

SPECIAL NEWSLETTER PROVISIONAL MEASURE REG. LABOR SCOPE

S U M M A R Y

Provisional Measure 927/2020

It includes some guidelines for Companies, regarding the contractual relationship with their employees and suspension of FGTS (Unemployment Social Funds) payment.

Work in the Home Office format

- The Company may immediately turn the employee to work in a "home office" format, with no need to change the contract beforehand. For this, the company shall:
 - a) Notify the employee 48 hours in advance, in writing or electronically;
 - b) Formalize in a contract, within 30 days, with clarification as to the responsibility for the acquisition, maintenance or supply of the necessary technological equipment and infrastructure. Possible reimbursement of expenses borne by the employee shall be provided for in the contract;
 - c) If the employee does not have equipment for teleworking, the employer may supply the equipment in a lending and pay for infrastructure services (does not characterize salary).

Vacations concession

- Vacations may be anticipated (with notice 48 hours before);
- Vacations may be granted even if the period under closed law has not ended;
- The additional 1/3 may be paid in December;
- Payment for vacations may occur until the 5th business day of the following month.

Concerning collective vacations concession

- Collective vacations may be brought forward with 48h advance notice;
- Communication to the Ministry of Economy and trade unions is waived.

Early break due to Holidays due in 2020

- Companies may anticipate the enjoyment of federal, state, district and municipal non-religious holidays;
- The company shall notify the employees 48 hours in advance, in writing or electronically, indicating the holidays being anticipated.

Adoption of the "Bank of Hours" system

- Companies may agree with employees to set up a bank of hours by means of an individual agreement, observing the following:
 - a) The Agreement shall be formalized in advance, individually, with respective due criteria;
 - b) Compensation for hours related to unworked days may be worked within a maximum period of up to 18 months, complying with the legal guidelines regarding daily working hours.

Suspension of payment of the Unemployment Social Funds - FGTS

- The company may suspend the payment of FGTS 8% on payroll for the months of March, April and May / 2020, whose payments would be in April, May and June / 2020, respectively;
- Said suspended payments may be paid in up to 6 (six) installments starting on July 7, 2020 and ending on December 7, 2020, without any additional charge.

Provisional Measure 932/2020

This provisional measure refers exclusively to the reduction of the payment rate of charges on the payroll for the months of April, May and June, regarding the institutions referred to as "Third Parties".

- Companies will have a reduction in the payment of charges on payroll, according to their segment.
Companies in the trade and services segment
SESC reduces from 1,5% to 0,75%
SENAC reduces from 1,0% to 0,50%

- Industry segment companies
SESI increases from 1,50% to 0,75%
SENAI increases from 1,00% to 0,50%

Provisional Measure 936/2020

This Provisional Measure deals with the creation of the Emergency Employment and Income Preservation Benefit, which will subsidize salaries in accordance with the Company's decision-making, as a result of what it defines.

I - Reduction of Working Hours and Wages

The Company may reduce the working hours and the respective salary:

- up to 25%; 50% or 70%;
- The maximum period can be up to 90 (ninety) days;
- The calculation base salary shall remain the same;
- It may be done through an Individual Agreement (formalized), respecting at least 02 (two) consecutive days in advance;
- The restoration of the original situation shall be within 02 (two) consecutive days, counted from:
 - The cessation of public calamity by the authorities;
 - The date established in the Agreement; or
 - From the date that the Company anticipates the change to that established in the Agreement.
- The 25% reduction may be made with all employees, through an Individual Agreement;
- For employees in the salary range from R\$ 3.135,00 to R\$ 12.202,00, the reduction of 50% or 70% may be effected only by means of a Collective Agreement, with the intervention of the labor union;
- For employees with a salary range above R\$ 12.202,00, an Individual Agreement may be made on any of the reduction percentages.

II - Suspension of the Employment Contract

The Company may suspend the employment contract with the Employee in view of the following guidelines and criteria:

- For a period of up to 60 (sixty) days, which can be divided into 2 (two) periods (30 + 30);
- An Individual Agreement (formalized) shall take place, respecting at least 02 (two) calendar days in advance;
- During the suspension period, the Employee will be entitled to all benefits granted while in activity;
- The employee may collect his INSS (social security charge) as Optional, through a specific guide;
- The restoration of the original situation shall be within 02 (two) consecutive days, counted from:
 - The cessation of public calamity by the authorities;
 - The date established in the Agreement; or
 - From the date that the Company anticipates the change to that established in the Agreement.
- With the suspension, the Company cannot keep the employee in part-time work, even if in "home office" systematic;
- For the Company whose Gross Revenue for the calendar year 2019 was greater than R\$ 4.800.000,00, the government will pay the equivalent to 70% of the unemployment insurance range and the Company will pay 30% of the employee's salary.
- With regard to the Agreement for suspension of the contract, the Company may sign individually with employees whose salaries comprise up to 03 minimum wages, that is, a limit range of R\$ 3.135,00, or a salary above R\$ 12.202,00. For employees inserted between these ranges, only Collective Agreement may be signed, with the mandatory labor union intervention.

III - General issues

- From the date on which demand / salary reduction or contract suspension begins, the Company shall inform the Ministry of Economy within 10 (ten) days (after the effective date);
- The Company shall communicate to the labor union (of the employees) within 10 (ten) days after the beginning of the Agreement, even if individual;
- The amount of the benefit that will be paid by the Union (federal government) will apply the same calculation criteria as for calculating the Unemployment Insurance;
- The benefit will be paid within 30 (thirty) days after the beginning of the agreement;

- For the case of suspension of the employment contract, the basis will be as follows:
 - a) 100% of the base salary resulting from the unemployment insurance criterion, or;
 - b) 70% of the base salary resulting from the unemployment insurance criterion for a Company whose Gross Revenue in 2019 was greater than R\$ 4.800.000,00; however, in this case, the Company will pay 30%. The current limit value for unemployment insurance is R\$ 1.813,03.
- In the period of the reduction or suspension, as well as in a period of days equal to that of the Agreement after termination, the Company will not be able to dismiss the employee, under penalty of fines.

Ordinance No. 139/2020

This Ordinance of the Ministry of Economy extends the payment of one of the social security parties on the payroll - extends the payment of the percentage of 20% exclusively on the payroll of employees for Social Security.

Therefore, for the payrolls of March and April, the payment shall be made at the maturity date of July and September / 2020, respectively. That is, in this case, the 20% to the INSS of the March payroll shall be paid until 20/08/2020 and those of the April payroll must be paid until 20/10/2020.

The said Ordinance did not exempt or extend the payment, which in this case are still in force, with respect to the 20% on the remuneration paid to the individual taxpayer (director and / or self-employed), nor to the retentions of the insured employees and individual taxpayers, of the rates of the Work Accident Risk - RAT, which vary from 1,00% to 3,00% as well as the payment to Third Parties (eg SESC, SENAC, SESI, SENAI), whose rates vary between 3,30% to 5,80% on the payroll.

In practical terms, it is recommended to wait for instructions regarding the preparation of the GFIP and / or Dctfweb declaration, on how to fill in these accrual basis with the extended payment.

Any questions or clarifications please contact us.

Regards,

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