

LABOR LAW

FLASH ALERT COVID-19

THE 34 QUESTIONS THAT MUST BE ANSWERED

01. Are private companies required to implement a Contingency Plan?

A.: Although Order no. 2836-A/2020 obliges only public employers to prepare a contingency plan in line with the guidelines issued by the Directorate General of Health, within the scope of prevention and control of infection by new Coronavirus (COVID-19), it is the obligation of the private employer to ensure their workers safety and health conditions, on a continuous and permanent basis, taking into account the general principles of prevention, through the legal regime for the promotion of safety and health at work, established by Law no. 2836-A/2020.102/2009, of September 10, in its current wording. The Contingency Plan should be disclosed to all employees and posted in the company's style locations.

02. What should the Contingency Plan contain?

A.: The Contingency Plan should include aspects such as:

- a) immediate measures;
- b) specific measures to combat the danger of contagion and, within them, basic hygiene medications and environmental hygiene measures;



- c) specific procedures to be adopted before: suspect case, asymptomatic person returned in the last 14 days from an area with active community transmission and asymptomatic person with contact with a confirmed case;
- d) exceptional measures;
- e) legal-labor framework.

In the immediate or first line measures, the employees with the highest risk of infection should be identified, namely those who have a history of pre-existing diseases, such as cardiovascular diseases, diabetes, chronic respiratory diseases, hypertension and cancer and, naturally, pregnant workers.

03. What duties do the employer and worker have?

A.: If, on the one hand, the employer, under the terms of Article 127 of the Labor Code, has the duty to *"prevent occupational risks and illnesses, taking into account the protection of the safety and health of the worker (...), adopt, with regard to safety and health at work, the measures deriving from the law (...) and provide the worker with adequate information and training to prevent risks of (...) illness"*, on the other hand, the worker also has the duty, under the terms of Article 128 of the Labor Code, to *"prevent occupational risks and illnesses, taking into account the protection of the safety and health of the worker (...), to adopt the measures deriving from the law (...) and provide the worker with adequate information and training to prevent risks of (...) illness"*. According to the Article 128 of the Labor Code *"comply with the employer's orders and instructions concerning the execution or discipline of work, as well as safety and health at work, which are not contrary to his rights and guarantees, cooperate to improve safety and health at work (...) and comply with the requirements on safety and health at work arising from the law (...)"*.

This includes, as part of the general duties of loyalty and cooperation on safety and health at work, the obligation for the worker to inform the employer if he has symptoms or presents a danger to colleagues.

04. Can the employer demand to know if the worker has recently traveled to countries identified as areas with active community transmission?



A.: Yes. The rule is that the employer may not interfere in the privacy of the employee. However, given the current pandemic context, it is the employer's duty to ensure safety and health conditions in the workplace.

05. What if a worker is infected, by the symptomatic picture he presents or has returned from one of the countries with a high number of confirmed cases of contagion?

A.: The employer must exempt him from attending the company until his state of health is ascertained. However, during the leave, and until the competent health authority decides on the suspect case, the employer must continue to pay the worker's remuneration, who should not be penalized for his symptomatic condition.

06. When should the company use telework or remote work?

A.: If the worker's activity is compatible with that scheme and if the employer can provide the worker with the tools necessary for that purpose and bear the costs associated with that activity. It should be warned that the teleworking regime must obey a formalization that obeys its own rules.

07. What if the worker refuses to telework?

A.: In the current context, and during the duration of the exceptional measures, teleworking may be determined unilaterally by the employer or requested by the employee, without the need for an agreement, as long as it is compatible with the functions performed. - **Article 29 of Decree-Law no. 10-A/2020, of March 13.**

Even if the teleworking regime, under the terms of Article 166 of the Labor Code, requires agreement and written form, if the employee with suspicions of infection refuses to leave the company or to practice teleworking - the same being a possibility - and fails to comply with the Contingency Plan, he may be subject to disciplinary proceedings for disobedience, without prejudice to being held responsible under the general terms of the law.



This is also because one can never lose sight of the duties incumbent upon the cooperative worker under the terms of Article 128 of the Labor Code.

Going further, Article 194 of the Labor Code would be called to mind in this case, providing that "the employer may transfer the employee to another place of work, temporarily or permanently, (...) when another reason of the company's interest so requires and the transfer does not entail serious harm to the employee". In this case, it is in the public interest, which goes beyond the interest of the company.

