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SOCIEDADE DE ADVOGADOS

**Covid19: New Contingency Situation
Measures**

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Covid19: New Contingency Situation Measures

The Resolution of the Council of Ministers No. 70-A/2020, dated of September 11th, declares the contingency situation in Portugal, in the context of the COVID-19 disease pandemic, establishing new measures to prevent, contain and mitigate the transmission of the disease. This **Resolution enters into force at 00:00 hours on September 15th, 2020 and produces its effects until 11:59 p.m. on September 30th, 2020.**

Listed herein are some of the most relevant measures:

General Measures

1. Opening and closing hours of the establishments

- Establishments that have resumed their activities cannot open before 10:00 a.m., except for hairdresser salons, barbershops, beauty institutes, restaurants and similar, cafeterias, tea houses and similar, driving schools and vehicle technical inspection centers, as well as gyms and fitness centers.
- The closing time of the establishments must occur between 8:00 p.m. and 11:00 p.m., having the mayor of the municipality with territorial jurisdiction, upon favorable opinion of the local health authority and security forces, the power to set the closing time within the referred interval, as well as the opening hours.
- The maintenance of the closing hours in force at the time of the entering into force of this resolution, shall dispense the dispatch provided for in the preceding paragraph if such hours fall between 8:00 pm and 11:00 pm.

However, the Resolution establishes the following exceptions to this regime:

- i. Catering establishments exclusively for the purpose of serving meals in the establishment itself;
 - ii. Catering establishments and similar establishments that continue the activity of confectionery intended for consumption outside the establishment or home delivery, directly or through an intermediary, which may not provide alcoholic beverages within the scope of this activity;
 - iii. Educational, cultural and sports establishments;
 - iv. Pharmacies and places of sale of medicines not subject to medical prescription;
 - v. Doctor's offices and clinics, namely dental clinics and veterinary care centers with urgencies;
 - vi. Funeral and related activities;
 - vii. Establishments for the provision of rental of goods vehicles (rent-a-cargo) without a driver or rental of passenger vehicles (rent-a-car), may close at 01:00 and reopen at 06:00 whenever the respective functioning hours allow it;
 - viii. Establishments located inside airports, after the security control of passengers.
- The Resolution also states that the opening hours of retail establishments or service provision establishments may be adjusted in order to guarantee a delay in opening or closing hours, on their own initiative, by concerted decision, by decision of the managers of the spaces where the establishments are located or by the member of the Government responsible for the economic area, in which case the closing hours may be postponed for an equivalent period, provided that within the limits and rules defined under this Resolution.
 - Retail or service establishments may close at certain times of the day to ensure cleaning and disinfection operations for employees, products or space.
 - This Resolution does not prejudice the acts that have been adopted by mayors of municipalities under the previous legislation, as long as they are compatible with this Resolution.

2. Teleworking and work organization

Employers must provide the Employees with adequate safety and health conditions for the prevention of contagion risks resulting from the COVID-19 disease pandemic.

Employers may adopt, under the terms foreseen in the Labor Code, the teleworking regime.

Notwithstanding, the **teleworking regime is mandatory for the following cases:**

- i. The Employee, through medical certification, who is covered by the exceptional protection regime for immunosuppressed and chronically ill;
- ii. The disabled employee, with a degree of disability of 60% or more;
- iii. Regardless of the employment relationship and whenever the functions in question allow it, in cases where the physical spaces and the organization of work do not allow for compliance with the guidelines of the health (DGS) and labor authorities (ACT), to the extent strictly necessary.

In situations where the teleworking regime under the terms of the Labor Code is not applied, measures to prevent and mitigate the risks arising from the pandemic can be implemented within the maximum limits of the normal working period and taking into consideration the right to daily and weekly rest provided for in the law or in an instrument of collective labor regulation applicable. In particular, the adoption of scales of rotation of employees between the telework regime and the work performed in the usual place of work, daily or weekly, of differentiated times of entry and exit or of differentiated times of breaks and meals. In this sense, the Employer may change the organization of working time under the respective power of direction observing the legal applicable proceedings.

For the Metropolitan Areas of Lisbon and Oporto, the implementation of the previously referred measures of prevention and mitigation is mandatory, unless this proves to be impracticable.

