



COVID-19

Legal Insights no. 12

Exceptional and temporary regime of justified absences to provide family support, within the scope of the pandemic COVID-19 disease

The Decree Law no. 10-K/2020, of March 26th, establishes an exceptional and temporary regime of justified absences to provide family support or to work as a volunteer firefighter with employment agreement with a private or social sector employer, within the scope of the pandemic COVID-19 diseases.

The following absences are deemed justified under this exceptional regime:

a) To provide support to a child or other dependent under the age of 12 or, regardless of age, with a disability or chronic illness, as well as to a grandchild whose parent is under the age of 16 and lives in the same household as the employee, on school holidays;

b) To provide support to the husband / spouse or person with whom the employee lives in common economy, or to any first degree ascendant relative dependent of the employee that attends social facilities which activity is suspended by decision of the health authority, provided that the maintenance of the assistance through alternative social response is not possible;

c) To provide rescue and transport services, within the scope of the pandemic COVID-19 diseases, by volunteer firefighters with employment agreement with an employer of the private or social sector, effectively called by the respective fire department;

The justified absences under this exceptional regime do not determine the loss of any rights, except for the retribution, and are not counted for the annual limit set forth in the Portuguese Labour Code regarding child, grandchild or member of the household family support.

The absence communication shall be made under the terms foreseen in the Portuguese Labour Code, namely (i) when predictable, the absence and the respective justification shall be communicated to the employer with a minimum prior notice of 5 days, or (ii) when unpredictable, as soon as possible.

In order to provide the support foreseen in the abovementioned items a) and b), the employee may schedule holidays, without needing the employer's agreement, through written notice sent with two days in advance of the beginning of the holidays, being due the equal retribution to the one that the employee would receive if he was working. In this case, the employer is not obliged to pay the holidays allowance, which may be paid in total until the fourth month following the beginning of the holidays.

The holidays' regime mentioned in the previous paragraph is not applicable to the essential services employees referred to in article 10 of the Decree Law no. 10-A/2020, of March 13th (which established the exceptional and temporary measures applicable to the current situation).

This Decree Law entered into force on March 27th, 2020.

For further information, please see below link:

<https://dre.pt/application/conteudo/130779510>

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