



NEW AMENDMENTS TO THE PORTUGUESE LABOUR CODE

[Law no. 13/2023](#), of 3 April, which changes the Portuguese Labour Code and related legislation, was published in the Portuguese Official Journal, **introducing a new set of legislative measures for decent work**. These amendments welcome European directives, as well as the so-called Portuguese “**Agenda for Decent Work and the Valuing of Young People in the Labour Market**”.

See below the main legislation changes that take effect on **1 May 2023**.

1. NEW EMPLOYMENT CONTRACTS

- > The **employer** must **notify the admission of new workers to Social Security**, within **15 days before the beginning** of the production of effects of the contract.
- > **Failure to comply** may result in the application of **administrative sanctions** and, **if there is a delay higher than 6 months**, it becomes a **crime** punishable with **prison up to 3 years**.
- > The **most important information** about the employment contract, such as the professional category, functions performed, beginning date of the activity, remuneration, regular working hours, length and conditions of the experimental period, term or the foreseeable contract duration, among others, **must be communicated to the worker, in paper or electronically, within 7 days, after the beginning of the contract execution**, contrary to the period of 60 days previously foreseen in the law.
- > **It is therefore advisable to review new employment contracts to include clauses to comply with these new information obligations.**
- > As a mean to fight job insecurity, any **employer** that is a **repeat offender** in disguising employment contracts as another type of contract, including the provision of services, will be deprived of **participating in bids or public tenders** for a period of **up to 2 years**.

2. SITUATIONS EQUIVALENT TO EMPLOYMENT RELATIONS

- > Legal rules regarding personal rights, equality and non-discrimination, safety and health at work, as well as the collective labour agreements in force within the same activity, professional and geographical sectors, are now applicable to situations in which work is performed by one person to another, without legal subordination, where the work provider must be considered to be **economically dependent on the beneficiary** of the activity.
- > **Economic dependence** is considered to exist whenever the work provider individual provides the beneficiary, directly and without the intervention of third parties, with more than 50% of the total value of its activity, within the same civil year.

3. DISCRIMINATION

- > Remuneration discrimination regarding the attribution of attendance and productivity bonuses, as well as unfavourable terms of assessment and career progression, **are now considered discriminatory practices** whenever related to the use of parental rights, rights to conciliate professional activity with family and personal life, and rights provided for caregiver informal workers.

4. LICENSES AND ABSENCES FROM WORK

- > In general, the mother and father are entitled, on the birth of a child, to an initial parental leave of 120 or 150 consecutive days, that they may share after childbirth.
- > To promote equality in the labour market between women and men, **the father compulsory parental leave is increased to 28 days**, followed or interspersed, within the 42 days following the birth of the child. The first 7 days should be taken consecutively immediately after birth.
- > **The mother compulsory parental leave** corresponds to 42 consecutive days after childbirth.
- > From the 120 consecutive days, the parental licenses could be cumulated with **part-time work**, therefore increasing the total duration of both leaves.
- > **Gestational grief** becomes a justifying cause of work absences **up to 3 days**.
- > In case of **death of a spouse, a child or stepson, as well as a person in a partnership union or common economy, the worker could be absent from work up to 20 consecutive days** [Rectification Declaration No. 13/2023]. For other certain relatives, up to 5 consecutive days.

5. EXPERIMENTAL PERIOD

- > Changes are made to the experimental period applicable to the most vulnerable workers:
 - i) The **experimental period of workers seeking their first job and long-term unemployed is changed in contracts of unfixed term**: the experimental period of 180 days is reduced or excluded according to whether the duration of a previous term work contract, concluded with a different employer, was equal to or higher than 90 days.
 - ii) The **experimental period is also reduced or excluded** [*Rectification Declaration No. 13/2023*] **if the worker has previously performed a professional internship contract, in the same activity and with a positive evaluation, if concluded with a different employer**, with a duration equal to or higher than 90 days, in the last 12 months.
- > The **termination period** has also changed in contracts whenever the experimental period has been running for more than 120 days: the **prior warning termination period is now of 30 days**.
- > It is expressly established the **unlawfulness of termination** which constitutes an **abuse of rights**.
- > Another equally relevant amendment concerns the new obligation for the employer to expressly **disclose the conditions** of the experimental period to the employee. In the absence of this communication, **it is presumed that they both have agreed to the exclusion of the experimental period**.
- > The employer has a new obligation: it must notify the public service with inspection powers of the Ministry responsible for the labour area, the termination of the contract during the trial period regarding workers that were hired as workers looking for a first job and long-term unemployed, within 15 days after the termination of the employment contract.

6. EXERCISE OF OTHER PROFESSIONAL ACTIVITY

- > The employer is now **prohibited** from preventing the worker from exercising another professional activity, except based on objective grounds, namely safety and health or professional secrecy, or even treating the worker adversely because of such exercise.

7. REMOTE WORKING

- > The **remote working regime is extended to parents with children with disabilities, chronic or oncological diseases**, regardless of their age, whenever this is compatible with the activity performed and the employer has the resources and means to do so.