3. Closing of Facilities and Establishments

It is established the closing of the establishments listed in Annex I of the Resolution, namely:

- i. Recreational, leisure and entertainment activities;
- ii. Activities in open spaces, public spaces and streets, or private spaces and streets equivalent to public roads;
- iii. Games and betting spaces;
- iv. Beverage establishments.

4. Duty to provide information

The new rules of maximum occupancy, operation, access, priority, service, hygiene, safety and other relevant applicable rules must be clearly and visibly informed in retail or service establishments.

5. Priority service

Health professionals, security, protection and rescue personnel, armed forces and social support personnel enjoy priority assistance in commercial or retail establishments or in the provision of services.

6. Rules of occupation, stay and physical distance

Places open to the public must observe the rules of occupation, permanence and physical distance, in particular:

- i. The allocation of spaces accessible to the public must observe the maximum indicative occupancy rule of 0.05 people per square meter of area, except for service establishments (this maximum per person does not include employees and service providers that are exercising functions in the spaces in question);
- ii. The adoption of measures that ensure a minimum distance of 2 meters between people, unless special provision or orientation of the health authority (DGS) in a different sense;
- iii. The guarantee that people remain within the space only for the time strictly necessary;
- iv. The prohibition of waiting situations for service provision within service establishments, with economic operators preferably resorting to prior appointment mechanisms;
- v. The definition, whenever possible, of specific entry and exit circuits in establishments and facilities, using separate doors;
- vi. The observance of other rules defined by the health authority (DGS);
- vii. The encouragement of the adoption of codes of conduct approved for certain sectors of activity or establishments, as long as they do not contradict the provisions of this regime.

7. Hygiene rules

Places open to the public must respect the rules of hygiene, in particular:

- i. The provision of the service and the transport of products must be carried out in compliance with the necessary hygiene rules defined by the health authority (DGS);
- ii. Economic operators must promote the daily and periodic cleaning and disinfection of spaces, equipment, objects and surfaces with which there is intense contact;
- iii. Economic operators must promote the cleaning and disinfection, before and after each use or interaction by the client, of the automatic payment terminals (TPA), equipment, objects, surfaces, products and utensils in direct contact with the clients;
- iv. Economic operators should promote the containment, as far as possible, by employees or customers, of touching products or equipment as well as unpackaged items, which should preferably be handled and dispensed with by employees;
- v. In clothing and similar retail establishments, during this phase, the control of access to fitting rooms should be promoted, safeguarding, when applicable, the partial inactivation of some of these spaces, in order to guarantee minimum safety distances, and ensure the disinfection of the dials, clothing supports and hangers after each use, as well as the availability of skin disinfectant solutions for use by customers;
- vi. In the event of exchanges, returns or the resumption of used products, operators must, whenever possible, ensure their cleaning and disinfection before they are made available for sale again, unless this is not possible or compromises the quality of the products;
- vii. Other rules defined in codes of conduct approved for certain sectors of activity or establishments, as long as they do not contradict the provisions of this regime.

8. Skin disinfectant solutions

Retail or service establishments should seek to ensure the availability of skin disinfectant solutions, for employees and customers, at all entrances and exits of the establishments, as well as inside them, in locations suitable for disinfection according to the organization of each space.

9. Events

Namely the following rules apply:

- Celebrations and other events involving a crowd of more than 10 people are not allowed, unless they belong to the same household.
- The health authority (DGS) can issue specific guidelines for the following events:
 - i. Religious ceremonies, including community celebrations;
 - ii. Family events, including weddings and baptisms, whether for civil or religious ceremonies or for other commemorative events;
 - iii. Events of a corporate nature held in spaces suitable for this purpose, namely congress halls, tourist establishments, venues suitable for holding trade fairs and open-air spaces.
- In the absence of the health authority's guidelines (DGS) the event organizers must respect the rules of occupation, permanence and physical distance, hygiene rules and use skin disinfectant solutions, as well as the rules defined for the catering sector and similar. Participants must wear **a mask or visor in the closed spaces**.
- For events with a public held outside of establishments intended for this purpose, a risk assessment should be carried out by the local health authorities.
- In duly justified situations, the members of the Government responsible for the areas of internal administration and health may, jointly, authorize the holding of other celebrations or events, defining the respective terms.

