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SOCIEDADE DE ADVOGADOS

**COVID-19: Government Measures Labour –
Updated
Support for progressive recovery of the
companies**

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Decree-Law no. 101-A/2020, dated of 27 November was published, amending the rules concerning the Support for Progressive Recovery of the Companies in a "business crisis" situation and clarifying the exceptional and temporary regime of justified absences motivated by family assistance.

➤ Support for progressive recovery of the companies in a "business crisis" situation

This measure covers Employers who are in a "business crisis" situation, under the terms defined in article 3 of Decree-Law no. 46-A / 2020, dated of July 30th (in its current wording), that is, Employers who verify "a 25% or greater drop in billing, in the full calendar month immediately preceding the calendar month to which the initial request for support or extension refers, compared to the same month of the previous year or compared to the average monthly of the two months prior to that period or, for those who started the activity less than 12 months ago, compared to the average monthly billing between the beginning of the activity and the penultimate full month preceding the calendar month to which the request refers regarding the initial support or extension".

The referred Employers may now request the support in the following terms:

- i. Up to the maximum limit legally established for the reduction of the normal working period foreseen for the level of billing drop immediately subsequent to the one by which the Employers were covered in the month of November 2020, provided that the Employers already benefited from the support in the previous month;
- ii. Up to the maximum limit legally established for the reduction of the normal working period foreseen for the level of billing drop immediately subsequent to the billing drop in November 2020, when the Employers have not benefited from support in the previous month.

Conditions of access

To apply for the new measures, the Employers must:

- i. certify, on oath, the situation set out in items (i) or (ii) above, depending on the situation in which they are found; and
- ii. maintain the normal functioning of its activity during the full calendar month to which the initial request for support or extension refers, except in the periods in which limitations to the activity are determined by decision of the Government.

➤ Exceptional and temporary regime of justified absences motivated by family assistance

It is considered justified absences those motivated by the care of a child or other dependent under the age of 12 or, regardless of age, with a disability or chronic illness, as well as a grandchild living with the employee in communion with the table and housing and who is a child of an adolescent under the age of 16, resulting from the suspension of teaching and non-teaching and educational activities on November 30th and December 7th.

For the purposes of the foreseen in the previous paragraph, the employee communicates the absence to the Employer in the terms foreseen in the labour legislation currently in force.

The justified absences under this regime do not determine the loss of any rights, except in relation to the remuneration. Moreover, they do not count towards the annual limit provided for under the labour legislation currently in force.

In alternative, the employee may rather opt to take holidays, without the need for agreement with the employer, by means of written communication.

During the referred holiday period, remuneration is due for the period corresponding to that which the employee would receive if he/she were on effective service, in which case the holiday allowance may be paid in full up to the fourth month following the start of the holiday.

Entry into force and effect

The new amendments, which are already in force, take effect in December, as well as during the term of the diploma that regulates the application of the state of emergency decreed by the President of the Republic, or any other that may enter into force with the same object.

December 4th, 2020

TFRA will update the information of this flash whenever justified.

Finally, we would like to highlight that the information contained in this document is of a generic nature and, therefore, does not exempt the analysis of the specific case, nor the consultation of the official documentation and legislation in force at each moment.

PORTUGAL

Lisboa

Av. da República 32 - 4.º Esq.
1050-193 Lisboa
T +351 217 815 660
lawfirm@tfra.pt

Funchal

Av. do Infante 8, Edifício Executivo
2.º Andar, Sala K
9000-060 Funchal – Madeira
T +351 291 202 400

 / Teixeira de Freitas, Rodrigues & Associados | TFRA