

SIMPLIFIED LAY-OFF REGIME

EXTRAORDINARY SUPPORT MEASURES FOR
THE MAINTENANCE OF EMPLOYMENT
CONTRACTS IN COMPANIES IN A SITUATION
OF BUSINESS CRISIS

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SIMPLIFIED LAY-OFF

WHAT IS THE SIMPLIFIED LAY-OFF REGIME

'Simplified lay-off' process consists on an extraordinary support measure issued by Portuguese Government for protecting both employees and companies facing a business crisis caused by coronavirus pandemic, towards the **maintenance of employment contracts**, when i) a temporary reduction of the regular working periods or ii) the suspension of employment contracts is determined.



ELIGIBLE COMPANIES

Situation of business crisis

Companies from private and social sector are deemed eligible for this extraordinary measures if in a situation of business crisis, considered as:

1. The total or partial closure of the company or establishment, resulting from the **duty of closure due to the state of emergency** decreed, or by legislative or administrative determination;
2. The total or partial stop of the activity of the company or establishment resulting from the interruption of global supply chains;
3. The suspension or cancellation of documented orders, foreseeing a reduction of more than 40% of production or occupancy capacity in the month following the request for support; and
4. The abrupt and accentuated break in at least 40% of the billing in the period of 30 (thirty) days prior to the request in Social Security, with reference to:
 - the monthly average of the two months preceding that period,
 - the same period of the previous year, or
 - for those who started the activity less than 12 months ago, the average billing of that period.

Requesting companies shall not hold any outstanding debts before Social Security and Tax Authority. Though, for requests filed until April 30, outstanding contributions or tax debts regarding the month of March will not be considered.

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EMPLOYEES

Employees under this extraordinary measure will see their employment relationship affected in one of the following ways: suspension of employment contracts or reduction of normal working periods.

Suspension of employment contracts

Employees whose contracts are suspended, by determination of the company in a situation of business crisis, are entitled to receive:

- a **retributive compensation equal to two thirds of the normal illiquid salary**, with a guarantee of a minimum value equal to the minimum monthly guaranteed remuneration ('RMMG', currently set at €635.00) and a maximum value equal to three times the RMMG (€1,905.00)

Example 1: If the employee receives a regular gross salary of €1,200.00, he is entitled to receive 2/3 of that salary €800.00 ((€1,200.00 : 3) X 2) in the situation of suspension contract within layoff regime.

Example 2: If the employee receives a regular gross salary of €700.00, he is entitled to receive 2/3 of that salary €466.67 ((€700.00 : 3) X 2) in the situation of suspension of contract within layoff regime, plus compensation of €168.33.

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EMPLOYEES

“Reduction of normal working periods”

Employees who see their normal working periods reduced by determination of the company in a situation of business crisis, are entitled to receive:

- the **respective salary, calculated in proportion to the new working hours**, with a guarantee of a minimum value equal to 2/3 of their illiquid normal remuneration or the value of the RMMG corresponding to their normal working time, whichever is higher, with a maximum value equal to three times the RMMG (€1,905.00).

Example 1: If 2/3 of an employee's normal gross salary corresponds to €800.00 ((€1,200.00 : 3) x 2), being the salary corresponding to the reduced working periods €600.00, the employee will be entitled to a compensation of € 200.00.

Example 2: If 2/3 of an employee's normal gross salary corresponds to €466.67 ((€700.00 : 3) x 2), being the salary corresponding to the reduced working periods €350.00, the employee will be entitled to a compensation of €116.67.

“Prohibition of dismissal”

During the period of reduction or suspension, as well as within 60 (sixty) days following its application, the **Employer may not terminate any employment contracts** by means of collective dismissal or termination of the job post.

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SUPPORT MEASURE


FINANCIAL SUPPORT

Extraordinary financial support towards the maintenance of employment contracts (per employee, assigned directly to the company), with or without training, in case of temporary reduction of the normal working periods or suspension of the employment contract.

Social Security supports 70% of the retributive compensation due to the employee.

Until June 30, 2020, the remuneration will be paid by reference to the normal gross remuneration for the work performed in the company, being the Social Security subsequently responsible to make any necessary adjustments, with eventual refund of the amounts unduly received.

Note: In case the employee performs work in other company, he must inform the employer, within 5 (five) days from the beginning of the activity, for the purpose of any reduction in compensation, under penalty of losing the right to compensation, as well as duty to refund the amounts received for this purpose. The omission may constitute a disciplinary violation. In this sense, the employer must communicate to Social Security Institute, I. P. (ISS, I. P.), the aforementioned situation within 2 (two) days from the date on which it became aware of it.



