

## FAQ COVID-19

14th March 2020

1. Employee in prophylactic Isolation determined by the Health Authority
2. Employee in isolation with telework
3. Sick employee
4. Absent employee for assistance to sick child or grandson or in prophylactic isolation determined by the Health Authority
5. Absence from employment to assist son or grandchild due to the shutdown of educational facility
6. Suppliers/customers
7. Self-employed
8. Employee on Holidays
9. Lay Off / New Simplified Lay Off
10. Financial Incentives to the companies

### **1. EMPLOYEE IN PROPHYLACTIC ISOLATION DETERMINED BY THE HEALTH AUTHORITY**

As established in Decree-Law 10-A/2020 of March 13, if an employee is temporarily restricted from performing professional activities, by determination of the Health Authority (Health Delegate), due to the danger of contagion by COVID-19, he is entitled to receive a subsidy amounting to 100% of his reference remuneration, for the duration of isolation.

This allowance shall be granted if the employee obtains a statement from the Health Authority attesting the prophylactic isolation status. The subsidy does not depend on verification of the guarantee period, the professionalism index and the certification of temporary incapacity for work, nether is subject to a waiting period.

The procedures and models for obtaining this support are available in [www.seg-social.pt](http://www.seg-social.pt) and [www.dgs.pt](http://www.dgs.pt).



The Declaration issued by the Health Authority, attesting the need of isolation replaces the document justifying absence from work to justify absences and allows the award of the allowance equivalent to the sickness allowance.

This allowance has a maximum duration of 14 days and during that period, the employer does not pay the remuneration to the employee.

## **2. EMPLOYEE IN ISOLATION WITH TELEWORK**

If due to contagion prophylactic isolation is ruled but there is no illness and there are conditions to work on a teleworking basis (or using distance training), then the scheme for the subsidiary is not applicable, the employee must continue to work and receives his or her usual remuneration payable by the employer.

During this period, the telework may be determined unilaterally by the employer or requested by the employee, without the need for agreement of the parties, provided that it is compatible with the functions performed.

## **3. SICK EMPLOYEE**

Employees who miss work due to illness, including Covid 19, are entitled to receive a social security allowance in general terms. The allowance is awarded if the employee obtains a certificate of temporary incapacity for work (the "medical discharge").

The amount of the allowance to be allocated depends on the duration of the medical leave:

- Up to 30 days, 55% of the reference remuneration;
- from 31 to 90 days, 60%;
- from 91 to 365 days, 70% and
- more than 365 days, 75%.

In case of absence from work by the employee due to medically attested illness, the employer shall immediately suspend the payment of remuneration.

The entitlement to the allowance will be verified from the 4th day of incapacity for work, thus there is a waiting period of 3 days. In the case of COVID-19, the grant is immediate and there is no waiting period.

The employee is entitled to sickness benefit only if he has a period of 6 months of registration, followed or interpolated, with a record of remuneration, at the time of the onset of the disease, considering, if necessary, the month in which the disease occurred, if he/she has a record of remuneration (period warranty).

#### **4. ABSENT EMPLOYEE FOR ASSISTANCE TO SICK CHILD OR GRANDSON OR IN PROPHYLACTIC ISOLATION DETERMINED BY THE HEALTH AUTHORITY**

If the employee misses work to assist a child or grandchild, either in prophylactic isolation declared by the Health Authority or, due to the illness of the child or grandchild, the employee is entitled to receive a subsidy corresponding to 65% of the reference remuneration.

After the entry into force of the 2020 Governmental Budget, the daily amount of child care allowance will correspond to 100% of the reference remuneration, remaining at 65% the amount of the allowance for assistance to a grandchild. The 2020 Governmental Budget is expected to be published on the week of March 22nd.

The application for these benefits must be made by accessing the web portal of the Social Security (Segurança Social Directa), attaching a copy of the prophylactic isolation declaration issued by the Health Authority or the statement of the doctor to prove the need for assistance.

During the period of allocation of the subsidy, the employer does not have to pay the remuneration to the employee.

#### **5. ABSENT EMPLOYEE TO ASSIST HIS SON OR GRANDCHILD DUE THE EDUCATIONAL ESTABLISHMENT CLOSURE**

In accordance with the new scheme, justified absences shall be considered without loss of all employment entitlements, except for retribution, for employees who have to stay at home to support their children up to 12 years of age, or, regardless of age, with a disability or chronic illness, by virtue of the suspension of presential school activities (and in situations where they cannot resort to telework) and without a declaration of prophylactic isolation but whose suspension has been decreed by the Health Authority or the Government.

