

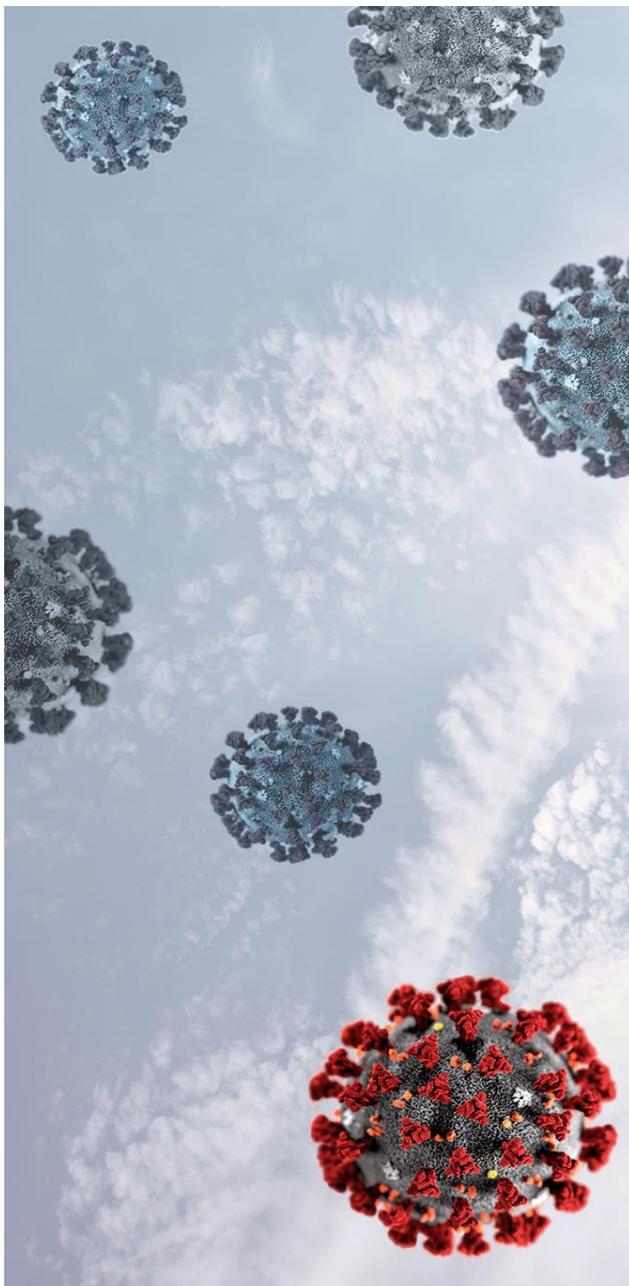
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# COVID-19: New rules in employment area

Newsletter | Portugal

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**New standards for employees, self-employed workers and members of statutory bodies:**

- › Decree 2 B-/2020, of April 2
- › Decree Law 12-A/2020, of April 6



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### I. Measures included in Decree 2-B/2020, of April 2

#### Dismissals suspension by ACT's decision

Decree 2-B/2020, April 2, regulating the extension of the state of emergency, bolsters the resources and powers of the Working Conditions Authority (“ACT” - *Autoridade para as Condições do Trabalho*).

Specifically, when the ACT finds evidence of wrongful dismissal, regardless of whether it is a collective dismissal, due to job redundancy or for justified reasons, the ACT must give the company notice to redress the situation. This notice suspends the dismissal until the situation is redressed or until a final court decision is issued, meaning that all the parties' rights and duties remain intact, including the right to remuneration and contribution obligations.

#### Exceptional suspension of termination of employment and service contracts in the National Health Service (“SNS” - *Serviço Nacional de Saúde*)

While the state of emergency continues, the option to terminate employment contracts of health professionals assigned to National Health Service facilities and centers, regardless of the nature of their employment ties, is temporarily and exceptionally suspended, whether initiated by the company or by the worker, except in special situations supported and authorized by the governing body.

This suspension includes the termination of individual employment contracts by revocation or unilateral termination (*denúncia*), as well as the termination of employment contracts for individuals carrying out public functions (*contratos de trabalho em funções públicas*) by mutual agreement, unilateral termination or resignation (*exoneração*), at the worker's request.

Fixed-term contracts expiring during the state of emergency period will be considered automatically and exceptionally extended to the end of this period and any further extensions to it.

