

COVID-19 and Labour Regulations

Portugal – Coelho Ribeiro e Associados

1. OBLIGATION TO WORK

As a rule, COVID-19 and inherent risk of transmission is not a justification for absences from work (unless the employee is infected or in prophylactic isolation) Exceptions: Employees with a degree of disability equal to or greater than 60%, immunocompromised and certain chronically ill patients, duly certified by a medical doctor, and whose functions cannot be executed remotely, are dismissed from attending the workplace. These are considered justified absences and are 100 % paid by the employer up to the limit of 30 days/year. There is no social security protection for this group of employees.

2. RIGHT TO TELEWORK

As a rule, the telework regime depends on the consent of the employer.

Exceptions:

Companies with more than 50 employees, whenever telework is compatible.

Employees with a degree of disability equal to or greater than 60%, immunocompromised and certain chronically ill patients have the right to work remotely, regardless of employers' consent.

The employer may refuse if the functions cannot be executed remotely but is required to implement additional protection measures in terms of health and safety.

Situations where the employer is not able to implement adequate protection measures in terms of health and safety (such as, social distance).

Note: If compatible, **telework is mandatory**, regardless of size of the company, employer's agreement or type of employment bond, **while the emergency state is in force** (from March until 1 June 2020 and from 4th November 2020 on, at least until the end of March 2021) .

Unjustified refusal of implementing telework regime corresponds to a very serious administrative offense.

3. HEALTH AND SAFETY

The employer must comply with health and safety orientations issued by National Health Authority and Authority for Work Conditions (ACT). Failure to comply with these rules may justify refusal to go to the workplace, under the general terms provided by the Labour Code and Legal Framework on Safety and Health at work. Employee should also make a complain to Authority for Work Conditions.

4. FURLOUGH BENEFITS

Employers in a situation of business crisis with a drop in turnover equal to or greater than 25% 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 monthly average of the two months preceding that period, may access the extraordinary support for the progressive reopening of activity with a temporary reduction in the normal working period of all or some workers in the following ways:

- Billing decline equal to or greater than 25%: the reduction of the normal working period, per worker, can be a maximum of 33% in the months of October, November and December of 2020;
- Billing decline equal to or greater than 40%: The reduction of the normal working period, per worker, can be a maximum of 40% in the months of October, November and December of 2020;
- Billing decline equal to or greater than 60%: the reduction of the normal working period, per worker, can be a maximum of 60% in the months of October, November and December of 2020;

- Billing decline equal to or greater than 75%: the reduction of the normal working period, per worker, can be a maximum of 100% in the months of October, November and December of 2020;

5. COVID-19 AND HEADCOUNT REDUCTION

COVID-19 does not automatically justify terminations. The company needs to justify a termination for operational reasons the same way as without COVID-19. However, according to national legislation, the employer that makes use of the mechanism of temporary reduction of the normal period of work is prevented, during this period and in the following 60 days, from terminating employment contracts in the modalities of collective dismissal, dismissal for termination of the employment, or dismissal for maladjustment, as well as from initiating the respective procedures. The breach of this impediment implies the immediate termination of support and the refund or payment, as the case may be, to the competent social security service.

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