DCM | Littler

PORTUGUESE STATE BUDGET 2024

LABOR LAW CHANGES

30 QUESTIONS & ANSWERS

30 QUESTIONS & ANSWERS

PORTUGUESE SB 2024 - LABOR LAW CHANGES

1. Will mobility situations in the civil service be extended? 5

2. What about cases of assignment in the public interest? 5

3. Can public interest assignment agreements still be signed? 5

4. Have the rules on subsistence allowances, overtime, and night work in public foundations and public establishments changed? 6

5. Can retirees perform public duties as cooperation agents? 6

6. Will there be limits on the hiring of workers in public higher education institutions? 6

7. What are the rules for pay levels in special health employment schemes? 7

8. Will retired doctors still be able to work? 7

9. Will foreign doctors and other health professionals be hired? 8

10. Can public entities with workers under individual employment contracts take out health and personal accident insurance? 8

11. Will legal persons governed by public law and companies in the public business sector continue to be able to recruit? 8

12. Will railway retirees still be able to work? 9

30 QUESTIONS & ANSWERS

PORTUGUESE SB 2024 - LABOR LAW CHANGES

13. What about municipalities in a state of disrepair? 9

14. How does the transition to reserve, pre-retirement, and availability status of professionals in the security forces and services work? 10

15. Will the working conditions of security forces professionals be improved? 10

16. Will there be any specific training for employees of civil registry offices and consular offices? 10

17. What parental protection for self-employed professionals and workers? 11

18. Will there be any support for hiring PhDs? 11

19. Will there be any innovations regarding the interconnection of data between public entity bodies? 11

20. In particular, will there be interconnection of data for the purposes of granting social security benefits? 12

21. Will the CONVERTE + measure continue? 12

22. Will the system for granting and renewing residence permits in national territory be maintained? What will change? 12

23. Have there been any changes to the deduction of union dues in terms of taxation? 13

30 QUESTIONS & ANSWERS

PORTUGUESE SB 2024 - LABOR LAW CHANGES

24. What about the deduction of expenses for payments for domestic work? 13

25. Are there any new tax incentives for workers' housing? 13

26. Are there any changes to the overtime limits for INEM, I.P. workers? 14

27. Does the budget include IRC incentives for salary increases for workers? 14

28. Have the reference values for the transport allowance changed? 14

29. Has the specific remuneration system for overtime or supplementary work in the health sector changed? 15

30. Has the remuneration supplement for performing health authority duties changed? 15

Final Notes 16

30 QUESTIONS & ANSWERS

PORTUGUESE SB 2024 - LABOR LAW CHANGES

1. Will mobility situations in the civil service be extended?

Yes. Mobility situations with a maximum duration of 2024 may, by agreement between the parties, exceptionally be extended until 31.12.2024.
The extension applies to mobility situations that occurred until 31.12.2023, by agreement between the parties.
In these cases, the bodies and departments that benefit from these situations define their intentions to end mobility and communicate them to their respective departments of origin prior to preparing the budget proposal.

2. What about cases of assignment in the public interest?

Public interest assignments may also be exceptionally extended, by agreement between the parties, until 31.12.2024.

However, in these cases, the extension depends on a favorable opinion from the member of the Government who exercises powers of management, superintendence or supervision over the public employer, with quarterly communication to the member of the Government responsible for the area of Public Administration. In local authorities and inter-municipal entities, the opinion comes from the president of the executive body, the inter-municipal council or the metropolitan executive committee.

Here too, the bodies and services that benefit from these situations define their intentions to terminate the assignment in the public interest and communicate them to their respective departments of origin prior to preparing the budget proposal.

3. Can public interest assignment agreements still be signed?

Yes. The bodies and services covered by the scope of the General Law on Work in Public Functions (LTFP) may enter into a public interest assignment agreement with a worker from an entity excluded from the scope of the LTFP, provided that in exceptional situations there are special grounds as to the existence of a relevant public interest.
The conclusion of the agreement, on the other hand, depends on the prior favorable opinion of the members of the Government responsible for the areas of Public Administration and Finance.

30 QUESTIONS & ANSWERS

PORTUGUESE SB 2024 - LABOR LAW CHANGES

4. Have the rules on subsistence allowances, overtime, and night work in public foundations and public establishments changed?

The rules on subsistence allowances, overtime, and night work continue to apply to employees of public foundations under public law, public foundations under private law, and public establishments unless otherwise agreed in collective bargaining agreements.

5. Can retirees perform public duties as cooperation agents?

Yes. Retired persons with relevant experience in areas that contribute to the implementation of development cooperation projects may exercise public functions as cooperation agents.

