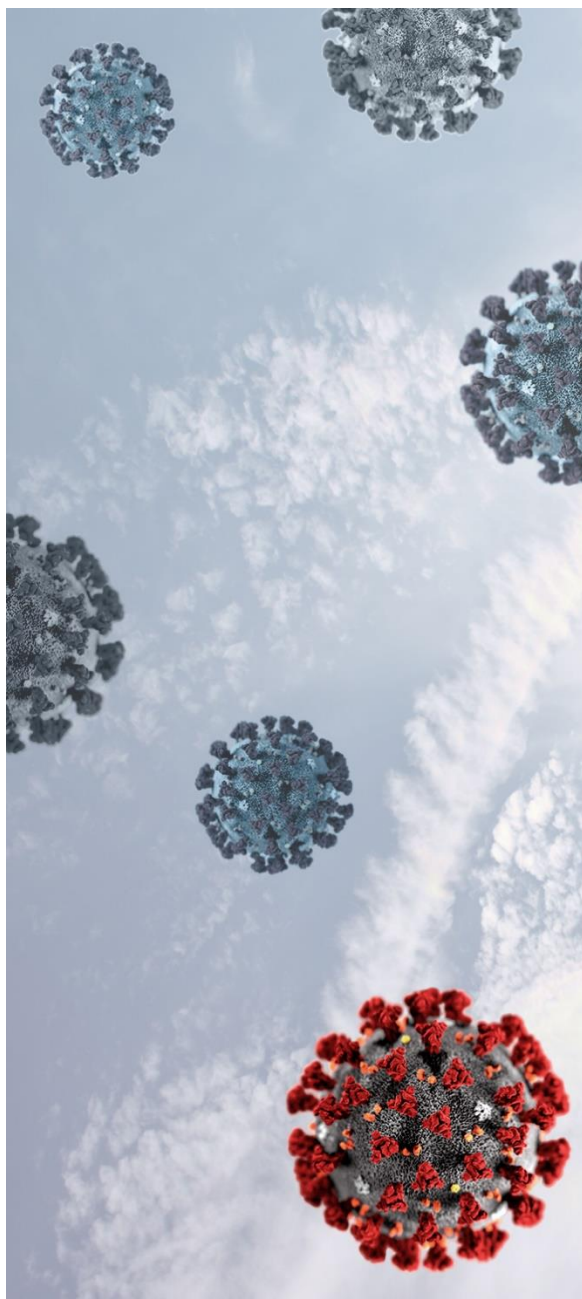

COVID-19: Employment protection measures of the Plan for Economic and Social Stabilization

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- Decree-Law 27-B/2020 of June 19, extending the simplified layoff system and establishing other measures to protect employment as part of the Plan for Economic and Social Stabilization



Decree Law 27-B/2020 extending the simplified layoff system and establishing other measures to protect employment as part of the Plan for Economic and Social Stabilization

The COVID-19 pandemic, in addition to being a serious public health emergency, has had vast political, social, and economic consequences, leading to the implementation of temporary and exceptional restrictive measures.

Once the critical stage of the health care emergency was thought to be over, the Portuguese government introduced a series of measures to support families and enterprises and promote a sustained return to economic activity with the approval of the Plan for Economic and Social Stabilization included in Resolution of the Council of Ministers 41/2020 of June 6.

The Plan for Economic and Social Stabilization prescribes the reassessment of the measures to support maintaining employment that were approved during the state of emergency, and it introduces new measures to protect employment. They are now materialized through Decree-Law 27-B/2020 of June 19.

Decree-Law 27-B/2020 extends the extraordinary support for maintaining employment contracts in a business crisis (the simplified layoff) and their respective transitional system, thus amending Decree-Law 10-G/2020 of March 26 for the second time.

In addition, it establishes two new measures to protect employment as part of the Plan for Economic and Social Stabilization:

- a **stabilization supplement for workers** with a base remuneration equal to or lower than twice the guaranteed minimum monthly remuneration¹; and
- an **extraordinary incentive to normalize business activity**.

The Plan for Economic and Social Stabilization also includes a mechanism to support the gradual return of business, in force from August, which will be established in a separate regulation, i.e., it is not included in Decree-Law 27-B/2020.

The new developments included in this Decree-Law are below.

¹ The value of the Guarantee Minimum Monthly Remuneration in 2020 is €635.



I. Support for companies

I. Extension of the extraordinary support to maintain employment contracts - Simplified layoff

The main changes made to Decree Law 10-G/2020 of March 26 are the following:

- Private employers, including social sector entities, and their employees affected by the COVID-19 pandemic and in a business crisis, continue to be able to benefit from the simplified layoff system until **September 30, 2020**.
- However, **companies that have not made use of the extraordinary support to maintain employment contracts** can only submit their respective initial applications until June 30, 2020. In this case, they can extend the implementation of the measure on a monthly basis for up to three months.
- Although Decree-Law 10-G/2020 is in force until September 30, 2020, **companies and establishments that are subject to total or partial closure** under government legislative or administrative order **are eligible for or can exercise their right to extraordinary support to maintain employment contracts in a business crisis, and its respective extension, while the closure obligation remains in force**. In these cases, the three-month extension limit does not apply.
- **Companies that have made use of the extraordinary support to maintain employment contracts and have reached the three-month renewal limit by June 30, 2020** may benefit from the extension until **July 31, 2020**.
- Finally, in the scenarios above, companies are entitled to **total exemption from paying social security contributions** for the affected workers and the members of the statutory bodies during the term of the simplified layoff.

