



## **COVID-19**

### **Legal Insights no. 19**

Exceptional and temporary legal measures to COVID-19 disease pandemic

(amendments added by Decree-Law no. 12-A/2020, of April 6, to the Decree Law no. 10-A/2020, of March 13)

Decree Law no. 12-A/2020, of April 6, added the third amendment to Decree Law no. 10-A/2020, of March 13, which establishes exceptional and temporary legal measures in response to the SARS-CoV-2 epidemic.

**I. Regarding the composition of medical boards, human resources management and procurement of services:**

- a. The remuneration limits provided for in article 163 of the General Labor Law on Public Functions, for overtime or supplementary work of appointed employees, are suspended;
- b. The scope of the suspension of the referred remuneration limits is extended to all bodies, agencies, services and other entities of the Authority for Working Conditions, as well as of private institutions of social solidarity, non-profit associations, cooperatives and other entities of the social economy that carry on essential activities in the social and health area, namely, health services, residential or foster structures or home support services for vulnerable people, elderly and with disabilities;
- c. Collection of user charges is dismissed to beneficiaries of the National Health Service (SNS) who have been referred by SNS or a primary health care, to a SNS hospital or to a unit providing health care, within the scope of diagnosis and treatment of the COVID-19 disease, need to perform a laboratory test to screen for the disease, or medical appointments, urgent assistance and complementary acts prescribed within the scope of this pathology;
- d. The conclusion of procurement services contracts by the Ministry of Health, DGRSP, INMLCF, I.P., HFAR, LMPQF and by IASFA, I.P. shall be also communicated to the member of the Government responsible for the area of national defense, further to the authorization by the highest director or management body.

**II. Regarding to the suspension of teaching and non-teaching and training activities – employees of essential services:**

- a. In each school group, nurseries shall be identified to promote the care of children or other dependents of health professionals, security and rescue

forces and services, including voluntary fire-fighters, and the armed forces, employees in essential public services, in management and maintenance of essential infrastructures, and in other essential services, whose mobilization for service or readiness prevents them to provide assistance to those children or dependents;

- b.** Institutions in the area of disability, with a response from an Occupational Activities Centre, even if they have suspended their activity, shall guarantee support to those responsible for their users who are employees of services considered essential, under paragraph 1 of article 10, of Decree-Law no. 10-A/2020.

### **III. Regarding time limits:**

- a.** The mandatory fuel management, in the lands adjoining buildings located in rural areas, in the population agglomerations located in or adjoining forest areas, and previously defined in the PMDFCI, as well as in the camping sites, in industrial parks and polygons, in logistics platforms and in sanitary landfills located or adjoining forest areas previously defined in the PMDFCI, in accordance with the provisions of paragraphs 2, 10 and 13 of Article 15 of Decree-Law No. 124/06, of June 28, shall take place until April 30;
- b.** Scanned copies and photocopies of acts and contracts shall be acknowledged as having the evidential value of the corresponding originals, except in cases where the person to whom they are presented requests the display of the original;
- c.** The signing of scanned copies of acts and contracts does not affect the validity of those documents, whether by handwriting or by qualified electronic signature, not even when different forms of signature coexist in the same act or contract.

### **IV. Regarding social protection measures in sickness and parenting:**

- a.** In accordance with the provisions of article 22 of Decree-Law no. 10-A/2020, of March 13, absences from work are not considered to be justified during the periods of established school interruptions, neither in the case of the periods defined by each school under the possibility referred to in paragraph 5 of article 4 of Order no. 181/2019, of June 11;

- b. It is established that the amount of exceptional support to the family in case of domestic workers, will correspond to two thirds of the remuneration registered in the month of January 2020, with the minimum limit of a minimum guaranteed monthly remuneration (RMMG) and with the maximum limit of three RMMG, one third being paid by the Social Security. Moreover employers shall maintain the obligation of:
  - i. Paying one third of the remuneration;
  - ii. Declaring the working time and the remuneration usually declared for the employee, regardless of the partial suspension of his/her actual payment; and
  - iii. Paying the corresponding contributions and levies.
- c. Exceptional family support for dependent and self-employed workers cannot be combined with the support provided for in Decree-Law no. 10-G/2020, of March 26, which establishes exceptional and temporary measures for the protection of jobs.

**V. Regarding support measures to self-employed workers:**

- a. The extraordinary support to the reduction of economic activity, which takes the form of financial support, is applicable to workers covered exclusively by the regime for self-employed workers, and who are not pensioners, subject to the compliance with the contribution obligation in, at least, 3 consecutive months or 6 interpolated months for at least 12 months:
  - i. In a proven situation of total cessation of his/her activity or of the activity of the relevant sector, as a consequence of the COVID -19 disease pandemic; or
  - ii. By means of his/her own declaration, jointly with a certificate from a certified accountant attesting that he/she is in a situation of abrupt and sharp decline of at least 40% of the invoicing in the thirty-day period preceding the application to the competent social security services, with reference to the monthly average of the two months preceding that period, or in relation to the same period of the previous

year, or, for those who started the activity less than 12 months ago, with reference to the average of that period.

- b.** During the implementation of this measure, the self-employed worker shall be entitled to financial support for one month, monthly extendable up to a maximum of six months, corresponding to:
  - i. The remuneration recorded as a contributory tax base, with the maximum limit of an IAS, whenever the amount of remuneration recorded as a contributory base is lower than 1.5 IAS;
  - ii. Two thirds of the remuneration value recorded as a contributory tax base, with the maximum limit of a RMMG, in situations where the value of the remuneration recorded is higher than or equal to 1,5 IAS.
- c.** This support is granted to the managing partners of companies, as well as to members of statutory bodies of foundations, associations or cooperatives with functions equivalent to the afore mentioned, without employees, who are exclusively covered by social security regimes and who, in the previous year, had their invoicing communicated through the E-fatura of less than € 60,000.00.
- d.** This support does not exempt payment of Social Security contributions.

## **VI. Regarding holiday appointments:**

- a.** The approval and display of the "vacation map" until April 15, applicable to workers under public employment may take place up to 10 days after the end of the state of emergency.

This Decree Law become effective on April 7, 2020.

To access the full text of Decree Law no. 12-A/2020, of April 6, please click on the following link: <https://dre.pt/web/guest/home/-/dre/131193442/details/maximized>

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