

NEW REGULATIONS ON COMPULSORY SOCIAL SECURITY



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Decree no. 51/2017 of 9 October was approved as a result of the new challenges of Compulsory Social Security and seeks to adapt it to the current social situation. To achieve this, the Decree approves the Compulsory Social Security Regulations and came into force on 8 January 2018.

The new Regulations make the following changes to the rules on Compulsory Social Security:

I) SCOPE OF PERSONAL APPLICATION OF THE RULES TO SALARIED EMPLOYEES

Unlike the previous rules, which limited the scope of personal application to workers resident in Mozambique, the new Regulations broaden the scope of personal application and provide that the rules cover any employed workers, whether Mozambican or foreign, and regardless of whether they are resident in Mozambique or not.

This change makes it possible for salaried employees who are not resident in Mozambique to be covered by the Mozambican system. In this context, it is important to remember the bilateral agreements on social security, ratified by Mozambique and other countries, in order to create and apply measures to coordinate the social security systems of both countries, in order to guarantee and strengthen social protection of emigrant workers and their families, under conditions that are reciprocal between the two countries

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Furthermore, people who work at embassies and non-governmental organisations, sportsmen and women, artists who are members of a club or company, and members of religious orders are now also considered to be employees.

In the case of employees, it is important to note the creation of a new obligation on the employer to communicate the termination of activities and suspension or termination of the contract of employment, as well as the reason for this event, to the INSS (National Institute of Social Security), within 30 days of the date of occurrence of the event. Besides the applicable sanction, the breach of this duty of communication by the employer also means that the obligation to pay the social security contributions will be maintained, based on a presumption that the employment relationship continues to exist.

II) CONTRIBUTIONS

When it comes to the basis of assessment of the contributions, besides the salary, the length of service bonus, and the management bonus, the new Regulations also include the following:

- any performance, productivity and attendance bonuses paid on a regular basis;
- any substitution remuneration;
- any pay for night-time work;
- any other bonuses, subsidies or payments of a similar nature paid on a regular basis.

Declarations must be submitted on a monthly basis by the employer using the INSS electronic platform, between the 20th day of the reference month and the 10th day of the following month.

III) BENEFITS AND PENSIONS

The new Regulations have not introduced any new forms of benefits. However, in some cases they have made changes to the conditions for awarding benefits and to the basis of calculation, as described below.

a) Sickness benefit – there will be no age limit if the beneficiary suffers from a proven physical or psychiatric disability, and this benefit will not be awarded to minors who are engaged in paid professional work.

To receive the sickness benefit, the beneficiary must, on the date they become unable to work: (i) have a guarantee period of six months, whether consecutive or not, with payment of contributions for the 12 months preceding the date they become unable to work, and (ii) have 20 days with registration of income for work actually done in one of the two months prior to the date on which they become unable to work.

Sickness benefit will not be paid if the worker receives income from the employer in the period corresponding to their incapacity for work.

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b) Hospitalisation benefit – payment of the hospitalisation benefit depends on the beneficiary having paid contributions for at least three months, whether consecutive or not, during the 12 months preceding the start of the hospitalisation, and it will be paid to workers accompanying minors in their care up to the age of 18, rather than the age of 15 under the previous rules.

The new Regulations also establish that there will be no age limit if the in-patient suffers from a physical or psychiatric disability certified by the Medical Board, which makes that person dependent.

c) Maternity benefit – is paid to any worker who requires it if they have a guarantee period of 12 months, whether consecutive or not, with payment of contributions in the 18 months immediately preceding the birth.

d) Old-age pension – any beneficiary who reaches the required retirement age (55 for women and 65 month men) will have the right to an old-age pension provided that he or she has completed 240 months of paying social security contributions (equivalent to 20 years), in contrast with the 10 years required under the previous rules.

Regardless of the age of the beneficiary, the old-age pension will be granted to any applicant who has made 420 months of social security contributions (equivalent to 35 years), in other words, more contributions than the 300 required under the previous rules.



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MÁRIO MACILAU - MOZAMBIQUE

Um Olhar pelo Futuro da série Left Behind, 2010 (detail)

Prova jacto de tinta
53 x 80 cm

From the Collection of the PLMJ Foundation

The formulas to calculate the average monthly remuneration and to determine the amount of the old-age pension have also been changed: the limit of registration of remunerations has been reduced to 420, compared with 432 previously.

