



EIGHT CONSTITUTIONAL GOVERNMENT

Decree-Law N°16/2020 Of April 30

Employment support measures during the COVID-19 pandemic

The pandemic caused by COVID-19, in addition to public health issues, has had an incredibly significant impact on economies around the world, with unemployment being admittedly one of the most serious consequences.

In Timor-Leste, knowledge of the first case of the covid-19 virus infection generated widespread fear, with an immediate impact on labor relations, leading to the suspension or reduction of the activity of many companies and services, leaving many workers at risk of dismissal, given the inability of employers to maintain the payment of labor expenses (namely salaries, but also costs with social contributions), due to the high drop in revenues.

In these circumstances, unemployment is expected to increase substantially, with social and economic consequences for households and the national economy, in the face of reduced demand and difficulties in meeting basic needs.

This diploma, within the framework of the social security system, seeks to provide extraordinary and temporary support for private sector employers and workers, in order to respond to the reduction in workers' incomes and the financial difficulties of employers, seeking to ensure the maintenance of jobs.

Thus, the Government decrees, following paragraphs (b), j) and n) of Article 115(1) of the Constitution of the Republic, to be valid as law:

Section I

General provisions

Article 1

Object

The purpose of this legislation is to create and regulate temporary financial support for employers and workers who meet the eligibility conditions laid out in Article 4, as well as to workers referred to in Article 11.

Article 2

Scope

This diploma applies to the private sector, comprising employers, employees and, provided that persons are registered in the social security contribution scheme, those covered by n° 3 of Article 17 of Law No. 12/2016 of 14 November.

Section II

Support

Article 3

Support granted

The following support shall be granted to interested parties who comply with the conditions detailed in the following article:

- a) An extraordinary allowance in the event of suspension of the employment contract or reduction of working hours;
- b) Exemption from the duty to pay social security contributions;
- c) Extraordinary allowance in case of loss of income to persons covered by the provision of n° 3 of Article 17 of Law No. 12/2016 of 14 November.

Article 4

Eligibility conditions

1. The right to any of the support provided for in points (a) and (b) of the preceding article depends on the cumulative verification of the following conditions:
 - a) Suspension of the employment contract or reduction of the normal working time, pursuant to article 15(1) of Law No. 4/2012 of February 21 (Labor Law), with the modifications set out in the following paragraphs;
 - b) Suspension of employment contract or reduction of normal working time caused by the COVID-19 pandemic;

- c) Registration of the employer and the worker in the social security contribution scheme.
2. The suspension and reduction of normal working time shall be deemed to be caused by the COVID-19 pandemic in cases where workers concerned have been informed of it by the employer after 21 March 2020, or whenever was necessary to ensure compliance with any order issued by a public authority under Presidential Decree No. 29/2020 of March 27, which declared a state of emergency, or Government Decree No. 3/2020 of March 28, as amended by Government Decree No. 6/2020 of April 8.
 3. The suspension of the contract and the reduction of the normal working time caused by the COVID-19 epidemic shall be considered indispensable to ensure the viability of the company and the maintenance of employment contracts.
 4. For the purposes of this diploma, the suspension or reduction of the employment contract operates with the simple communication to the worker, which can be done by any means, and the employer is exempted from making the other communications provided for in n° 4 of Article 15 of Law No. 4/2012 of February 21 (Labor Law).
 5. The suspension of the employment contract may be extended until the expiry of the term of this diploma, irrespective of its duration.
 6. During periods of suspension or reduction of normal working periods, the rights and duties of workers who do not presuppose the actual provision of work, shall remain in force.
 7. Employers and their employees who take advantage of the extraordinary registration procedure provided for in the following Article shall be deemed to be included in the social security contribution scheme.
 8. Remuneration, for the purposes of this diploma, means the gross monthly remuneration referred to in the February 2020 Remuneration Statement or, in its absence, in the last Remuneration Statement submitted to social security, without prejudice to what is set out in n°2 of Article 6 and n° 5 of Article 8.

Article 5

Extraordinary enrollment in the contributory scheme

1. The beneficiaries of the support provided for in this diploma, provided that the other eligibility conditions are verified, are employers and workers covered by the provision of n° 1 of Article 17 of Law No. 12/2016 of 14 November, which

are registered in the social security contribution scheme within 15 days of the entry into force of the ministerial diploma referred to in paragraph 3.