08. Can the employer stop paying the meal allowance to the worker who starts teleworking?

A.: If we consider the nature of the meal allowance and conclude that it has the purpose of compensating the worker for an expense that he would not make if he were not working away from home, or is not granted if the company has a canteen service, it may be concluded that, since the worker is working teleworking at home, the granting of the meal allowance lacks legitimacy.

But, on the other hand, it should be noted that in telework the principle of equal treatment is in force, pursuant to article 169 of the Labor Code, that is, if until now the employee had received a meal allowance, having been agreed upon for the employee with an individual employment contract, he must now also continue to receive it.

There may be situations, such as in the specific case, in which the employee, who has become a teleworker, may no longer receive the meal allowance, maximum because he is going to work in his usual residence. In this case, meal allowance is not justified because one of the conditions that justifies it is the fact that the meal is taken outside the normal residence.

09. If teleworking is not possible, can the asymptomatic worker, in fear and feeling unprotected, refuse to work?



A.: The Labor Code does not provide for a reasoned refusal to perform work in cases of pandemic or similar situations. Workers have a duty to work and can only refuse in exceptional cases that make it unenforceable to perform the work. If the worker simply refuses, he may be subject to a disciplinary procedure for abandonment of work because the mere fear or abstract risk of infection does not allow the work to be not performed.

On the other hand, the worker may ask the employer to dispense with the work, but there will be a loss of wages. On the other hand, the employer may, in a commonsense logic, want to protect the workers, dismissing them without loss of retribution.

10. If teleworking is possible, who pays the worker in prophylactic isolation (quarantine), determined by the competent Health Authority?

A.: If the employee can work via teleworking, is of the employer's responsibility, the assurance of the employee's wages.

11. Is a teleworking accident considered a workplace-related accident?

A.: Yes, it is characterized as a work-related accident. For this purpose, the employer must transmit to the insurance company the workers who will start working by teleworking, the normal working period, the worker's hours and address, being this the place from which he will work.

12. What if teleworking isn't possible who pays the worker?

A.: By Order no. 2875-A/2020 and now by **Decree-Law no. 10-A/2020, of March 13**, workers (employed or self-employed, public or private sector) temporarily prevented from exercising their professional activity due to the risk of contagion by COVID-19 are entitled to a sickness benefit paid by Social Security, in a daily amount equivalent to 100% of the reference pay for an initial period of 14 days; from the 15th day, and depending on the duration of the absence, the sickness benefit to be paid will be between 55% and 75% of the reference pay.



According to the Practical Guide to Social Security, the reference remuneration is calculated as follows: all remuneration declared to Social Security in the first six months of the last eight months prior to the month in which the worker had to stop working is added together, dividing this amount by 180. The granting of this allowance is not subject to a waiting period. - **Article 19 of Decree-Law No. 10-A/2020 of 13 March.**

13. And how should the worker in prophylactic isolation proceed to inform the employer and, consequently, obtain the right to the allowance?

A.: Under the terms of Dispatch no. 3103-A/2020, which operated the procedures foreseen in Dispatch no. 2875-A/2020, a declaration must be completed and issued by the Health Authority for the purpose of prophylactic isolation. The declaration, which will replace the form of temporary incapacity by illness, will be given to the worker who will have to send it to the employer. How? In the limit, via e-mail, because the isolated worker must be monitored and cannot leave his residence and should avoid any physical contact. Only then can the employer send, within a maximum of five days, through the Social Security Direct, the said declaration for communication purposes. The declaration attesting to the need for isolation replaces the document justifying absence from work for the purpose of justifying absences and does not constitute sick leave.

Declaration by the health authority¹:

ANEXO I

Declaração para efeitos de isolamento profilático (*)

...(nome), Autoridade de Saúde de..., nos termos do artigo 5.º do Decreto-Lei n.º 82/2009, de 2 de abril, alterado pelo Decreto-Lei n.º 135/2013, de 4 de outubro, determino o isolamento profilático de(nome completo), portador do BI/CC n.º, com validade até, com o número de identificação de segurança social....., pelo período de... a..., por motivo de perigo de contágio e como medida de contenção de....

(*) Aplicação do Despacho n.º ____/2020, de __ de março.

Data: .../.../...

