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**PUBLIC LAW**

# Coronavirus: Update on the simplified layoff

Decree-Law 10-G/2020 of 26 March was published in the official gazette Diário da República, 1st supplement, Series I of 26/03/2020. It repeals Ministerial Order 71-A/2020 of 15 March and makes substantial changes to the simplified lay-off rules

The four exceptional support measures for employers affected by the COVID-19 outbreak are maintained with minor changes. They are

1. Extraordinary support to maintain employment contracts;
2. Creation of an extraordinary training plan;
3. A temporary exemption from payment of the social security contributions payable by the employer;
4. An extraordinary financial incentive to support the normalisation of the company's activity; and
5. A ban on dismissals.

**"The four exceptional support measures for employers affected by the COVID-19 outbreak are maintained with minor changes."**

The definition of business crisis has also been changed and it considered to exist in the following alternative scenarios:

- The partial or total closure of the business or establishment due to the duty to close premises and establishments provided for in Decree 2-A/2020 of 20 March, or by a legislative or administrative decision; or
- A complete or partial stoppage in the operations of the business or establishment resulting from a disruption or break in global supply chains or the suspension or cancellation of orders; or

- An abrupt and sharp fall of at least 40 % in invoicing in the period of thirty days preceding the date of the request to the competent authorities of social security, with reference to the monthly average of the two months prior to this period, or compared to the same period of the previous year.

### **1. Extraordinary support to maintain employment contracts (simplified layoff)**

The extraordinary support for companies suffering from a business crisis is intended for cases of suspension of contracts of employment or reduction in working hours. It is granted for a period of 1 month and can be extended exceptionally, on a monthly basis, up to a maximum of 3 months:

- In the case of suspension of the contract of employment, the Social Security pays the employer 70% of two-thirds of the gross pay of each employee covered;
  - i) The employee receives two-thirds of their normal gross pay, or one national minimum salary, whichever is higher;
  - ii) The employee may not receive more than three national minimum salaries in the course of this support;
- In the event of a reduction of the employment contract, the employer pays the hours actually worked. If this amount is less than two-thirds of the normal gross salary or one national minimum salary, the employee is due salary compensation to make up the shortfall. The Social Security pays 70% of this compensation and the remaining 30% is paid by the employer;
  - i) The employee is paid for the hours actually worked. If this is less than two-thirds of the normal gross salary or one national minimum salary, the employee is entitled to salary compensation for the shortfall.

## Procedure

- Communication in writing to the employees of the decision on a temporary reduction of normal working hours or the decision to suspend the employment contracts, and hearing of the trade union delegates and works councils, where they exist;
- Sending the form 'Modelo RC 3056-DGSS' through the Segurança Social Direta website together with the following documents: The form itself contains:
  - i) Declaration of the employer with a brief description of the business crisis affecting it;
  - ii) Certificate from a certified accountant supporting this description;
- The following must be annexed to the form 'Modelo RC 3056-DGSS':
  - i) List of the names and details of the employees covered, the form of the layoff, gross monthly salary, start and end dates and, if the employer opts for a reduction, the number of normal weekly working hours and the number of hours of reduction;

## 2. Extraordinary training plan

This is available to businesses that do not have recourse to the extraordinary support to maintain employment contract. The plan has a duration of one month and the following terms:

- The IEFP (Institute of Employment and Professional Training) defines and organises a training plan, which, as far as possible, will be carried out as distance training;
- The support is paid directly to the employer, by the IEFP;

- The value of support depends on the hours of training attended, with two limits: 50% of the gross salary of the employee and one national minimum wage, whichever is reached first;

## 3. Temporary exemption from payment of social security contributions

Employers that benefit from any measure provided for in Decree-Law 10-G/2020 are entitled, while the support continues, to a full exemption from paying the contributions due to the Social Security, with respect to the employees covered and to the members of their corporate bodies.

## 4. Extraordinary financial incentive to support the normalisation of the company's activity

Paid by the IEFP on a single occasion and with the value of a national minimum salary.

## 5. A ban on dismissals:

Employers are now also prohibited from dismissing any employee by means of collective or individual redundancy for the duration of the support and the 60 subsequent days.

The expiry of fixed-term employment contracts continues to operate, as does the termination during the trial period. ■