- > Under the rules applicable to remote working, it is now expressly foreseen the obligation of the employment contract to determinate the **amount of compensation due to the worker for the additional expenses**.
- > In the absence of agreement between the parties on a fixed amount, the additional expenses are those corresponding to the acquisition of goods and/or services that the worker did not have before the conclusion of the agreement, as well as those determined by comparison with the employee expenses occurred in the last month of onsite work.
- > The Government will publish an Ordinance with the limit value up to which the amount of compensation fixed will be considered an **employer cost** and does not constitute worker's income.

8. SUPPLEMENTARY WORK

- > The employee remuneration for supplementary work is now subject to the following rules.
- > The additional work **up to 100 hours per year** is paid by the value of the hourly remuneration with the following additions:
 - i) 25% for the first hour or fraction, and 37.5% for the hour or subsequent fraction, on a working day.
 - ii) 50% for each hour or fraction, on a weekly, mandatory, or complementary day of rest, or on a public holidays.
- > The supplementary work **from 100 hours per year** is paid by the value of the hourly remuneration with the following additions:
 - i) 50% for the first hour or fraction, and 75% in the subsequent time, on working days.
 - ii) 100% on rest days or public holidays.

9. TEMPORARY WORK

- > A new maximum on renewals of fixed-term temporary employment contracts is introduced: they **can be renewed up to a maximum of four times**.
- > The **duration of successive contracts** in different users, concluded with the same employer, or another company in a domain or group relationship, or with common organizational structures, **must not exceed 4 years**.

10. PROFESSIONAL INTERNSHIPS

Law no. 66/2011, of 1 June, which establishes the rules applicable to professional internships, is amended.

- > During the professional internship, trainee is now entitled to receive a monthly payment of at least **80% of the Monthly Minimum Guaranteed Remuneration**.
- > The employer must procure **occupational accident insurance** for trainees (and no longer personal accident insurance).

11. DIGITAL PLATFORMS

- > For digital platforms employees, **the existence of an employment contract between the activity provider and the digital platform is presumed**, provided that certain characteristics are verified, such as a remuneration.
- > If there is an employment contract, labour legislation that is compatible is applicable, namely on minimum remuneration, vacation, and regular working period.

12. INFORMAL CAREGIVERS

- > Informal caregivers now have annual leave of **5 consecutive working days**, adding the **right to 15 days of justified absences**.
- > They can also benefit now from **teleworking, flexible working hours, part-time and exemption from supplementary work**.

13. SICK LEAVE

- > To prove the absence due to illness, workers may request the issuance of a **declaration, under a commitment of honour**, through the digital service of the National Health System (SNS), for a **maximum periods of 3 days**, up to 2 times a year, without the obligation of prior medical consultation in a health unit.

14. TERMINATION OF TERM EMPLOYMENT CONTRACTS

- > The termination of a term employment contract, for reasons not attributable to the worker, **prevents a new admission or assignment of a worker through a term employment contract or tem-**

porary work, or a contract for the provision of services, for the same job or professional activity, before a period equivalent to one third of the total duration of the contract has elapsed.

15. OUTSOURCING

- > It is now **forbidden to use outsourcing services** to fulfil needs that have been ensured by a worker whose contract has ended in the previous 12 months due to collective dismissal or job extinction.
- > In case of acquisition of external services of a third party for the performance of activities corresponding to the corporate purpose of the acquiring company, the collective labour regulation instrument that binds the beneficiary of the activity is applicable to the service provider, if more favourable.
- > However, it will only be applicable after 60 days of provision of activity for the benefit of the acquiring company, and, before that, the service provider is entitled to the minimum remuneration provided for in a collective labour regulation instrument that binds the beneficiary of the activity that corresponds to its functions, or that is practiced by it for equal work or of equal value, whichever is more favourable.

16. STATUTORY COMPENSATION FOR TERMINATION OF CONTRACT

- > As for the compensation **for termination of the employment contract**, in collective dismissal and job extinction, there is an increase from 12 to **14 days of standard remuneration and seniority payments** for each full year of seniority.
- > This increase is only applicable to the duration of the contractual relationship from 1 May 2023.
- > The **compensation for the termination of fixed-term or uncertain term employment contracts increases to 24 days per year of seniority**.

17. LABOUR CREDITS

- > The employee **credits** can only **be extinguished by abdicative remission through a judicial agreement between** the parties.
- > Thus, **it is no longer legally possible for workers to out-of-court waive labour credits** owed to them.

18. SUSPENSION OF CONTRIBUTIONS TO FCT AND FGCT

- > The employers contributions to the **Work Compensation Fund (FCT)**, which are equivalent to 0.925% of the basic retribution and seniority payments due to each worker covered, are suspended until the entry into force of future legislative amendments to its legal regime.
- > Also, the contributions of employers to the **Work Compensation Guarantee Fund (FGCT)**, which corresponds to 0.075% of the basic retribution and seniority payments due to each worker covered, are suspended, during effectiveness of the Medium Term Agreement for the Improvement of Incomes, Wages and Competitiveness (that is, predictably, until 2026).

19. PRODUCTION OF EFFECTS

- > Changes to the Labour Code and legislation are applicable to employment contracts concluded before the entry into force of the present law, except for conditions of validity and the effects of facts or situations prior to that moment.
- > However, changes do not apply to term employment contracts concluded before 1 May 2023, regarding to their admissibility, renewal, and duration, and to the renewal of temporary employment contracts ●

Article written in accordance with legislation published on 3 April 2023 and Rectification Declaration No. 13/2023, of 29 May.

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