(Assinatura e carimbo/selo branco da Autoridade de Saúde)

¹ <http://www.seg-social.pt/inicio>.

14. What if the worker in prophylactic isolation contracts the infection before the end of the 14-day period?

A.: It will now be subject to the general medical leave scheme.

15. How much an infected worker (validated suspect case) will receive and how does his absence configure?

A.: We are faced with a temporary incapacity for work due to illness, and therefore follows the general regime applicable to sick leave: depending on the duration of the absence, the sickness benefit to be paid will be between 55% and 75% of the reference salary. In these cases, as in any case of sickness, the employee must provide the employer with the certificate of temporary incapacity due to sickness. The three-day grace period has been eliminated, i.e. the benefit is paid from the first day. - **Article 20 of Decree-Law no. 10-A/2020, of 13 March.**

DURATION OF ILLNESS	REFERENCE INCOME
UNTIL 30 DAYS	55%
FROM 31 TO 90 DAYS	60%
FROM 91 TO 365 DAYS	70%
MORE THAN 365 DAYS	75%

16. Does the law create an inequality between workers in prophylactic isolation and workers infected by COVID-19?

A.: It seems to us that a legal inequality has been created, in that the worker in prophylactic isolation (quarantine for surveillance and monitoring) will receive, in the first 14 days, 100% of the reference pay, while the infected worker (if confirmed) will receive a sickness benefit corresponding to between 55% and 75% of the reference pay.



17. What is the situation for the self-employed ("the green receipts")?

A.: There are also two scenarios to distinguish:

- Prophylactic isolation of the self-employed (quarantine): all workers, from the public to the private sector, self-employed or not, will be entitled to 100% of the salary, the payment of which will be assured by Social Security.
- Infected independent worker: here, the situation already differs from that of an employed worker, the independent worker will be more penalized, since he receives 55% of the average wage. That is, the self-employed worker only has access to sickness benefit if he has at least six months - followed or interpolated - of Social Security deductions, considering the month in which the sickness occurs. The ten-day waiting period for entitlement to the benefit has been eliminated, i.e. the benefit is paid from the first day. - **Article 20 of Decree-Law No. 10-A/2020 of 13 March.**

18. And, from the employer's point of view, can he impose on the worker the enjoyment of holidays based on decreased activity?

A.: Article 242, no. 1 of the Labor Code states that "*whenever compatible with the nature of the activity, the employer may close the company or establishment, totally or partially, for workers' holidays: b) For a period longer than fifteen consecutive days or outside the period stated in the previous paragraph (between May 1st and October 31st), when so established in an instrument of collective regulation or by means of a favorable opinion from the workers' commission; (...)*" Thus, according to the b) above mentioned, in thesis it would be possible, outside the period between May 1st and October 31st, for the employer to close the company or the establishment, totally or partially, for workers' vacations, if it is established in a collective regulation instrument or by means of a favorable opinion from the workers' commission.

According to the provisions of article 241 no. 4, "*in the absence of agreement, the employer who exercises activity related to tourism is obliged to mark 25% of the holiday period to which the workers are entitled, or a higher percentage resulting from an instrument of collective labor regulation, between 1 May and 31 October, which is taken consecutively*", i. e., in practice, the employer may mark the remaining 75% outside the conventional period from 1 May to 31 October.



In any case, whether the worker already has scheduled vacations, **the agreement is always recommended.** By agreement, the enjoyment of holidays can be anticipated, suggesting that, if there are any, the days of holidays that pass from the previous year and that must be taken until April 30th be used.

19. LAY-OFF SYSTEM - Possibility or precipitation?

A.: The lay-off results in the temporary reduction of the normal working period or the suspension of work contracts due to the partial or total temporary impossibility, respectively, of providing the activity for reasons that result in a business crisis.

Requirements:

1. Market, structural or technological reasons, catastrophes or other occurrences that have seriously affected the normal activity of the company;
2. Indispensable measure to ensure the company's viability and maintenance of jobs;
3. Declaration of a company in a difficult economic situation.

Two schemes must be distinguished:

- Scheme provided for in Article 298 of the Labor Code - currently in force;
- Extraordinary simplified lay-off scheme - pending entry into force (**approved by Council of Ministers Resolution no. 10-A/2020 and defined and regulated by Ordinance No. 71-A/2020 of March 15**).

