



EMPLOYMENT AND LABOUR

# Coronavirus: Employment impacts

## What duties do companies have?

Employers have a legal obligation to ensure that workers have proper conditions of health and safety.

Therefore, they must adopt appropriate measures to address risks arising from the spread of the COVID-19 virus.

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**"We recommend that, in conjunction with their occupational health professionals, companies should define a plan to react to the various scenarios they may face."**

First, we recommend that, in conjunction with their occupational health professionals, companies should define a plan to react to the various scenarios they may face.

This plan should address issues such as:

- The different risk scenarios;
- The actions to be taken in each of these scenarios;
- The measures to be applied to groups of workers who, because of their situation or condition, are particularly exposed to serious health risks in the event of infection;
- The people in the company responsible for each scenario;
- The authorities that should be involved;

**Can workers be excluded from the company when there is a risk of infection? What are the consequences for the salary?**

We need to distinguish between the reaction to a worker with symptoms of COVID-19 and the worker who has been exposed to the risk of infection.

Any worker who has symptoms should be placed in an isolation area that is properly equipped with essential items, gloves and masks. That person must then contact the health authorities, which will decide what to do next.

When a worker has been exposed to the risk of infection, the company may, in conjunction with the occupational health department, remove that person from the place of work and from any contact with other workers. The company should also advise that person to go into preventative self-isolation.

Once the worker in question has been removed, two scenarios can arise:

- If the worker has a job they can do from home, the company should provide them with whatever they need to do so and continue to pay their salary. Under Decree-Law 10-A/2020 of 13 March, home working can be decided unilaterally by the employer or required by the worker, with no need for agreement between them, provided the job in question is compatible with home working.
- If the worker cannot work from home because of the nature of their duties, the company must continue to pay their salary during the period of exclusion. It must also monitor the state of the worker's health and arrange for their return to work as soon as they meet the conditions to do so.

**Can an employee refuse to work if there is a specific risk or a case of infection in the company?**

No. However, the company must take all appropriate measures to ensure it protects the health of every one of its workers.

### What welfare benefits can workers have access to?

The Government has approved Order 2875-A/2020 which provides for a set of actions to plan and coordinate resources to minimise the economic and social impacts of the epidemic.

This Order sets out the rules regarding the disease that apply to workers who are ordered into the situation commonly known as quarantine because of the risk of infection with the COVID-19.

Accordingly:

- Workers who are unable to work because of an order from the health authority will be treated as equivalent to workers who have been hospitalised for illness, so they will have the right to the applicable benefit. The daily amount of the benefit will be calculated by applying the following percentages to the reference salary:
  - a) 100% in the first 14 days they cannot work;
  - b) 55 % for the period between 15 and 30 days;
  - c) 60 % for the period between 31 days 90 days;
  - d) 70 % for the period between 91 days and 365 days;
  - e) 75 % for the period exceeding 365 days.
- This equivalence does not apply to workers who have alternative ways of working, in particular, teleworking or distance training programmes;
- This situation is certified using the form that is annexed to the Order.
- This form is the document that justifies the absence from work and it is communicated directly by the health authority to the security services to begin the process of paying the benefit;

**"Support measures are announced, but not yet published, for parents who have to accompany their children whose schools have closed, as well as for workers and companies whose activity is substantially reduced."**

- In applicable cases, the form is also used for the application for childcare or grandchild care benefit. The Order makes it clear that parents, grandparents and members of the household may provide care under the general terms of the law.

In addition to these benefits, the recently published Decree-Law 10-A/2020 of 13 March establishes a set of exceptional measures relating to the spread of the COVID-19 virus. The measures adopted include the following on employment relationships:

#### 1. Company employees

Absence from work and support

- (I) The absence is deemed to be justified if a worker takes time off to care for a **child** or **other person who is dependent on the worker** that is subject preventive isolation for 14 days, under the general social security rules, because of a serious risk to public health **decreed** by the health authorities;

(II) The school holiday periods in Portugal are 17 to 24 December, 24 to 26 February, and 6 to 13 April. Outside these holiday periods, an absence is deemed to be justified, without loss of rights **except for those relating to pay**, when there is an unavoidable need to provide assistance to: (i) a child or other dependent under the age of 12, or, (ii) regardless of age, in the case of people with chronic disabilities or diseases, because of the suspension of academic and non-academic activities in a school or other establishment that provides early childhood or disability support, when decided:

- a) by a health authority;
- b) by the Government.

As the Government has already decided to close schools from 16 March, the condition in b) above has already been met.

**Only one** of the workers/parents may communicate the absence for these reasons to the employer. In doing so, they must state:

- a) The age of the minor or the nature of the chronic disease that affects them;
- b) That the other members of the household, if they work, are not missing work for the same reason, or that they are unable to provide the assistance.

The benefit to be paid to the worker has a maximum limit of 2/3 of the salary and 33% is payable by the employer with the other 33% coming from social security. In any event, the benefit may not be lower than the national minimum wage (EUR 635) or higher than three times the national minimum wage (EUR 1905).

The employer must ask the social security for the benefit and, to receive it, it must not be possible for the worker to do their job from home.

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The portion to be paid by the social security will be sent to the employer, which must then pay the benefit to the worker.

The benefit paid is subject to the worker's share of the social security contribution (11%) and half the contribution payable by the employer (23.75% - 50% = 11.875%).

#### **Entry into force**

The arrangements for benefits take effect as from 3 March 2020.

## **2. Self-employed workers**

- a) When preventive self-isolation of company employees and self-employed workers for 14 days under the general social security scheme is the result of a serious risk to public health decreed by a health authority, it is deemed equivalent to sickness. The amount of the benefit is 100 % of the reference pay and it is not subject to a waiting period.

b) In the situations referred to in 1 (ii) above, any self-employed worker obliged to pay social security contributions for at least 3 consecutive months in the last 12 months, **who cannot work**, has the right to an exceptional monthly or proportional benefit. This benefit corresponds to 1/3 of the pay declared for the purposes calculating the social security due, with a minimum limit of EUR 438.81 and a maximum of EUR 1097.

c) The self-employed worker has to apply for these benefits.

**"If there is a substantial slowdown in activity, the company can use the measure known as a lay-off. This can include a reduction in working hours (and, consequently, in pay) or the suspension of employment contracts."**

d) Self-employed workers (who are not pensioners) under the obligation to pay at least 3 consecutive months of social security in the last 12 months, who are in a situation of complete stoppage of their work or of activity in their sector as a result of the outbreak of COVID-19, have the right to an extraordinary financial benefit for the reduction in economic activity. This benefit corresponds to the value declared for the purposes calculating the social security due, with a minimum limit of EUR 438.81. The self-employed worker has to apply for this benefit and it cannot be claimed at the same time as other benefits.

e) Self-employed workers can request the deferral of social security contributions after the benefit granted comes to an end. This deferral can be for up to 12 months.

#### Entry into force

The rules set out in a) and b) take effect as from 3 March 2020. The rules in the other points take effect as from 13 March 2020.

#### What other solutions are available to companies to deal with a substantial slowdown in activity?

- o First of all, it is important to involve the workers in the problem and in the solutions. Aligning the interests of the company and the workers can solve many problems. Good communication and definition of solutions by consensus can make the difference.
- o If there is a substantial slowdown in activity, the company can use the measure known as a lay-off. This can include a reduction in working hours (and, consequently, in pay) or the suspension of employment contracts. In the latter case, the worker is entitled to compensation corresponding to 2/3 of their gross salary. The company will be responsible for paying this compensation, but 70% will be reimbursed by the social security.
- o as a last (more dramatic) resource, it is possible to resize the company. ■