2. The beneficiaries of the support provided for in this diplo, provided that the other eligibility conditions are met, also include drivers of passenger public transport vehicles covered by the provision of nº 3 of Article 17 of Law No. 12/2016 of 14 November, who are become part of the social security contribution scheme within 15 days of the entry into force of the ministerial diploma referred to in paragraph 3, and whose employment condition is proven in accordance with the terms set down in that decree.
3. The Minister with the responsibility of Social Security, through a ministerial diploma, will regulate this extraordinary registration procedure.

Article 6

Registration of new workers hired by employers already registered

1. Workers who, during the period of validity of this diploma, are hired and registered in the social security contribution scheme by employers already registered shall also benefit from the support provided for in this diploma.
2. For the purposes of the preceding paragraph, the registration form for a new worker in the contributory scheme shall be accompanied by a statement by the employer on the amount of gross remuneration received by the employer.

Article 7

Social contributions due

1. The existence of outstanding social contributions at the date of entry into force of this diploma shall not prejudice the access of employers and their workers to the support provided for in this diploma.
2. Employers with outstanding social contributions for the period from October 2017 to February 2020 are exempted from the payment of 10% of the amount of accumulated debt and exempt from the sanctions legally provided for non-compliance with the obligations of registration, delivery of Remuneration Declarations and payment of contributions, provided that they settle the total amount owed to Social Security by January 31, 2021 and comply with the other legal obligations.
3. Without prejudice to the provisions of the preceding paragraph, outstanding contributions may be paid in instalments.
4. The Minister responsible for Social Security, through a Ministerial Diploma, will regulate the terms of payment in installments of overdue contributions.

Article 8

Extraordinary allowance in the event of suspension of employment contract or reduction of working hours

1. During the period of suspension of the employment contract or reduction of working hours, the social security will pay to the worker an extraordinary allowance equivalent to 60% of his or her remuneration.
2. In the case of suspension of the employment contract, the employer is exempted from the obligation set out in nº 7 of Article 15 of the Labour Law.
3. In the case of a reduction in the normal working time, the employer pays the worker the amount corresponding to the difference between the extraordinary allowance paid by social security and, where it is higher, the amount of the hours worked.
4. Notwithstanding the provisions of the preceding paragraphs, the employer may pay the employee any additional amount up to the competition of the amount of his remuneration.
5. In the case of workers whose entry into the contributory scheme has been made in accordance with nº 1 of Article 5, the value of the minimum wage in force shall be deemed to be remuneration.
6. The amount paid by social security, in accordance with the preceding paragraph, is considered, for all intents and purposes, to be a social benefit and is not a basis for contributing to social security.

Article 9.

Exemption from the duty to pay contributions of the social security contribution scheme

1. In the situations provided for in nº 3 and 4 of the preceding article, the employer, in regards to the additional amount paid to the worker, is exempted from the duty to contribute, in the portion in its charge, to the social security contribution scheme during the months covered by the period of validity of this diploma.
2. The exemption from this duty to contribute, in the portion corresponding to its part, to the social security contribution scheme, during the months covered by the period of validity of this diploma, is extended to all employers registered in social security until February 29, 2020, in relation to the remuneration of their registered workers up to the same date, even if they do not benefit from the provisions of the preceding article.

3. The provisions of the preceding paragraphs do not exempt employers from the duty of monthly submission of their respective Remuneration Statements and to carry out the normal retention of the contribution payable by the workers.
4. In the case provided for in the preceding paragraph, compliance with the duty to pay the social contributions payable by the workers for the months in which this diploma is in force shall be deferred for the second month following the termination of its validity.

Article 10

Application

1. Employers interested in receiving any or both of the support provided for in this diploma, shall apply to the National Institute of Social Security, in an application accompanied by the following documents:
 - a) list of workers whose contracts have been suspended and whose normal working periods have been reduced;
 - b) Declaration, on commitment of honor, of the veracity of the information contained in the document referred to in the preceding paragraph.
2. The lack of veracity, in whole or in part, of the declaration provided for in point (a) of the preceding paragraph, makes the author incur the criminal liability which may apply to the case.

Article 11

Extraordinary allowance in the context of optional registration in the social security contribution scheme

1. Persons covered by the provision of nº 3 of Article 17 of Law No. 12/2016, of 14 November, registered in the social security contribution scheme until 29 February 2020, are entitled to an extraordinary allowance equivalent to 60% of the amount of the conventional remuneration in force which constitutes a basis for contributing to social security, according to the scale level chosen by the beneficiary, in the event of a total or partial loss of income from work caused by the COVID-19 pandemic.
2. The beneficiaries of the extraordinary allowance referred to in the preceding paragraph, also included drivers of public passenger transport vehicles, covered by the provision of nº 3 of Article 17 of Law No. 12/2016 of November 14, who are part of the social security contribution scheme under the extraordinary registration procedure provided for in nº 2 of Article 5, in the event of total or partial loss of income from work caused by the COVID-19 pandemic.