The employee is entitled to receive exceptional monthly or proportional support corresponding to two thirds of his basic remuneration, paid in equal shares by the employer and social security, the support shall not be less than one minimum wage (635 euros), and has a maximum limit of three MINIMUM WAGES, 1905 euros.

In this scenario, the employer will only have to pay the basic remuneration, with no need to pay any other salary supplement (meal allowance, exemption from working hours and others). The support is automatically granted by social security after the employer's request, provided that there are no other forms of provision of the activity, namely by telework.

The support of social security is given to the employer who makes the payment of all the support to the employee.

The contribution of the employee and 50 % of the employer's social contribution shall be subject to the contribution of the employee and shall be the subject of an independent remuneration statement.

The provided support cannot be perceived simultaneously by both parents and is only perceived once, regardless of the number of child or dependents

This support does not cover the period of school holidays.

For the purposes of this support, the employee must report the absence to the employer pursuant to Article 253 of the Portuguese Labour Code, exceptional support must be requested by the employer from social security, and the employee must submit a declaration. The model draft of such declaration is available *on line* at the social security website.

Employees covered by financial support are also entitled to deferral of payment of social security contributions due in the months in which extraordinary financial support is being paid.

Payment differs for the second month after the cessation of support and may be made within a maximum period of 12 months in equal and monthly instalments.

## **6. SUPPLIERS/CLIENTS**

There are currently no specific rules for COVID 19 with regard to changing existing contractual conditions with Clients and Suppliers.

In the existing contractual relationships with clients and suppliers affected by COVID-19, they must first verify whether there are solutions already provided for in the contracts, for this type of situation (eg: force majeure clause covering epidemic situations, clause for changing circumstances, clauses for suspension or extension of deadlines in the face of non-accountability situations, etc.).

In the event that the contractual obligation becomes definitively impossible, Portuguese law provides for the termination of that obligation due to the impossibility of compliance, provided that the causal link between the occurrence of COVID-19 and the impossibility to comply with the agreed obligation is properly demonstrated.

In the event that the maintenance of obligations becomes too costly, attention should be paid to the possibility of applying the regime provided for in article 437 of the Portuguese Civil Code, regarding the abnormal change of circumstances, but everything depends on considering the concrete relevance of the occurrence for the execution of the contract, its own risks, its specific stipulations and the equity of the solution.

Any solution will always be dependent on the ability to demonstrate the facts that change the circumstances, the contractual terms and, ultimately, the equity and balance of the solution. As in any normal situation of interpretation of a contract, even if there are already clauses with specific solutions provided for these situations, it is advisable to ascertain the validity of these solutions under the law applicable to the contract, in an exceptional and emergency scenario like the current one.

## 7. SELF-EMPLOYED WORKER

Contracts with self-employed employees may be suspended or revoked in general terms, with no specific rules because of COVID-19.

Self-employed employees may be entitled to unemployment benefits to be attributed by Social Security.

The protection provided for employees is applied with the necessary adaptations to self-employed employees, whether in the situation of prophylactic isolation, illness, or in assistance to the family.

Self-employed employees who have been subject to the contributory obligation for at least 3 consecutive months for at least 12 months, and who cannot continue their activity due to having to support the family by closing the educational establishment, are entitled to support exceptional monthly, or proportional.

The amount of the support corresponds to one third of the monthly contribution base for the first quarter of 2020 and has a minimum limit of 1 Social Support Index (IAS) and a maximum of 2.5 IAS.

Support is subject to a quarterly income statement, subject to the corresponding social contribution.

Support is granted automatically after the self-employed person's request, as long as there are no other ways of providing the activity, namely by teleworking.

Support cannot be perceived simultaneously by both parents and is perceived only once, regardless of the number of dependent children or dependents.

Alternatively, an extraordinary support is created in the event of a reduction in economic activity, which will take the form of financial support for employees covered exclusively by the self-employed regime and who are not pensioners, subject to compliance with the contributory obligation for at least 3 consecutive months for at least 12 months, in a proven situation of complete stoppage of their activity or the activity of the respective sector, as a result of the



outbreak of COVID-19, in a situation proven, by any means permissible in law, of a total stoppage of their activity or the activity of the respective sector.

These circumstances are attested by means of a declaration by the employee, under UNDER OATH declaration, or by the certified accountant in the case of self-employed employees in the organized accounting regime.

During the period of application of this measure, the self-employed person is entitled to financial support with a duration of one month, extendable monthly, up to a maximum of six months, corresponding to the amount of remuneration recorded as a contributory base, with the limit of the amount of IAS.