*The extraordinary support measure is effective for a period of **1 (one) month**, being, exceptionally, extendable monthly, up to a **maximum of 3 (three) months**.*

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SIMULATION:

SUSPENSION OF EMPLOYMENT CONTRACTS

Example 1:

- Normal retribution: 1,200.00 €
- Retribution under lay-off regime: 800.00 €
 - . Social Security financial support (70%): 560.00€
 - . Employer cost (30%): 240.00€

Example 2:

- Normal retribution: 700.00 €
- Retribution under lay-off regime: 635.00 €
 - . Social Security financial support (70%): 444.50€
 - . Employer cost (30%): 190.50€

REDUCTION OF WORKING PERIODS

Example 1:

- Normal retribution: 1,200.00 €
- Retribution under lay-off regime (50% working hours): 800.00 €
 - . Retribution due by the Employer corresponding to new working periods: 600.00€
 - . Retributive compensation: 200.00€
 - Social Security financial support (70%): 140.00€
 - Employer cost (30%): 60.00€

Example 2:

- Normal retribution: 700.00 €
- Retribution under lay-off regime (50% working hours): 635.00 €
 - . Retribution due by the Employer corresponding to new working periods: 350.00€
 - . Retributive compensation: 285.00€
 - Social Security financial support (70%): 199.50€
 - Employer cost (30%): 85.50€

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PROCEDURE

- When constituted, union delegates and employees' commissions must be consulted prior to the simplified lay-off process.
- After hearing the entities mentioned above, the Employer must send a **written communication to the affected employees** informing of the decision to request the extraordinary support measure, the suspension of the contract or the reduction of normal working periods to be implemented, and indicating the expected duration of the measure.

ONLINE APPLICATION

Finally, companies must complete form Mod. RC3056-DGSS and submit to **Social Security online platform** (*Segurança Social Direta*), attaching the following documents:

- Employer's declaration containing a summary description of the business crisis situation;
- Certificate of the certified accountant of the company attesting, as the case may be: (i) the total or partial stop of the activity of the company or establishment, (ii) suspension or cancellation of orders; or (iii) the drop of at least 40 % of the billing;
- Certificate of no tax debts issued by Portuguese Tax Authority;
- Certificate of no contribution debts issued by Portuguese Social Security;
- List of the employees covered by the measure providing name and social security numbers

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TEMPORARY EXEMPTION FROM THE PAYMENT OF SOCIAL SECURITY CONTRIBUTIONS

Companies covered by this measure may also benefit from a temporary exemption from the payment of Social Security contributions, borne by the employer, regarding the **affected employees and members of the statutory bodies**, throughout the duration period.

Employers shall deliver the autonomous declarations relating to the concerned employees and pay their respective contributions ("quotizações").

The exemption from the payment of contributions for the employees concerned is recognized of **its own motion by Social Security services** (without the need for an application).

EXTRAORDINARY FINANCIAL INCENTIVE TO SUPPORT THE NORMALIZATION OF THE COMPANY'S ACTIVITY

Companies covered by this measure may benefit from an additional financial incentive to support the resumption of the company's activity, to be granted by the IEFP, I.P., paid at once and with **the value of one RMMG (€635.00) per employee**, upon presentation of application for that purpose.

IEFP, I.P. TRAINING GRANT

This measure can be combined with a **training grant corresponding to 30% of the IAS** (30% of € 438.81, 50% for the employee and 50% for the employer), to be awarded when an employee covered by this measure attends **courses of professional training** suitable for the development of professional qualification that increases their employability or the viability of the company and for the maintenance of jobs, through a training plan approved by IEFP, I.P..

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INSPECTION

Companies covered by this measure can, at any time, be inspected by the competent authorities, being notified to file **evidence on the facts on which the application and its respective renewals are based**. In this regard, the following documents may be required:

- **Accounting balance sheet** referring to the month of support as well as the homologous or previous months, when applicable;
- **VAT declaration** referent to the month of support as well as the two immediately preceding months, or the declaration regarding 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, evidencing the intermittency or interruption of supply chains or the suspension or cancellation of orders;
- In the event of **suspension or cancellation of orders**, documents proving such cancellation of orders or reservations, and a 40% reduction of company's production or occupancy capacity in the month following the request for support.

NON COMPLIANCE

Non-compliance by the Employer with the obligations arising from the indicated support measures implies the **immediate termination of the regime and the refund or payment**, as the case may be, in whole or proportional, of the amounts already received or exempted, in particular when any of the following occurs:

- Unauthorized dismissal;
- Non-punctual fulfilment of the retributive obligations owed to employees;
- Non-compliance by the employer with its legal, tax or contributory obligations;
- Distribution of profits during the execution of the support measure, in any form, in particular as an account withdrawal;
- Non-compliance, attributable to the employer, with the obligations assumed within the time limits set;
- Provision of false statements.

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