In this case, the recruitment procedure, the recruitment process and the conditions governing the performance of duties are the same as those applicable to cooperation agents. However, in the present situation, retired persons shall receive the salary and allowances due under the terms of that status, while retaining the right to the respective pension, where this is higher, in the amount corresponding to the difference between the former and the latter.

6. Will there be limits on the hiring of workers in public higher education institutions?

Yes. Public higher education institutions will be able to hire staff, regardless of the type of legal relationship they establish, up to a limit of 5% of the amount of staff costs paid in 2023, without the need for a prior opinion from the members of the Government responsible for the areas of finance and science, technology and higher education, as long as the increase in these costs does not exceed 3% compared to 2023.

The hiring of teachers and researchers on a fixed-term basis to carry out programs, projects, and services within the scope of the missions and attributions of public higher education institutions is also authorized, provided that their costs are exclusively related to revenue transferred from FCT, I. P, own revenue or revenue

from European funds related to these programs, projects and services, and are excluded from the provisions of the previous paragraph.

7. What are the rules for pay levels in special health employment schemes?

Workers with an employment contract within the scope of NHS establishments or services with the nature of a public business entity, signed after the entry into force of SB2024, may not have higher levels of remuneration, including remuneration supplements, and will be established under the same terms as those corresponding to workers with an employment contract in public functions as part of general or special careers.

The signing of employment contracts that do not respect the remuneration levels mentioned in the previous paragraph requires the authorization of the member of the Government responsible for the health area.

In addition, the same terms apply to increases in remuneration due for night work, work on compulsory and complementary weekly rest days, and work on public holidays.

This regime is also applicable to all health professionals, regardless of the legal nature of their employment relationship, as well as the health service or establishment, as long as it is part of the SNS, in which they perform their duties, and the terms under which they can be exempted will be defined in the budget execution decree-law.

8. Will retired doctors still be able to work?

Yes. In these cases, retired doctors, regardless of the use of legal anticipation mechanisms, who work in central, regional, and local administration services, public companies, or any other public legal persons, will keep their retirement pension, plus 75% of the remuneration corresponding to the category and, as the case may be, step or remuneration position held on the date of retirement, as well as the respective work regime, and requests for accumulation of income submitted from the entry into force of this law, will be authorized under the terms of the budget execution decree-law.

30 QUESTIONS & ANSWERS

PORTUGUESE SB 2024 - LABOR LAW CHANGES

In situations where the contracted activity entails a lower workload than the work regime held at the time of retirement, the retired doctor will be paid in proportion to the respective normal weekly working period.

9. Will foreign doctors and other health professionals be hired?

Yes. The government will be able to hire foreign doctors and other professionals, as long as they are hired under the same conditions of quality, safety and fairness as Portuguese professionals.

10. Can public entities with workers under individual employment contracts take out health and personal accident insurance?

Yes. Public entities whose workers are covered by individual employment contracts can take out health and personal accident insurance, provided it is intended for all workers, as well as other insurances required by law or provided for in a collective bargaining agreement.

However, public entities with workers with individual employment contracts of indefinite duration registered as ADSE beneficiaries may only take out or renew health insurance in exceptional and duly substantiated situations and provided that they are authorized by the member of the Government responsible for the area of finance.

11. Will legal persons governed by public law and companies in the public business sector continue to be able to recruit?

Yes. Public legal persons, even if they have administrative autonomy or statutory independence, as well as companies in the public business sector, will be able to recruit workers for open-ended or fixed-term employment contracts, under the terms of the budget execution decree-law.

In addition, legal persons governed by public law of a local nature and companies in the local business sector that manage systems under municipal ownership for public water supply, urban wastewater sanitation or urban waste management may hire workers, without prejudice to having to ensure compliance with the applicable financial balance rules.

12. Will railway retirees still be able to work?

Municipalities that, on 31.12.2023, are in a state of reorganization or collapse are prevented from opening tender procedures, except those arising from the conclusion of PREVPAP and the need to recruit workers as part of the decentralization of powers process.

However, in exceptional situations, duly substantiated, the municipal assembly may authorize the opening of tender procedures, fixing the maximum number of workers to be recruited, provided that (i) it is impossible to fill the positions in question with workers with a previously established public employment relationship, (ii) recruitment is essential, to ensure compliance with legally established public service obligations, and take into account the shortage of human resources in the sector of activity for which it is intended, as well as its overall evolution in the municipality in question (iii) it is demonstrated that the costs of the recruitments in question are provided for in the budgets of the services to which they relate; and (iv) the information duties set out in the State Organization Information System are complied with in full and on time.