10. Mandatory confinement

The following persons are required to remain in confinement in a health facility, at their home or other place defined by the health authorities:

- i. Patients with COVID-19 and those infected with SARS-CoV-2;
- ii. Citizens for whom the health authority or other health professionals have determined active surveillance.

Special Measures

11. Restaurant and similar

The operation of catering and similar establishments is only permitted, namely, under the following conditions:

- i. Compliance with the instructions specifically prepared for this purpose by the health authority (DGS), as well as the rules and instructions provided for in the Resolution;
 - ii. Occupation, within the establishment, limited to 50% of its capacity, as defined in article 133 of the annex to Decree-Law No. 10/2015, of 16 January (that is, the capacity of the establishment is calculated, namely, according to the area intended for customer service, deducted from the area corresponding to the mandatory circulation corridors, under the following terms: in establishments with seating places, 0.75 m² per place; in establishments with standing places, 0.50 m² per place; in establishments with rooms or spaces for dance, these may not exceed 90% of the area intended for customers) or, alternatively, waterproof physical barriers are used to separate customers facing each other and a distance between tables of 1.5 meters;
 - iii. Restriction of public access from 00:00 hours for new admissions;
 - iv. Closing at 01:00 a.m.;
 - v. Recourse to prior appointment mechanisms, in order to avoid waiting situations for service in the establishments, as well as in the exterior space;
 - vi. Inadmissibility of the permanence of groups of more than 10 people, except if they belong to the same household.
- Until 8:00 pm on business days, in restaurants, cafes, pastries or similar establishments located within a radius of 300 meters from an educational establishment, primary or secondary, or an institution of higher education, the stay of groups of more than four people is not allowed, unless they belong to the same household.
 - Occupation or service on esplanades is only permitted, provided that the guidelines of the health authority (DGS) for the catering sector are respected, with the necessary adaptations.
 - Food and beverage consumption areas in commercial complexes are not allowed for groups of more than four people, unless they belong to the same household, and provision must be made for the organisation of the space in such a way as to avoid crowds and respect, with the necessary adaptations, the health authority (DGS) guidelines for the catering sector.
 - Catering and similar establishments that intend to maintain their activity, in whole or in part, for the purpose of confectionery intended for consumption outside the establishment or home delivery, directly or through an intermediary, are exempt from license for confectionery intended for consumption outside the establishment or home delivery and may determine the participation of the respective employees (with their consent) in such activities even if they do not fall within the scope of the employment contracts.

12. Bars and other beverage establishments

- Bars, other drinks establishments without a show and drinks establishments with dance space remain closed, except if they operate in accordance with the rules for coffee shops or pastry stores, subject to compliance with the rules and guidelines in force and those specifically prepared by the DGS, and provided that the spaces intended for dance or similar are not used for this purpose, and should remain unusable or, alternatively, be occupied with tables intended for customers.
- Any measures in force territorially more restrictive are applicable to establishments operating under the preceding paragraph.

13. Sale and consumption of alcoholic beverages

- The sale of alcoholic beverages in service areas or gas stations is prohibited and, from 8pm in retail establishments, including supermarkets and hypermarkets.
- The consumption of alcoholic beverages in open spaces of public access is prohibited and public roads, except for the outside spaces of the catering and beverage establishments duly licensed for the purpose.
- In the period after 8:00 pm, the exception provided for in the final part of the previous paragraph allows only the consumption of alcoholic beverages within the scope of the meal service.

14. Public Services

For these services, preference is given to face-to-face service by appointment, as well as the continuity and strengthening of service provision through digital means and contact centers with citizens and companies. The rules of hygiene and priority attendance must also be respected, as stated above.

15. Private vehicles with more than five seats

Private vehicles with a capacity for more than five seats are allowed to circulate only with two thirds of their capacity, and the occupants must wear a mask or visor, except if all the occupants belong to the same household.

September 17th, 2020

TFRA will keep an eye on and update the information in this flash whenever justified.

Finally, we would like to point out that the information contained in this document is of a generic nature and therefore does not dispense with the analysis of the specific case, nor with consulting the official documentation and legislation in force at any given time.

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