19.1. SIMPLIFIED LAY-OFF (Ordinance No. 71-A/2020 of March 15)

- **When does it go into effect?**

A.: It comes into force on March 16, 2020 and the novelty of this lay-off with a simplified regime in practice translates into an acceleration and de-bureaucratization of procedures. According to the Ordinance no. 71-A/2020, of March 15th, it does not imply the suspension of labor contracts, but defines a simplified procedural operation. - **Article 17 of Ordinance no. 71-A/2020, of March 15th.**



- **To whom and in what situations does it apply?**

A.: It applies to employers of a private nature, including employers in the social sector, and workers in their service, affected by the outbreak of the COVID-19 virus, who have been shown to be in a situation of business crisis as a result. - **Article 2 of Ordinance no. 71-A/2020, of March 15th.**

There is also another - and essential - condition for the company to be able to resort to this regime: to have its tax and social security situation regularized before the Social Security and the Tax and Customs Authority. - **Article 4 of Ordinance no. 71-A/2020, of March 15.**

For other situations of temporary closure or temporary reduction of the company's activity that occur during the period of validity of this ordinance, but that are not a consequence of a business crisis situation, the provisions of paragraph a) of no. 1 of article 309 of the Labor Code shall apply. - **Article 2 of Ordinance no. 71-A/2020, of March 15th.**

- **What is it? What is the regime/procedure?**

A.: This is a measure aimed at supporting companies in order to mitigate the negative impacts of the COVID-19 (Coronavirus) outbreak on economic activity.

It is an exceptional measure, procedurally more agile, in order to ensure that it is applied in a very short period of time between the employer's request and the granting of support, and, this time, achieving, in time and mode, the objective of preventing the immediate risk of unemployment and the maintenance of jobs.

This is considered a business crisis situation:

- a) the total shutdown of the undertaking's or establishment's activity resulting from the interruption of global supply chains, the suspension or cancellation of orders; or
- b) an abrupt and sharp drop of at least 40 % in invoicing, with reference to the same period of 3 months, or, for those who started the activity less than 12 months ago, the average for that period.



In this simplified lay-off scheme for companies that see their activity severely affected due to the epidemic, workers will be assured of this:

1. Gross salaries equivalent to 2/3 of salary;
2. A minimum amount equal to the guaranteed monthly minimum wage (this year, 635 euros) and a maximum amount equal to three times the national minimum wage (1,905 euros per month);
3. 30% paid by the employer and 70% by the social security - the employer pays in full, but the Social Security reimburses the 70%;
4. The employer's application is approved or rejected for one month and is renewable for up to six months.

▪ **How does the employer attest to these circumstances?**

A.: By a declaration of the employer together with a certificate of the certified accountant of the company. The entities benefiting from this support may be supervised, at any time, by the competent public entities, and must prove the facts on which the application and the respective renewals are based.

The proof is made by documentary evidence, and documents may be requested in the applicable cases, namely:

- a) Balance sheet for the month of the support as well as for the corresponding month;
- b) Value Added Tax (VAT) declaration for the month of the support as well as for the two immediately preceding months, or the declaration for the last quarter of 2019 and the first quarter of 2020, depending on whether the applicant is in the monthly or quarterly VAT regime respectively, which shows the intermittence or interruption of the supply chains or the suspension or cancellation of orders;
- c) Additional evidence to be established by order of the member of the Labor and Social Security Government.

- Article 3 of Ordinance no. 71-A/2020, of 15 March.

In addition, the employer is obliged to inform, in writing, the workers covered and the foreseeable period of interruption of the activity.



- **Extra support for maintaining an employment contract in a business crisis - what does it mean?**

A.: It consists of financial support, per employee, granted to the company, intended exclusively for the payment of wages. To this end, the employer shall communicate, in writing, to the workers the decision to request the extraordinary support for the maintenance of the jobs, indicating the foreseeable duration, after hearing the union representatives and the workers' commissions, when they exist, referring immediately the request to the Social Security Institute, I.P. (ISS, I. P.), accompanied by the documents referred to in no. 2 of article 3 of the Ordinance, as well as the nominative list of the workers covered and their social security number.

During the period of application of this measure, the company is entitled to financial support under the same terms as provided in no. 4 of article 305 of the Labor Code, with a duration of one month.