In the latter case, the municipal council, on a proposal from the mayor, sends the municipal assembly the elements demonstrating that the established requirements have been met. In addition, municipalities must submit to the Municipal Support Fund, for a prior binding opinion, a reasoned request for recruitment which includes evidence that the request ensures compliance with the Municipal Support Program.

13. What about municipalities in a state of disrepair?

Yes. Retired persons with relevant experience in the areas of rolling stock maintenance or as a train driver can work for public companies in the rail sector that provide public passenger transport.

in this situation, retirees keep their retirement pension, plus up to 75% of the remuneration corresponding to their category and, as the case may be, step or salary position held at the time of retirement, as well as their work regime.

14. How does the transition to reserve, pre-retirement, and availability status of professionals in the security forces and services work?

Yes. Retirees with relevant experience in rolling stock maintenance or as a train driver can work for public companies in the rail sector that provide public passenger transport.

In this situation, retirees keep their retirement pension, plus up to 75% of the remuneration corresponding to their category and, as the case may be, step or salary position held at the time of retirement, as well as their work regime.

15. Will the working conditions of security forces professionals be improved? security forces and services?

Yes. It is stipulated that, by 2024, the government will promote the improvement of working conditions for professionals in the security forces and services. To this end, the government will have to approve (i) the legal framework for hygiene and safety at work for professionals in the security forces and services; (ii) the revision of the suicide prevention plan for the security forces and services.

16. Will there be any specific training for employees of civil registry offices and consular offices?

Yes. In 2024, the government will create a certified professional training plan for civil registry office and consular post employees on the procedure for changing sex and first name in the civil registry.

30 QUESTIONS & ANSWERS

PORTUGUESE SB 2024 - LABOR LAW CHANGES

17. What parental protection for self-employed professionals and workers?

There are still no concrete measures to be adopted in 2024 in this area. However, the government is committed to studying the ways in which protection can be given to these professionals for the enjoyment of parental rights.

Currently, self-employed workers can benefit from parental allowance and initial shared parental leave. However, due to their volatile characteristics in certain periods, the remuneration base used to calculate social support often results in a lower amount being awarded.

The same proposal also provides for the granting of breastfeeding leave to self-employed professionals and workers who currently do not enjoy this prerogative.

18. Will there be any support for hiring PhDs?

Yes. In 2024, the government will create an additional funding line to support the indefinite hiring of PhDs for scientific research careers, up to a total annual allocation of 20 million euros, without prejudice to other funding mechanisms.

19. Will there be any innovations regarding the interconnection of data between public entity bodies?

Yes. The interconnection of data between entities, services, and public bodies or other public institutions with different entities is established, to comply with the rules on the additional contribution for excessive turnover.

The transmission of personal data between entities will be the subject of a protocol, approved by the members of the Government responsible for the respective sectoral areas, which establishes the responsibilities of each intervening entity, both in the act of transmission and in other processing to be carried out. These protocols must define, in particular, the categories of data subjects and the data subject to the interconnection, as well as their details and the conditions for access, communication and processing of the data by those entities.

30 QUESTIONS & ANSWERS

PORTUGUESE SB 2024 - LABOR LAW CHANGES

20. In particular, will there be interconnection of data for the purposes of granting social security benefits?

Yes. For this purpose, the competent social security institutions request from the AT and IRN, I. P., by electronic data transmission, information on (i) income categories, (ii) declared amounts, (iii) tax situation, (iv) household composition, (v) registration information, and (vi) exercise of parental authority.

The terms and conditions of electronic transmission are established by a protocol to be signed between the competent social security and justice institutions and the AT.

21. Will the CONVERTE + measure continue?

Yes. The "CONVERTE +" measure, which was already implemented in 2020 and consisted of granting companies that convert fixed-term contracts into open-ended contracts monetary support per employee, will be renewed in 2024.
This is transitional support to be paid in two installments:

- the first, up to 20 working days after receipt by the applicant of the application acceptance form.
- the second, in the 13th month after the start of the last open-ended employment contract, provided that the employment contract has been maintained and the level of employment at the entity in question has been maintained.

The amounts to be awarded as conversion bonuses are fixed at twice the basic monthly salary provided for in the employment contract, with a limit of 5 times the IAS, which in 2024 is 509.26€, meaning that the maximum support limit will be 2,546.30€.
This amount may also be increased by 30% under the terms of Article 2(2)(b) of Ministerial Order 84/2015 of March 20, i.e. under the promotion of gender equality in the labor market. In this sense, the amount of support could be €3,310.19
In 2024, fixed-term contracts concluded until November 14, 2023 are eligible.