Likewise, the option to terminate contracts under which health services are provided is suspended, whether at the request of the services and centers integrated into the SNS, or at the request of the service provider, except in exceptional situations substantiated and authorized by the governing body.



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## II. Measures included in Decree Law 12-A/2020, of April 6

Decree Law 12-A/2020 of April 6, amending Decree Law 10-A/2020 of March 13, establishes new exceptional and temporary measures regarding the COVID-19 epidemic.

### Staff vacations

Approval and publication of staff vacation calendars, which, under labor law, must be published by April 15, may now be postponed until 10 days after the end of the state of emergency.

### Care for children or dependents due to suspension of school activities

The legal rules for absences from work to care for children or dependents under the age of 12, with a disability or chronic illnesses, beyond the periods of scholar interruptions, is extended to the closure established by each school, to be decided based on flexible and independent curriculum-based criteria.

Domestic workers will be covered by the extraordinary aid granted in case of care for children or dependents during the suspension of school activities. The allowance covers two-thirds of the remuneration recorded in January 2020, with a minimum and maximum, respectively, of one and three times the minimum guaranteed monthly wage (EUR 635 and EUR 1,905 respectively).

The decree law also clarifies that extraordinary aid for suspension of school activities may not be added to the benefits for temporary suspension of employment (simplified lay-off).

### Extraordinary aid to self-employed workers for reduced economic activity

Decree Law 12-A/2020 expands the scope of the extraordinary aid for reduced economic activity of self-employed workers. It includes (non-pensioner) self-employed workers that have met their contribution obligations for at least three consecutive months or six interrupted months in the last 12 months. The previous wording had established three consecutive months but did not provide for interrupted months.

The option to receive aid is also extended to workers who record a sharp and noticeable drop of at least 40% in their invoicing during the 30-day period before filing the social security application. This decrease will be evaluated based on the monthly average of the two months before that period, or the average for the same period in the previous year. For workers who started their activity less than 12 months before, the decreased invoicing value will be based on the average of their current activity period.



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Under the decree law's previous wording, only self-employed workers who could prove that their activity (or the activity in their sector) had stopped completely due to the COVID-19 pandemic were eligible for this aid.

This financial aid is granted for one month, renewable monthly for up to six months, for the following amounts:

- a) Remuneration recorded as the contribution base, within the maximum threshold of the social support reference index ("IAS" - *Indexante dos Apoios Sociais*), i.e., EUR 438.81, where the amount of the remuneration registered as a contribution base is less than 1.5 IAS.
- b) Two-thirds of the amount of remuneration recorded as the contribution base, within the maximum threshold of the national minimum wage ("RMMG" - *Retribuição mínima mensal garantida*), i.e., EUR 635, where the amount of remuneration registered as the contribution base is at least 1.5 IAS.

The same aid is granted to **managing partners of companies, members of statutory bodies of foundations, associations or cooperatives** with functions equivalent to managing partners, without employees, who contribute exclusively to the social security in that capacity and who in the previous year reported an invoicing value through the *e-fatura* system of less than EUR 60,000.

This aid will not exempt the beneficiaries from paying their social security contributions.



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## Contactos

Cuatrecasas, Gonçalves Pereira & Associados,  
Sociedade de Advogados, SP, RL  
Sociedade profissional de responsabilidade limitada (*Sociedade profissional de responsabilidade limitada*)

### Lisbon

Praça Marquês de Pombal, 2 (y 1-8.º) | 1250-160 Lisbon | Portugal  
Tel. (351) 21 355 3800 | Fax (351) 21 353 2362  
cuatrecasasportugal@cuatrecasas.com | www.cuatrecasas.com

### Oporto

Avenida da Boavista, 3265 - 5.1 | 4100-137 Oporto | Portugal  
Tel. (351) 22 616 6920 | Fax (351) 22 616 6949  
cuatrecasasporto@cuatrecasas.com | www.cuatrecasas.com

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Cuatrecasas has set up a Coronavirus Task Force, a multidisciplinary team that constantly analyses the situation emerging from the COVID-19 pandemic. For additional information, please contact our taskforce by email [TFcoronavirusPT@cuatrecasas.com](mailto:TFcoronavirusPT@cuatrecasas.com) or through your usual contact at Cuatrecasas. You can read our publications or attend our webinars on our [website](#).

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