This support may, exceptionally, be extended monthly, up to a maximum of 6 months, only when the company's employees have taken the maximum annual leave limit and when the employer has adopted the working hours flexibility mechanisms foreseen by law.

The employer benefiting from this measure may entrust the employee with the temporary performance of duties not included in the employment contract, provided that this does not entail any substantial change in the employee's position and that they are geared to the viability of the undertaking.

This measure may also be combined with a training plan approved by IEFP, I.P., to which must be added a grant under the same terms as provided for in Article 305(5) of the Labor Code. -

Article 5 of Ordinance no. 71-A/2020, of 15 March.

For those who do not adhere to the support foreseen in article 5, they may, still in the training and qualification plan, extraordinarily access the mechanism foreseen in article 6 of the Ministerial Order, which consists of support for part-time professional training of these workers, granting the company a financial support in the amount of 50% of the employee's gross remuneration, according to the hours of training attended, supported by the IEFP, up to the maximum limit of the minimum monthly remuneration guaranteed. - **Article 7 of Ordinance no. 71-A/2020, of 15th March.**



Employers who benefit from this scheme will also be entitled to a financial incentive, on an extraordinary basis, with a view to normalizing the company's activity, to be granted by the IEFP, paid in one lump sum and with the value of one RMMG per worker. - **Article 9 of Ordinance no. 71-A/2020, of March 15.**

Finally, the companies under this regime will be exempt, in full, from the payment of social security contributions in respect of the workers covered and members of the statutory bodies, during the period of validity of the same. This right to exemption also applies to self-employed workers who are employers benefiting from the measures and their spouses. It is important to note that the exemption from the payment of contributions applicable to self-employed workers does not remove the obligation to submit the quarterly declaration. - **Article 10 of Ordinance No. 71-A/2020 of 15 March.**

20. What if the employer can't prove the business crisis?

A.: It can use the mechanism provided for in article 309 of the Labor Code, terminating or temporarily reducing the company's activity, with the workers having the right, being framed in a "*fortuitous case or force majeure*" to 75% of the retribution.

21. Can the adaptability scheme in accordance with Article 205 of the Labor Code be applied to workers?

A.: The employer and the employee may, by agreement and in view of any decrease in the company's activity, define the normal working period in average terms, in order to bring the working periods into line with the company's needs, with the inherent legal limits:

- a) If there is an increase in the normal working period: daily up to 2 hours and weekly up to 50 hours;
- b) If there is a reduction in the normal working period: in a week with less than 40 hours of work, the reduction may be up to 2 hours a day or, if agreed, in days or half days, without prejudice to the right to meal allowance.

Measures to support the social protection of workers and their families

22. What kind of absences will be considered for employees and self-employed persons who must stay at home with their children until the age of 12 as a result of the suspension of teaching and non-teaching activities in school?

A.: Absences are considered justified, outside periods of school breaks (such as Easter holidays - see further explanation below in question 21), without loss of rights, except in relation to remuneration, and the employees have to report the absence in accordance with the provisions of article 253 of the Labor Code. - **Article 22 of Decree-Law no. 10-A/2020, of 13 March.**

23. Can both parents stay at home at the same time?

A.: No, but they can alternate.

24. What is the remuneration for employees who must stay at home with their children until the age of 12?

A.: Employees staying at home with their children up to the age of 12 will receive 66% of the basic pay (33% from the employer and 33% from Social Security). This support has a minimum guaranteed monthly remuneration (EUR 635.00) and a maximum of three guaranteed monthly minimum wages (EUR 1905.00). However, this support is not valid during the Easter holidays that start on March 30 and end on April 13, since during this period students would necessarily already be at home, regardless of the current context, since article 22 of Decree-Law no. 10-A/2020 expressly mentions "*outside the periods of school breaks*", as is the case with the Easter holidays.



In practice, this support will only be paid between March 16 and March 30. - **Articles 22 and 23 of Decree-Law no. 10-A/2020, of 13 March.**

25. What is the nature of this payment to parents who will stay at home with their children until the age of 12 and how to access it?

