



## EMPLOYMENT AND LABOUR

# Impact of the State Budget on the labour area

The State Budget Law for 2023 was approved by Law 24-D/2022 of 30 December together with certain other pieces of legislation. This new law has introduced a number of changes to individual and collective labour relations in both the private and public sectors, as well as to Social Security. These are the highlights:

### 1. Social Security, Work Compensation Funds and administrative offences

#### Registration of new employees

The deadline for employers to register new employees with the Social Security has been changed to fifteen days before the contract is signed.

In the previous law, the employer was obliged to notify the Social Security of the admission of new employees twenty-four hours before the employment contract came into effect, although in Social Security Direct (*Segurança Social Direta*) it was possible to notify seven days in advance.

This change does not impose a longer period of notice, but simply gives the employer more flexibility.

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#### Postponement and suspension of deadlines during the month of August

Obligations relating to social security contributions and the settlement of social security debts whose deadlines expire during the month of August may be fulfilled until the last day of that month, whether or not it is a working day. The deadline for submitting pay statements, which are the basis for the payment of social security contributions, the corresponding working hours and the applicable contribution rate in August is extended until the 25th of the month.

In addition, the deadlines for inspection procedures resulting from the application of the social security contribution rules are suspended during the month of August.

The deadlines relating to the following, which fall in August, are postponed until the first working day of September: (i) acts carried out in administrative offence proceedings and the exercise of the right to be heard or to defend oneself in any proceedings, (ii) the exercise of the right to reduce fines, (iii) the waiver of fines, (iv) the advance payment of fines and (v) any clarifications requested by the social security institutions or the ACT.

Obligations relating to the relationship with the Work Compensation Fund and the Work Compensation Guarantee Fund, as well as the settlement of debts with these funds whose term ends in the month of August, may be fulfilled until the last day of that month, regardless of whether it is a working day.

## 2. Guaranteed Minimum Monthly Wage and Social Support Index

Decree-Law 85-A/2022 of 22 December changed the value of the Guaranteed Minimum Monthly Wage to €760. In turn, Ministerial Order 298/2022 of 16 December updated the value of the Social Support Index to €480.43.

## 3. Tax incentive for salary increases

**A tax incentive has been introduced to encourage collective bargaining while reducing the use of fixed-term contracts.**

As envisaged in the Medium-Term Agreement on Improving Incomes, Wages and Competitiveness, a tax incentive has been introduced to encourage collective bargaining while reducing the use of fixed-term contracts. The Government proposes that the costs of fixed remuneration and social security contributions corresponding to salary increases determined by a dynamic collective labour regulation instrument for employees with an open-ended employment contract will be increased by 50% of the amount in question. For this purpose, the collective labour regulation instrument must have been signed or renewed less than three years previously.

Taxpayers in respect of which there is an increase in the salary range of the employees in relation to the previous year are excluded from these arrangements, and the maximum amount of the increase per employee is 4 times the minimum monthly salary guaranteed. An increase in salary range means the difference between the annual amounts of the highest and lowest fixed remuneration of the employees, ascertained on the last day of the tax period of the year in question.

The only expenses taken into account are those:

- Relating to employees whose remuneration has increased by at least 5.1%
- Above the minimum monthly guaranteed remuneration applicable on the last day of the tax year in question

For the purposes of the increase of expenses, the following are not considered:

- Employees who are members of the employer's household
- Members of the company's corporate bodies
- Employees who directly or indirectly hold no less than 50% of the share capital or voting rights of the company

#### 4. Withholding tax

##### Withholding tax reduction for mortgage borrowers

To mitigate the effects of the increase in mortgage interest rates, employees with mortgage loans for their own permanent dwelling and whose monthly salary does not exceed €2700 may reduce their withholding tax to the rate of the tax bracket immediately below the one corresponding to the monthly salary and family situation of the person receiving the income. This notification is made by means of a declaration, accompanied by any information or documentation necessary to prove that the above conditions are met, as well as any other relevant tax information that may subsequently arise.

