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EMPLOYMENT NEWS

January-March 2025

The purpose of this Employment News publication is to inform you about (**1.**) the legislative, regulatory and administrative evolutions from January to March 2025, (**2.**) the new "rebound" long-term partial activity scheme and (**3.**) the most significant case law from January to March 2025.

1. Legislative, regulatory and administrative news

- **Order (arrêté) TSST2505247A of March 3, 2025: New models of aptitude and inaptitude notices**

The order updates the templates used by the occupational physician to issue his opinion on an employee's state of health.

The update concerns the following documents

- notice of aptitude ;
- notice of inaptitude ;
- individual health monitoring certificate;
- proposed workstation adjustments.

The order comes into force **on July 1, 2025**. Before this date, the applicable templates remain those from the Order of October 16, 2017.

- **Law n° 2025-127 of February 14, 2025 : Finance law 2025**

The law includes a number of social measures on various items (exemptions for certain temporary schemes, funding for training and work-study programs, etc.).

In particular, the Finance Act 2025 stipulates that :

- Compensation paid to an employee not reinstated in the event of cancellation of the validation or homologation of a soci plan benefits from a capped exemption from social security contributions;

- A new temporary partial activity scheme has been created: the "rebound" long-term partial activity scheme (APLD-R). For further details, see point 2 below;

- Employee shareholding measures have been adopted, including the creation of a new regime applicable to exit gains from management packages, and a ban on the registration of BSPCEs in an employee savings plan.

- **Decree n° 2025-125 of February 12, 2025 : New procedure for seizure of remuneration**

Since law n° 2023-1059 of November 20, 2023, the procedure for seizure of remuneration has been entrusted to "commissaires de justice". Decree n° 2025-125 of February 12, 2025 sets out the regulatory provisions, and confirms that the procedure will come into force on July 1, 2025.

In summary, the new procedure is as follows:

- Summons to pay to the employee to be entered in the digital register of attachment of earnings on the same day or on the 1st working day following service;
- Appointment of a court-appointed apportionment commissioner;
- Service on the employer of a procès-verbal of seizure entered in the digital register of seizures of remuneration on the day of service or the first working day thereafter;
- Informing the employee of the seizure within eight days;
- The employer must provide certain information to the court-appointed administrator, within 15 days of notification of the seizure;
- Payment by the employer of the sums that are due.

- **Official Social security Bulletin : Integration of a new section on employee savings schemes**

Since January 24, 2025, a new heading has been included in the official Social security Bulletin (in French "*Bulletin officiel de la sécurité sociale*" (BOSS)) concerning employee savings.

The section currently comprises just one chapter, on the Value Sharing Bonus. It covers:

- Social rules governing the value-sharing bonus ;
- Conditions for granting the value-sharing bonus;
- Terms and conditions for paying and declaring the bonus, as well as the consequences in the event of an investigation.

The BOSS specifies that the "*value-sharing bonus is now a permanent arrangement, with certain conditions of liability varying over time. This new section incorporates the content previously published in the "Exceptional measures" block [of the BOSS], to give it a lasting character*".

Eventually, the section on employee savings schemes will be expanded to include other topics.

As a reminder, the BOSS is enforceable against the administration but not on the judge.

2. Focus : the new "rebound" long-term partial activity scheme (APLD-R)

Introduced by the French Finance Law for 2025, this is a temporary scheme designed to keep employees in companies facing a lasting reduction in activity that is not likely to jeopardize their long-term survival.

Under this scheme, the company can reduce its employees' working hours by paying them a lower allowance than their usual salary, and receive partial reimbursement of this allowance from the State in the form of an allowance.

Setting up the APLD-R requires :

- Either the conclusion of a company (or establishment or group) agreement validated by the authorities.
- Or a unilateral document drawn up by the employer, in application of an extended branch agreement, and subsequently approved by the authorities. The unilateral document must be drawn up after consultation with the CSE and comply with the provisions of the extended branch agreement.

In return for the reduction in working hours, specific commitments must be made, notably with regard to job preservation and vocational training.