Financial support is paid from the month following the submission of the application.

## **8. EMPLOYEE ON HOLIDAYS**

Under the legal terms the employer can only schedule or impose the vacation period between May 1st and October 31st, so outside of that period the enjoyment of holidays must be done by agreement.

In accordance with good practices and solidarity at this critical moment, the concrete measures to be taken should result from a broad dialogue and consultation with workers, with a view to guaranteeing the maintenance of social peace, and in particular allowing for a more efficient management of the structure of costs during this period of eventual suspension of the company's work. Thus, changing the vacation period to this isolation period is a possible alternative with the employee's agreement.

During this vacation period the employer must guarantee the payment of the remuneration to the worker.

## 9. LAY OFF / NEW SIMPLIFIED LAY OFF

The Portuguese Labor Code currently allows the lay-off, consisting of the temporary reduction of the normal period of work, or, in the suspension of the employment contract, when there is a “temporary impossibility, respectively partial or total, to provide services” for reasons of liability employee or for reasons of employer’s responsibility.

One of the reasons foreseen in the law to justify access to this regime is the “need to ensure the viability of the company and the maintenance of jobs”, since the company is in crisis due to market, structural or technological reasons, or, in the face of disasters "or other events that have seriously affected their normal activity".

In these cases, employees are entitled to receive monthly compensation equal to 2/3 of the gross normal wage, with a guarantee of a minimum amount equal to the minimum guaranteed monthly remuneration (this year, 635 euros) and a maximum amount equal to three times the national minimum wage (1,905 euros monthly).

In the light of the current law, this remuneration must, moreover, be ensured by the employer, and Social Security then participates with 70% of the value of 2/3; the companies are responsible for paying the remaining 30% of the 2/3 of the remuneration.

The 2/3 fee is paid by the employer in full and Social Security reimburses the rest to the employer.

During the lay off, remunerations that imply effective provision of work are suspended, namely, lunch allowance, exemption from working hours and others.

The current regime is a bureaucratic process that runs with the employees' committee made up of 5 employees and also with Social Security.

In view of COVID-19, the Government will, in accordance with the Resolution of the Council of Ministers no. 10-A / 2020, of 13 March, create a simplified lay-off regime, in case there is a suspension of the activity related to the outbreak of COVID-19 and if there is an interruption in global supply chains or an abrupt and sharp drop of 40% in sales, with reference to the same period of 3 months.



This scheme maintains the level of guaranteed gross remuneration to the worker of 2/3 up to a maximum of 3 minimum salary (€ 1,905.00), lasting one month, which can be extended monthly, after evaluation, up to a maximum of 6 months, 70% of which guaranteed by the ISS and 30% guaranteed by the employer.

At the same time, a simplified lay-off regime with training will be implemented, which in addition to the aforementioned simplified lay-off regime with training, adds a training scholarship in the amount of 30% x IAS (€ 131.64), half of which for the worker and half for the employer (€ 65.82). Both the scholarship and the training will be supported by the IEFP.

The amendment introduces simplification in the allocation and bureaucratic processing. In the new regime, the employer's application is approved or rejected for one month, renewable for up to six months.

In the exceptional regime, the Government will include an exemption from social security contributions not only during the suspension period, but also within one month after the resumption of activity.

This scheme is expected to be published early next week.

## **10. FINANCIAL INCENTIVES FOR COMPANIES**

The Government approved a set of extraordinary measures to support companies aimed at mitigating the impact of COVID -19.

In this sense, 2 lines of credit were created for micro, small and medium-sized companies:

- Linha de Crédito Capitalizar - “Covid -19 - Fundo de Maneio
- Linha de Crédito Capitalizar - “Covid - 19 - Plafond de Tesouraria”,

These lines are available from March 12, 2020, with an amount of 200 million Euros.

These lines establish the following conditions:

- i) maximum ceiling of 1.5 million Euros per company,
- ii) up to 80% guarantee, with a 100% counter-guarantee;
- iii) total bonus for the guarantee fee.

Regarding with business incentives, the following measures were taken:

- Approval of the acceleration of the payment of incentives.
- Extension for 12 months of the amortization period for reimbursable subsidies of the QREN and PT2020, which ended on September 30, 2020.
- Guarantee of deductibility of expenses incurred with international events that have been cancelled due to COVID-19, provided that they are proven to be supported by beneficiaries in the scope of projects approved by PT2020;
- Guarantee of assessment of the impact of the pandemic, after its end, on the achievement of the objectives contracted under the QREN and PT2020 systems

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