

# LONG TERM SHORT-TIME WORK SCHEME

A new long-term short-time work scheme (called **ARME** in French – Activité Réduite pour le Maintien en Emploi) has been recently implemented in France. This new scheme has been created for companies facing a lasting drop in their activity. It won't replace the ordinary short-time work scheme which will be still available. The main characteristics of this new ARME scheme are the following:

## I. Implementation of this new scheme

This short-time work scheme requires :

- the conclusion of a company agreement validated by the administration ; **or**
- if the company is covered by a sectoral collective agreement on ARME scheme, a unilateral document drafted by the employer and approved by the administration.

This is the case in the **French metal industry** sector for which social partners have concluded on 30<sup>th</sup> July 2020 a **collective agreement implementing this specific scheme**. This agreement has been extended on 26<sup>th</sup> August 2020. Therefore it is applicable as from 27<sup>th</sup> August to all companies belonging to the metal industry sector (even if they are not members of UIMM). Consequently, companies of the metal industry will be able to choose between both ways of implementing the ARME device. However, social partners of the metal industry recommend the negotiation of a company collective agreement.

The ARME scheme can be implemented until June, 30<sup>th</sup> 2022.

## II. Working time reduction

Under the ARME scheme, the applicable working time reduction cannot exceed 40% of the statutory working time (i.e. 14 hours for 35 hours weekly, and 60,67 hours for 151,67 hours monthly). This reduction will be calculated on average and assessed on an employee-by-employee basis and on the overall duration of the agreement or unilateral document. Consequently, a temporary suspension of the activity is possible.

This 40 % limit can be exceeded in exceptional cases resulting from the particular situation of the undertaking. It requires an authorisation of the administrative authority. The authorization will be granted under two conditions:

- the possibility to exceed the limit of 40 % must be foreseen in the collective agreement (**this is the case in the agreement concluded in the metal industry**);
- the working time reduction must not exceed 50 % of the statutory working time.

### III. Compensation paid to employers and employees

- **Compensation paid to the employees** : the compensation is paid by the employer to the employee and amounts 70 % of its gross remuneration. It corresponds to the short time work allowance paid before and during the coronavirus crisis (i.e. about 84% of net salary). However the employees' compensation will be capped under the ARME scheme. The maximum remuneration taken into account for calculating the hourly allowance amounts 4,5 hourly statutory minimum wage (i.e. 6927,53 € per month in 2020).
- **Compensation paid to the employer** :
  - 60 % of the gross hourly remuneration up to 4,5 statutory minimum wage, for agreements sent to the administration before October 1<sup>st</sup>, 2020 ;
  - 56% of the gross hourly wage for agreements sent to the administration on or after October 1<sup>st</sup> 2020.  
In addition, the hourly rate of the allowance cannot be less than 7,23 € except for apprentices.

### IV. Content of the company agreement or of the unilateral document drafted by the employer

#### 1. Company agreement

The preamble of the company collective agreement has to provide for a diagnosis of the economic situation and business prospects of the entity concerned.

The agreement will also have to determine :

- the activities and employees concerned by ARME;
- the period during which the benefit of the scheme is requested;
- the maximum working time reduction;
- the commitments taken by the company in terms of employment (jobs retention) and vocational training;
- the procedures for informing the signatory trade unions and employees' representatives about the implementation of the agreement. This information would take place at least every three months.

On an optional basis, the agreement could detail the means to monitor its implementation by the trade unions. It could also define the conditions under which the executives exercising within the scope of the agreement, corporate officers and shareholders provide efforts proportionate to those required by employees during the period of resort to ARME. The agreement could also determine the conditions for the use of employees' paid leaves and of the personal training account prior to or during its implementation.

#### 2. Unilateral document drafted by the employer

The sectoral collective agreement foresees at least all compulsory elements for company agreements (cf. IV. 1). It can also cover all the optional elements provided for in the company agreements (monitoring of the agreement's implementation, management's efforts, use of annual leaves and personal training account).

The document drawn up by the employer adapts the elements provided for in the sectoral collective agreement to the situation of the undertaking, such as the activities and employees concerned by ARME, the period during which the benefit of the scheme is requested, etc. (see the applicable list for company agreement above). The collective agreement of the metal industry foresees provisions on the information transmitted to the employees' representatives and the decision taken by the employer regarding efforts provided by the management of the company. It also allows companies to set up the ARME device for part of a plant, a production unit or a team in charge of a project.

## V. Commitments to maintain employment

The commitment to maintain employment provided for in the company collective agreement or in the unilateral document drafted by the employer will cover all the jobs in the plant or company concerned. However, the collective agreement concluded at sectoral or company level could restrict the scope of these commitments, thus making it possible to make employees redundant during the application of the ARME. It should be noted that this possibility only concerns employees not covered by ARME. **This option has been foreseen by the sectoral collective agreement concluded in the metal industry.**

The employer could have to reimburse the short-time work allowances paid for an employee whose employment contract is terminated on economic grounds during the application of the ARME scheme in disregard of its commitments to maintain employment. The administration could also suspend the payment of the allowances if the employer violates its commitments.

## VI. Application

The employer has to send the request for validation of the collective agreement or approval of the unilateral document to the prefect of the department in which the plant concerned is located. The administration must check the regularity of the procedure and give its decision within 15 days after receiving the collective agreement or 21 days after receiving the employer's unilateral document.

A single application could be sent to the prefect chosen by the company when the agreement or document concerns plants located in several departments.

The application has to be sent by electronic means. It would have to be accompanied by the company collective agreement, or the unilateral document drafted by the employer. The document drawn up by the employer would also be accompanied by the opinion previously delivered by the works council if one exists.

## VII. Validation by the administration

The decision to validate the company agreement or to approve the unilateral document will be notified to the employer and to the works council by electronic means. In case of a company agreement, it is also notified to the signatory trade unions. No response from the administration within 15 days or 21 days means acceptance.

## VIII. Duration

The date from which the employer could apply for the benefit of the allowance and thus put employees in short-time work could not be earlier than the first day of the calendar month during

which the request was transmitted to the administration. An application transmitted in August would, for example, allow employees to be placed in short-time work as of August 1st.

The validation by the administration of the collective agreement or of the unilateral decision is equivalent to an authorisation to receive the ARME benefits for a 6 months period. The authorisation is renewable for several 6 months periods, up to a limit of 24 months, consecutive or not, over a reference period of 36 consecutive months.

In other words, in cases where the collective agreement or unilateral document was concluded for a period of more than six months, the administration would have to validate the payment of the allowance every six months. This renewal authorisation should be given after the transmission of:

- the assessment of the employer's compliance with his commitments regarding employment and vocational training, and information of trade unions as well as employees' representatives;
- the minutes of the last meeting at which the works council, if it exists, was informed;
- the employer's updated diagnosis of the economic situation of the company.

**For more details, please consult the following links (in French):**

- [Article 53 of Law n°2020-734 dd. 17<sup>th</sup> June 2020 regarding on various provisions related to the health crisis, other urgent measures and the withdrawal of the United Kingdom from the European Union;](#)
- [Decree n°2020-926 dd. 28<sup>th</sup> July 2020 regarding the specific arrangements for short-time work in the event of a reduction in activity over the long term;](#)
- [Accord du 30 juillet 2020 relatif à l'activité réduite pour le maintien en emploi dans la métallurgie](#)