##### Withholding tax and overtime

For resident employees, the autonomous withholding tax rate applicable to remuneration for overtime work is reduced by 50% from the 101st hour of work. For non-resident employees, overtime income is not subject to withholding tax up to a monthly limit of €760. If the amount exceeds €60 or 50 hours of overtime, the applicable withholding tax rate is 25%.

##### Withholding tax tables

In 2023, the withholding tax rates will change during the year. In the first half of the year, the usual procedures will be followed, while in the second half of the year new tables will be applied. The purpose of this change is to avoid situations in which increases in gross monthly salary correspond to decreases in net monthly salary, and to ensure that the gap between the amount of tax withheld and the amount of tax due at the end is reduced.

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## 5. Working in the public sector

### Pay increases

Decree-Law 84-F/2022 of 16 December approved the revision of salary levels in the public sector. An updating criterion has also been provided for employees with an employment contract in public companies in the public business sector that does not relate to a salary level in the single salary table (*Tabela de Remunerações Única*). In addition to the adoption of the public sector salary base, an increase of €52.11 is defined for employees earning up to €2612.03 and 2% for employees earning more than €2612.03.

### Mobility in the public sector

By agreement between the parties, employee mobility situations that reach their maximum duration in 2023 may exceptionally be extended until 31 December 2023.

However, in the case of an agreement to a transfer in the public interest to work for a public employer, such an extension requires a favourable opinion from the member of the Government responsible for the public employer. In addition, the member of the Government responsible for the public administration must be informed on a quarterly basis. In the case of local authorities, the extension depends on the favourable opinion of the president of the executive body.

Lastly, the bodies and departments benefiting from the extension must define the intention to terminate the mobility or assignment in the public interest and communicate it to the departments of origin before drawing up the budget proposal.

### Subsistence allowance, overtime and night work in public foundations and public bodies.

The rules on daily allowances, overtime and night work, provided for both by general law and in the case of employees who, for reasons of public service, have been transferred from their original place of work (*domicílio necessário*), now apply to employees of (i) public foundations, (ii) public foundations governed by private law and (iii) public establishments, unless otherwise provided for by collective agreements.

### Performance bonuses

Performance bonuses may be granted up to the amount set by law and up to the equivalent of one employee's basic monthly salary. This does not, however, affect the arrangements laid down in a collective labour agreement or the remuneration system established for middle managers and employees of the IGFSS, I.P. Debt Management Department.

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Collective labour agreements and other legal or contractual instruments in force or, in the absence thereof, the provisions of the yet-to-be-published Decree-Law on the implementation of the budget apply to the public business sector and to independent administrative bodies.

### Health and accident insurance

Public bodies whose employees are subject to the individual employment contract system may take out health and accident insurance, provided it is intended for employees in general. They may also take out any other insurances required by law or provided for in a collective labour agreement. The bodies covered by the General Law on Employment in the Public Sector, public corporate bodies, whether state, regional or municipal, provided that they are not of an industrial or commercial nature, and public higher education establishments, whatever their form or nature, may take out or renew health insurance only in exceptional and properly justified cases and subject to the authorisation of the Minister of Finance.

### Meal subsidies

As provided for in the Medium-Term Agreement for the Improvement of Incomes, Wages and Competitiveness, Ministerial Order 280/2022 of 18 November updated the amount of the meal allowance in the public sector to €5.20.

Under Article 3(2)(b) of the IRS (Personal Income Tax) Code, this amount is not taxable, as up to this amount the meal allowance does not constitute income from employment.

The IRS Code also provides that if the meal subsidy is paid in the form of meal cards or vouchers, the above limit may be exceeded by 60%. Therefore, if the meal allowance is paid in either of these ways, the amount exempt from income tax is increased to €8.32.

## 6. Pensions for accidents at work

Ministerial Order 24-A/2023 of 9 January sets the annual update of pensions for accidents at work for the year 2023 at the value resulting from the application of the 8.4% increase. ■