A.: The payment of 66% has the nature of exceptional support and not sick leave, so those who want to join and receive 66% of the base salary (gross) will have, from Monday (March 16), to communicate the intention to the employer. It is the employer, in turn, that transmits the decision to the Social Security (through the Direct Social Security). This support will be granted automatically upon application by the employer, if there are no other ways of providing the activity, namely by teleworking. The Social Security portion (33%) is handed over to the employer, who pays the totality of the support to the worker. - **Article 23 no. 3 and 4 of Decree-Law no. 10-A/2020, of March 13.**



Thus, there is no point in running to the Family Health Units to request 'sick leave' from the respective family doctor, as the form to be filled in is on the Social Security website (GF88 DGSS), simply download, fill in, sign and hand it over to the employer. Form GF88, available in: https://www.eas.pt/wp-content/uploads/2020/03/GF_88.pdf.

ENCERRAMENTO DE ESTABELECIMENTO DE ENSINO
SITUAÇÃO EPIDEMIOLÓGICA DO NOVO CORONAVIRUS

DECLARAÇÃO DO TRABALHADOR POR CONTA DE OUTREM

Esta Declaração destina-se a ser apresentada à entidade empregadora para justificação da ausência ao trabalho por motivo de encerramento do estabelecimento de ensino

1 IDENTIFICAÇÃO DO TRABALHADOR
Nome completo _____ _____
N.º de Identificação de Segurança Social _____ N.º de Identificação Fiscal _____

2 IDENTIFICAÇÃO DO FILHO OU DEPENDENTE MENOR DE 12 ANOS OU INDEPENDENTEMENTE DA IDADE COM DEFICIÊNCIA OU DOENÇA CRÓNICA (Caso tenha mais do que um filho com menos de 12 anos ou com deficiência/doença crónica apenas deve indicar um)
Nome completo _____ _____
Data de nascimento ____/____/____ N.º de Identificação de Segurança Social _____

3 CERTIFICAÇÃO DO TRABALHADOR
Declaro que o outro progenitor: (i) Está impossibilitado de prestar assistência ao dependente identificado; (ii) Não requereu nem recebe o apoio financeiro excecional à família por motivo de encerramento do estabelecimento de ensino.
As informações prestadas correspondem à verdade e não omitem qualquer informação relevante.
____/____/____ _____ (Assinatura do trabalhador)

Note: The salary in these cases will be paid at 66% and may not be less than the national minimum wage (EUR 635) or more than three minimum wages (EUR 1905).

26. What is the remuneration for the self-employed who must stay at home with their children until the age of 12?

A.: Self-employed persons staying at home with their children up to the age of 12 will receive 1/3 of the average pay declared in the first quarter of 2020, with a minimum of one time the value of the Social Support Index (IAS), i.e. EUR 438.81, up to a maximum of IAS 2.5 (EUR 1097).



In practice, they will receive 1/3 of the amount for which social security contributions were calculated from January to March 2020 (70% of the average income for the last quarter of 2019).

This support is subject to a quarterly income tax return and to the corresponding social contribution. It is granted automatically upon application by the self-employed worker, if there are no other forms of provision of the activity, namely teleworking. - **Article 24 of Decree-Law no. 10-A/2020, of March 13.**

27. Will the self-employed benefit from any additional support?

A.: Self-employed workers will receive extraordinary support due to the reduction in their economic activity, as well as benefiting from a deferment of the payment of contributions, i.e. they will be able to pay contributions later after this measure has expired.

This support is only available to those who have made discounts for at least three consecutive months in the last 12². Besides this condition of access to support, they must be covered exclusively by the scheme for self-employed workers, they cannot be pensioners and they must be in a situation of total cessation of their activity, or of the activity of the said sector, as a consequence of the outbreak of COVID-19. And how do they prove total cessation? By a sworn statement or, in the case of self-employed workers in organized accounting, by a certified accountant.

The value of the support is that of the remuneration registered as a contributory base, with a maximum ceiling of EUR 438.81 (1 IAS). The support starts to be paid from the month following the application, for a period of one month, extendable monthly, up to a maximum of 6 months. Contributions are always due, even when receiving the financial support. However, these self-employed workers can ask for them to be postponed until after the support ceases. The quarterly reporting obligation is maintained where it is subject to this obligation. Contributions must be paid from the second month after the cessation of the support and there is the possibility of a benefit agreement, within a maximum of 12 months in equal and successive monthly instalments. - **Articles 26, 27 and 28 of Decree-Law no. 10-A/2020, of 13 March.**

² Note: self-employed workers, since January 2019, are subject to a minimum contribution of EUR 20.00 even in quarters where they receive no income, which means that the number of people covered by this support now created should be higher than it would have been under the previous rules.



