Law, Forvis Mazars, France

laura.lessirard@mazars.fr

If you have any further questions, please do not hesitate to contact your **social and payroll department contacts.**

Forvis Mazars Group SC is an independent member of Forvis Mazars Global, a leading professional services network. Operating as an internationally integrated partnership in over 100 countries and territories, Forvis Mazars Group specialises in audit, tax and advisory services. The partnership draws on the expertise and cultural understanding of over 35,000 professionals across the globe to assist clients of all sizes at every stage in their development. Visit forvismazars.com to learn more.

© Forvis Mazars 2024