

21<sup>ST</sup> OF OCTOBER OF 2020

## COVID-19 “NEW” LAY-OFF

Decree-Law No. 90/2020 of the 19<sup>th</sup> of October introduced amendments to the extraordinary support for the progressive resumption of activity of companies in a business crisis situation included in Decree-Law No. 46-A/2020 of the 30<sup>th</sup> of July, which is called the "new" lay-off.

### Addressees

Private employers, including those in the social sector, who have been affected by the COVID-19 pandemic and who are, as a result, in a business crisis situation.

### Business crisis situation

With the amendments introduced by this diploma, the company is now considered to be in a business crisis situation when one of the following occurs:

- a) a break in billing equal to or greater than 25%, in the full calendar month immediately preceding the calendar month to which the initial request for support or renewal refers, compared to the same month of the previous year or compared to the monthly average of the two months preceding that period;
- b) a break in billing equal to or greater than 25%, in the full calendar month immediately preceding the calendar month to which the initial request for support or renewal refers, compared to the average monthly invoicing between the beginning of the activity and the penultimate full month preceding the calendar month to which the initial request for support or renewal refers, for those who began the activity less than 12 months ago.

### Maximum limits for the reduction of the normal working period

Amendments have been made regarding the maximum limits for the reduction of the normal working period (NWP), which is now permitted as follows:

<b>Break in billing</b>	<b>Maximum reduction of the NWP</b>
Equal to or greater than 25%	33% in the months of October, November and December of 2020
Equal to or greater than 40%	50% in the months of August and September of 2020
	40% in the months of October, November and December of 2020
Equal to or greater than 60%	70% in the months of August and September of 2020
	60% in the months of October, November and December of 2020
Equal to or greater than 75%	100% in the months of October, November and December of 2020

## **Retribution and compensation**

The Diploma introduces two innovations regarding situations in which the reduction of the NWP is greater than 60% (*i.e.* for employers with a break in billing equal to or greater than of 75%):

- a) the amount of compensation is increased as strictly necessary to ensure that the employee receives 88% of his gross normal retribution, up to a limit of three times the value of the minimum guaranteed monthly retribution (*i.e.* €1,905); and
- b) the compensation due to employees (*i.e.* related to the reduction of the NWP) is 100% supported by social security<sup>1</sup>.

## **Cumulation of supports**

The supports remain cumulative with the training plans, and it is now expected that they are approved by one of the following entities:

- a) Instituto do Emprego e Formação Profissional, I. P. (IEFP, I. P.); ou
- b) Programa Operacional Competitividade e Internacionalização (POCI).

## **Training plan**

Regarding this matter, we highlight the following amendments:

- a) increase of the scholarship value attributed to the employer (30% of the IAS, *i.e.* €131.64) and the employee (40% of the IAS, *i.e.* €175.52);
- b) widening of the range of training entities to include the following:
  - the employment and vocational training centres of the IEFP network, including, in particular, the direct management centres and protocol centres;
  - within the scope of cooperation with external training entities, and provided that they are included in the scholarship created by the IEFP, for this purpose, training entities certified by the General Management for Employment and Labour Relations (DGERT), or entities that, due to their legal nature and scope of operation, do not need to apply for certification as a training entity, if they include the development of training activities in their diplomas of creation or operating authorization;
  - in the same scope, the social partners on the board of the standing conciliation committee or their associated sectorial or regional organizations, as long as they are training entities certified by the DGERT and as long as the proper cooperation agreement has been concluded with the IEFP.

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<sup>1</sup> While in other situations the support corresponding to 70% of the compensation is maintained.

A training plan approved within the scope of the support granted by POCI may also be developed, in articulation with the foreseen supports, under conditions yet to be defined in a notice to be published in the Balcão 2020.

## **Access Regime**

In order to access the extraordinary support for the progressive resumption of activity with temporary reduction of the NWP, the employer must submit an electronic application, in a specific form to be made available by the social security, until the end of the month following the month to which the initial request for support or renewal refers.

The amendments introduced by this diploma come into force on the 20<sup>th</sup> of October 2020.

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A **PARES | Advogados** is available to provide information on the consequences for companies and workers of the exceptional and temporary measures adopted to mitigate the effects of Covid 19, in a more specific and appropriate way for the reality of each client, being capable of providing all the necessary support in these areas.

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