The APLD-R scheme applies to collective agreements and unilateral documents submitted to the authorities for validation or approval **between March 1, 2025** and a date to be determined by decree, which will be **no later than February 28, 2026**.

3. Significant case law from January to March 2025

- **Supreme Court, Employment Division, March 12, 2025, n° 24-11.467**
  The validity of a union representative's appointment to the CSE is assessed on the date of that appointment. Motions to contest the appointment are admissible within 15 days of the date of appointment, regardless of the irregularity alleged.

  The French Supreme Court also specifies that when a company has several separate establishments, an employee appointed as a trade union representative on an establishment's social and economic committee must work in that establishment.

- **Supreme Court, Employment Division, March 11, 2025, n° 23-19.669 and n° 24-10.452**
  A fixed annual working time in days agreement invalidated under a collective bargaining agreement, or rendered ineffective due to the employer's failure to comply with the legal and contractual provisions governing workload monitoring, does not necessarily cause prejudice to the employee.

  These rulings run counter to recent case law from the Supreme court, which has recognized the existence of a necessary prejudice (e.g. exceeding maximum daily or weekly working hours, failure to respect daily break times, etc.).

- **Supreme Court, Employment Division, February 5, 2025, n° 22-24.000**
  Differences in treatment between employees belonging to the same company, effected by a substitution agreement negotiated and signed by representative trade union organizations within the company, entrusted with defending the rights and interests of employees throughout the company, and in whose empowerment the latter participate directly through their vote, are presumed to be justified, so that it is up to the party challenging them to demonstrate that they are unrelated to any consideration of a professional nature.

- **Supreme Court, Second Civil Division, January 30, 2025, n° 22-18.333**
  Settlement indemnities paid in connection with the termination of an employment contract, but intended to compensate for a loss, are not subject to social security contributions.

  This ruling explicitly confirms that sums paid in compensation to a prejudice are not subject to social security contributions in their entirety.

  However, please note that as the Supreme court ruling only concerns social security contributions, there is some doubt as to whether these sums are subject to CSG/CRDS and income tax.

- **State Council, January 23, 2025, n° 494065**
  The issuing by a doctor of medical certificates bearing the words "*burn out*" "*exclusively related to working conditions*", based solely on the patient's statements, may constitute the issuing of tendentious or complacent certificates justifying the pronouncement of a blame.

- **Supreme Court, Employment Division, January 22, 2025, n° 23-17.782**
  If the strike is the result of a serious and deliberate failure by the employer to meet its obligations, the union can claim damages for harm to the collective interest, but not payment for strike days, as such action is a matter of the strikers' personal freedom.

- **Supreme Court, Criminal division, January 21, 2025, n° 22-87.145**
  A company policy that knowingly leads to the deterioration of employees' working conditions may constitute institutional moral harassment, justifying the sanction of the managers implementing it.

  In this decision, the Supreme Court defines institutional moral harassment as "*acts aimed at deciding on and implementing, with full knowledge of the facts, a corporate policy whose purpose is to degrade the working conditions of all or some of the employees in order to achieve a reduction in the workforce or to attain any other objective, whether managerial, economic or financial, or which has the effect of such degradation, likely to undermine the rights and dignity of these employees, to alter their physical or mental health, or to compromise their professional future*".

  It also confirms that institutional moral harassment falls within the scope of article 222-33-2 of the French criminal code.

- **Supreme Court, Employment Division, January 8, 2025, n° 22-24.724**
  When an employer makes redeployment offers prior to redundancy by mean of a list, it must indicate the criteria used to decide between employees in the event of multiple applications. Failure to do so will result in a breach of the employer's redeployment obligation.

  Failure to mention such criteria deprives the dismissal of real and serious cause.

- **Supreme Court, Employment Division, January 8, 2025, n°23-12.574**
  Even if the employer is in principle obliged to reinstate a protected employee whose employment contract has been unlawfully terminated, the lower courts must determine whether the employer's refusal to reinstate the employee is not the result of a safety obligation relating to a risk of sexual harassment.

For any question, you can liaise with
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