II. Extraordinary incentive to normalize business activity

Decree-Law 27-B/2020 also establishes an **extraordinary incentive to normalize business activity**, intended for employers who have benefited from extraordinary support to maintain employment contracts or the extraordinary training plan.

This incentive is granted in one of these two ways:

- A single guaranteed minimum monthly remuneration payment per worker included in the measures; or
- Two guaranteed minimum monthly remuneration payments per worker included in the measures, paid in installments over six months.



These amounts are established based on the following criteria:

- If the implementation period of the simplified layoff or the extraordinary training plan has been **longer than one month**, the amount is established based on the average number of workers included in the measures for every month of support;
- If the implementation period of the simplified layoff or the extraordinary training plan has been **shorter than one month**, the amount of the single guaranteed minimum monthly remuneration per worker is prorated; and
- If the implementation period of the simplified layoff or the extraordinary training plan has been **shorter than three months**, the amount of the two guaranteed minimum monthly remuneration payments per worker is also prorated.

Finally, it should be noted that this incentive is granted by the Institute for Employment and Professional Training based on information provided by the Social Security Institute.

Right to 50% waiver of social security contributions

An employer that opts for **payment of two guaranteed minimum monthly remunerations is entitled to a 50% waiver of payment of social security contributions** for the workers falling under the extraordinary support to maintain the employment contract or the extraordinary training plan.

However, when **the implementation period of the extraordinary support to maintain the employment contract has been longer than 30 days**, this partial waiver of social security contributions applies to the **workers benefiting from the last month of support** (if the last month of extraordinary support to maintain the employment contract is July 2020, the workers benefiting from this support in the immediately preceding month are included).

Finally, employers that opt for payment of two guaranteed minimum monthly remunerations per worker are partially exempt from payment of social security contributions in the following periods:

- **During the first month of support**, when the support is granted for a **period shorter than or equal to one month**;
- **During the first two months of support**, when the support is granted for a **period longer than one month and shorter than three months**; or
- **During the first three months of support**, for a period **equal to or longer than three months**.

Right to total exemption from payment of social security contributions

When there is **net employment creation** through indefinite contracts **within three months from the end of the support** given as **payment of two guaranteed minimum monthly remunerations per worker**, the employer will be entitled to **two months of full exemption from social security contributions**.



The decree establishes that net employment creation means employing a higher number of workers than the average in the same three months of the previous year. The employer will remain subject to the obligation of maintaining the employment level reached for 180 days.

The decree also establishes that both the partial and the total exemption from payment of social security contributions by the employer described above are officially recognized, specifically through the exchange of information between the Institute for Employment and Professional Training and the Social Security Institute.

Employer's obligations and limitations

Decree-Law 27-B/2020 also establishes certain obligations for employers to benefit from the extraordinary incentive to normalize business activity. Breaching them will result in the immediate end to the support and repayment of any amounts already received or exempted, as the case may be, to the Institute for Employment and Professional Training and the Social Security Institute.

- Employers cannot **terminate employment contracts** in a **collective redundancy, dismissal due to the termination of the position, dismissal due to inadequacy**, nor initiate any of these procedures.
- Employers that benefit from the **support provided as payment of two guaranteed minimum monthly remunerations per worker** must **maintain the employment level recorded in the last month** of extraordinary support to maintain the employment contract or the extraordinary training plan.
- Employer must fulfill these obligations **during the period of the extraordinary incentive to normalize business activity and for the following 60 days**.

Cumulative support

As regards cumulative support, we highlight the following:

- An employer cannot benefit simultaneously from the support established in Decree-Law 10-G/2020 (i.e., extraordinary support to maintain the employment contract, extraordinary training plan, extraordinary financial incentive to support the normalization of business activity, and exemption from payment of social security contributions) and from support for the gradual return of business established in the Plan for Economic and Social Stabilization.
- An employer taking advantage of the extraordinary support to maintain the employment contract can, at the end of this support, make use of the support for gradual return of business established in the Plan for Economic and Social Stabilization.
- Such employer can, at the end of the extraordinary support, apply the reduction or suspension measures established in article 298 ff of the Portuguese Labor Code (*Código do Trabalho*), free of the impediment established in section 298-A.



- An employer making use of the extraordinary incentive to normalize business activity is not eligible for the support for gradual return of business established in the Plan for Economic and Social Stabilization.

II. Support for workers

Stabilization supplement for workers

As part of the support to workers, Decree-Law 27-B/2020 establishes the right to a stabilization supplement, ranging between €100 and €351.

Only workers whose base remuneration in February 2020 was equal to or lower than twice the guaranteed minimum monthly remuneration (€1,270) and who, between April and June, were affected for at least one calendar month by the simplified layoff or by a temporary reduction of normal working hours or the suspension of their employment contract under the Labor Code are entitled to the stabilization supplement.

The stabilization supplement is the difference between the declared base remuneration for February 2020 and the full calendar month in which the worker was affected by one of the measures specified above, when the largest difference occurred.

Finally, this stabilization supplement is paid by the Social Security Institute in July 2020 and automatically and officially deferred.



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