There may be cases in which the requirements for the old-age pension are not met, in other words, when the beneficiary has reached the required age but has not made 240 months of contributions. In such cases, that person must continue to contribute until they complete the guarantee period required for the pension to be granted. However, if it is impossible to continue with that contribution because they are completely incapable of working, the person in question may apply for payment of the differences of the unpaid contributions to be able to benefit from the old-age pension. This application may only be made if, on the date of the application, the person has paid at least 180 months of contributions. In this case, the employer may take responsibility for the full or partial payment of the difference in contributions.

Another change introduced by the new Regulations is the creation of the Reduced Pension which corresponds to 50% of the old-age pension, calculated based on the conditions existing at the date of the application. This Reduced Pension may be granted any beneficiary who has reached the required retirement age having made contributions corresponding to a minimum of 120 months.

The death benefit is shared equally between the spouse or de facto partner and any children with the right to the benefit. If there is no spouse or de facto partner, the benefit will be paid in full to any children with the right to it.



GONÇALO MAGUNGA - MOZAMBIQUE

Eu Pintado de Chapas, 2011 (detail)

Armas Recicladadas e metal
90 x 42 x 82 cm

From the Collection of the PLMJ Foundation

e) Death benefits – besides any spouse who is not de facto separated from the deceased and children under the age of 18, children aged up to 21 or 25, if they are registered in a middle or higher education course, respectively, and with no age limit, any children who have a full and permanent incapacity to work are now considered to be family members with a right to death benefits.

The death benefit is shared equally between the spouse or de facto partner and any children with the right to the benefit. If there is no spouse or de facto partner, the benefit will be paid in full to any children with the right to it. In turn, if there are no children, the death benefit is paid in full to the spouse or de facto partner.

If there are no direct family members with a right to it, the death benefit will be shared in equal parts between first-degree relatives in the direct ascending line and, if there are no such relatives, the benefit will be paid in full to the surviving relatives in the ascending line.

The death benefit will also be granted to anyone receiving the Reduced Pension.

Besides the conditions established for it to be granted, the funeral benefit will be paid upon the death of anyone receiving the Reduced Pension, and it may be paid not only to family members with the right to it, but also to anyone with documentary proof that they have paid the funeral expenses in question.

Although the Survivor's Pension already exists, the new Regulations have created to new types of Survivor's Pension, which are:

i) Lifetime Survivor's Pension, which will be paid to:

- The surviving spouse or de facto partner who, on the date of death of the beneficiary is aged 45 or over in the case of the woman, and 50 or over in the case of a man;
- The surviving spouse or de facto partner under the age referred to in the previous point, provided they have a full and permanent incapacity to work;
- Any relative in the descending line who has a physical or mental disability that makes it impossible for them to engage in any paid work.

ii) Temporary Survivor's Pension, which will be paid to:

- The surviving spouse or de facto partner who, on the date of death of the beneficiary is aged under 45 in the case of the woman, and under 15 in the case of a man;
- Any children under the age of 18, or aged up to 21 or 25, if they are registered with a single grade's in a middle or higher education course, respectively.

The new Regulations also provide that the duration of the Temporary Survivor's Pension is 5 years, and that it is automatically converted into a Lifetime Survivor's Pension for any pensioner who reaches the age of 45 in the case of a woman, and 50 in the case of the man, while the Survivor's Pension remains in effect.

Nevertheless, it is significant that there are some real innovations in these Regulations. They include the creation of the Reduced Pension and the distinction between lifetime and temporary survivor's pensions.

Another important change relates to voluntary continuation in the system. This change allows workers to ask to remain in the system voluntarily if they cease to carry on their professional activity, either as a salaried employee or as a self-employed worker. This option is available provided they have at least 12 months of registered remunerations, whether consecutive or not. Remaining in the system voluntarily allows the worker to retain the rights to invalidity, old-age and death benefits.

It is also important to point out that, in the system for self-employed workers, any suspension of activity is also considered, and not only the possibility of termination, as under the previous rules.

These long-awaited new Regulations are more demanding and restrictive when it comes to the conditions for awarding benefits and pensions, and the criteria they establish are more difficult for workers to meet and less favourable to them.

Nevertheless, it is significant that there are some real innovations in these Regulations. They include the creation of the Reduced Pension and the distinction between lifetime and temporary survivor's pensions. In addition, the Regulations remove the age limit for people to receive sickness, hospitalisation and death benefits in cases of proven disability.

Finally, the changes we have summarised here may bring a greater degree of complexity to all those involved in these issues. Therefore, we remain fully to provide you with any further information you may require on this subject.

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