3. When they registered in the social security contribution scheme, the workers referred to in the preceding paragraph may, regardless of age, choose only the 1st or 2nd levels of the scale of contributory incidence in force.
4. The extraordinary allowance referred to in this Article shall be paid by Social Security during the months covered by this diploma, and do not constitute the scale of incidence of social security contributions.
5. For the purposes of social security, including for the registration of contributory careers and the calculation of social benefits, the beneficiaries of the extraordinary allowance provided for in this Article may, during the months in which this diploma is in force, maintain the overall value of the conventional remuneration chosen and shall, for that purpose, pay contributions of 40% of the value of that conventional remuneration.
6. Those interested in benefiting from this extraordinary allowance must apply for this by applying to the National Institute of Social Security.
7. The application indicated in the preceding paragraph shall be accompanied by a declaration, under commitment of honour, confirming the total or partial loss of income from work caused by the COVID-19 pandemic, as well as indicating whether they wish to maintain conventional remuneration for social security purposes or reduce it to the amount of the extraordinary allowance during the months in which this diploma takes place.
8. The lack of veracity, in whole or in part, of the statement provided for in the preceding paragraph causes the author to incur the criminal responsibility that may apply to the case.
9. The beneficiaries of the extraordinary allowance referred to in this Article, identified in paragraph 2, must retain their membership in the general social security scheme for a period of six months after the cessation of payment of the allowance.

Article 12.

Social Protection

1. Employees and persons covered by the provision of nº 3 of Article 17(3) of Law No. 12/2016 of 14 November who benefit from the support set out in this decree shall be guaranteed all social protection rights provided for by law, without prejudice to the provisions of the following paragraphs.
2. The extraordinary allowance provided for in Articles 8 and 11 shall not be combined with social benefits which replace income from work intended to protect the eventualities of parenthood, old age and absolute disability.

3. The extraordinary allowance provided for in Articles 8 and 11 shall, however, be combined with social benefits which replace income from work which aim to protect the eventualities of death and relative disability.
4. For all purposes, in particular for the registration of contributory careers and the calculation of social benefits, the National Institute of Social Security records remuneration sums equivalent to the entry of contributions during the period of granting the extraordinary allowance, considered it as work actually provided.
5. In situations where the worker, in the same period indicated in the preceding paragraph, also earns an additional amount paid by his employer, that amount shall be limited to all purposes, and is added to the extraordinary allowance in the registration of the career contribution and in the calculation of the social benefits to which the worker is entitled.
6. Where the beneficiaries of the support provided for in the preceding Article declare that they wish to maintain the overall value of the conventional remuneration chosen, that is the overall amount which amounts to the registration of the contributory career and the calculation of the social benefits provided for by law.

Article 13

Termination of employment contracts

With the exception of termination at the initiative of the worker, during the validity of this diploma, and within three months of its revocation, employment contracts to whose workers are granted the support provided for in Article 8 of this decree shall not cease for any of the causes provided for in Article 46 of the Labour Law, and any agreements, acts, communications or notifications concerning them are invalid and ineffective.

Section III

Final provisions

Article 14

Financing

1. The support provided for in Articles 8 and 11 shall be financed by the COVID-19 Fund.
2. The National Institute of Social Security may advance funds from the Social Security Budget, which are reimbursed by the COVID-19 Fund, in accordance with its regulations.

3. Payments for the support provided for in Articles 8 and 11 shall be made by the National Institute of Social Security as non-budgetary treasury operations and shall be recorded as expenditure in the accounts of the COVID-19 Fund for all accounting and budgetary purposes.

Article 15
Monitoring

The Government, considering the evolution of the COVID-19 pandemic and the situation that occurs in the country, will assess, monthly, the adequacy and the need for the temporary regime established in this diploma.

Article 16
Entry into force

1. This Decree-Law shall enter into force on the day following its publication.
2. Notwithstanding the provisions of the preceding paragraph, the support provided for in Articles 8 and 11 shall apply to employment contracts which have been suspended or whose normal working periods have been reduced from March 2020, as well as to contributions relating to the same month.

Approved in the Council of Ministers on April 22, 2020.

The Prime Minister,

Taur Matan Ruak

The Coordinating Minister for Economic Affairs,

Fidelis Magalhães

The Minister of Social Solidarity and Inclusion,

Armanda Berta dos Santos

Promulgated in

To be published.

The President of the Republic,

Dr. Francisco Guterres Lú Olo