28. What about workers not engaged in productive activities for considerable periods of companies that do not use the lay-off scheme?

A.: Extra vocational training support will be instituted in the amount of 50% of the employee's remuneration up to the minimum national wage (EUR 635.00), plus the cost of training.

29. What happens to trainees and trainers with ongoing training and prevented from attending and delivering them?

A.: Ensuring the social protection of trainees and trainers while training activities, as well as of beneficiaries engaged in active employment policies who are prevented from attending such training activities.

30. Can the worker, in a telework regime, benefit from the exceptional financial support to workers who must stay at home with their children up to 12 years old?

A.: No, because in teleworking you are already being paid, normally and 100%, by your employer.

31. What if the worker must go away to care for a child or household member in prophylactic isolation or infected with COVID-19?

A.: These absences follow the regime foreseen in the Labor Code, and these workers are entitled to the childcare allowance to be paid by the Social Security, in accordance with the law of September 2019 on legislative changes to reinforce the protection in parenting. In the said law, it was then established that the increase in family care leave from 65% of salary to 100% would come into force with the enactment of the State Budget for 2020 [we recall that the Budget has not yet come into force, which means that for the time being the payment is only 65%]. **In practice, Social Security provides 65% of the remuneration, for a maximum period of 30 days (in each calendar year) for minors under 12 years old; or for a maximum period of 15 days (in each calendar year) for those over 12 years old.**



In order to have access to this support, parents must obtain from the health services a certificate of the clinical situation of their dependents, which must be sent to the Social Security services within a maximum of five days after it is issued and in which the application for child care allowance must be indicated. Only one parent may apply for this benefit at any one time.

The granting of childcare allowance does not depend on the guarantee period. - **Article 21 of Decree-Law No. 10-A/2020 of 13 March.**

32. Will all schools, public and private, suspend their activities from March 16, 2020 onwards?

A.: Yes. The Government has decreed the suspension of teaching and non-teaching activities in schools at all levels of education (all public and private educational establishments from universities, schools, day care centers and ATL's) for two weeks. The situation will be reassessed on April 9th. With this measure, students do not go to school. - **Article 9 of Decree-Law no. 10-A/2020.**

33. What about the children of health and safety professionals?

A.: **Article 10 of Decree-Law No 10-A/2020**, under the heading "*Workers in essential services*", provides that at least one school in each group will remain open to receive pupils who are children or dependents of health professionals, the security and rescue forces and services, including voluntary firemen, and the armed forces, workers in essential public services, management and maintenance of essential infrastructure.

34. What about the teaching and non-teaching staff of the schools?

A.: There is an interruption of teaching and non-teaching activities for students, so the teaching and non-teaching staff of the schools should continue to report to work. The use of digital educational resources for distance learning and teleworking of teachers is still called for, which in some cases is possible because they can prepare the school year, among other things. Schools will continue to have surveillance, maintenance and cleaning. The privilege of



alternative forms of work such as teleworking, remote meetings, videoconferencing classes, among other things, is reiterated. The management should be done on a case-by-case basis and by the respective directors of each school.

Note (1): given the constant mutation of the pandemic, this information is subject to change shortly.

Note (2): each case must be analyzed on a case-by-case basis.

Legislative references:

- **Decreto-Lei n.º 10-A/2020:** <https://dre.pt/home/-/dre/130243053/details/maximized>.
- **Resolução do Conselho de Ministros n.º 10-A/2020:** <https://dre.pt/web/guest/home/-/dre/130243054/details/maximized>.
- **Portaria n.º 71-A/2020, de 15 de março:** <https://dre.pt/web/guest/home/-/dre/130273586/details/maximized>.
- Despacho n.º 2836-A/2020: <https://dre.pt/home/-/dre/129793730/details/maximized>;
- Despacho n.º 2875-A/2020: <https://dre.pt/web/guest/pesquisa/-/search/129843866/details/normal?q=Covid-19>;
- Despacho n.º 3103-A/2020: https://dre.pt/web/guest/home/-/dre/130070747/details/maximized?serie=II&parte_filter=31&day=2020-03-09&date=2020-03-01&dreId=130070745;
- Orientação n.º 006/2020 de 26/02/2020 da Direção Geral de saúde;
- <https://covid19.min-saude.pt/ultimas-informacoes/>.