22. Will the system for granting and renewing residence permits in national territory be maintained? What will change?

The simplified procedure for processing applications for the granting and renewal

of residence permits (with visa waiver) will continue until June 30, 2024.
Under the terms of article 88, no. 2 of Law no. 23/2007, of July 4 (Entry, stay, exit and removal of foreigners from national territory), for applications for residence permits, the visa waiver is maintained provided that the foreign national, in addition to the other general conditions laid down in the law, meets the following conditions:

- Has an employment contract or a promise of an employment contract or has an employment relationship proven by a trade union, by a representative of migrant communities sitting on the Council for Migration or by the Authority for Working Conditions.
- Has legally entered national territory (see also article 89, no. 2 of Law no. 23/2007, of July 4).

23. Have there been any changes to the deduction of union dues in terms of taxation?

Yes. With the new State Budget, Article 25(1)(c) of the CIRS now stipulates that trade union contributions are deductible from personal income tax, insofar as they do not constitute a counterpart to health, education, support for the elderly, housing, insurance or social security benefits and provided that they do not exceed, for each taxpayer, 1% of gross income in this category. The increase is now 100% instead of the previous 50%.

24. What about the deduction of expenses for payments for domestic work?

IRS taxpayers may deduct up to 5% of the amount paid by any member of the household for domestic work, up to a maximum overall amount of €200.00.

25. Are there any new tax incentives for workers' housing?

Income from work in kind resulting from the use of a permanent dwelling (in the period between 1.1.2024 and 31.12.2026) is exempt from IRS and social contributions up to the limit of the value of the rents provided for in Article 10 of Decree-Law no. 68/2019, of May 22, provided that the house is:

- located in national territory.
- provided by the employer, under the terms of Article 2(4) and (3)(b) of the IRS Code, for the period between January 1, 2024 and December 31, 2026.

30 QUESTIONS & ANSWERS

PORTUGUESE SB 2024 - LABOR LAW CHANGES

26. Are there any changes to the overtime limits for INEM, I.P. workers?

Article 19-A has been added to Decree-Law no. 19/2016, of April 15, which revises of the INEM, I.P. ambulance technician career.

It is now stipulated that, in exceptional and time-limited circumstances, namely when it proves indispensable to the emergency medical assistance provided by INEM, I.P. and with the authorization of the member of the Government in the health area, the limits on the duration of overtime work provided for by law may be exceeded, provided that they do not imply remuneration for overtime work over 80% of the employee's basic remuneration.

27. Does the budget include IRC incentives for salary increases for workers?

With the new State Budget, Article 19-B of the Tax Benefits Statute was amended. Thus, employers who increase the salaries of employees in their organization under an indefinite employment contract will see this increase accounted for at 150% of the respective amount as a cost for the year.

The charges on which this calculation is based include not only the fixed remuneration of the workers concerned but also the employer's social security contributions on their income.

There is a limit of four times the guaranteed minimum monthly wage for the amount to be presented as an increasable charge by the employer.

If the workers in question are covered by a dynamic IRCT (i.e. one that was granted or renewed less than three years ago), only the part of the salary increase that exceeds the guaranteed minimum monthly salary and for workers whose pay has increased by at least 5% can be considered as a charge.

28. Have the reference values for the transport allowance changed?

Yes. The 2024 State Budget Law repealed Article 4 of Decree-Law 137/2010, of December 28 (additional measures to reduce expenditure with a view to budgetary consolidation provided for in the Stability and Growth Program for 2010-2013), which established reductions in the amounts of subsistence allowances and transport allowances.

30 QUESTIONS & ANSWERS

PORTUGUESE SB 2024 - LABOR LAW CHANGES

In this sense, the amounts without the aforementioned reduction are back in force and are enshrined in Ministerial Order No. 1553-D/2008, of December 31. The following amounts are mentioned:

- Transport by own car: €0.40 per kilometer.
- Transportation in vehicles assigned to public service routes: €0.12 per kilometer.
- Transportation by rental car
- One worker: 0.38€ per kilometer.
- Workers transported together: 0.16€ each per kilometer, in the case of two workers; 0.12€ each per kilometer, in the case of three or more workers.

29. Has the specific remuneration system for overtime or supplementary work in the health sector changed?

No. In 2024, the sum of the number of overtime hours and the provision of medical services contracted by the establishments that make up the SNS and the regional health services may not exceed that recorded in the same quarter in each of these services, except in cases authorized by the member of the Government responsible for health and with the knowledge of the member of the Government responsible for finance.

30. Has the remuneration supplement for performing health authority duties changed?

No. In 2024, the remuneration supplement for the effective exercise of health authority functions which imply the obligation to present the service whenever requested will continue to be set at €200.00.

Nuno Abranches Pinto | Rui Rego Soares | João Villaça

FINAL NOTES

This Information Note was prepared on January 19, 2024 and does not dispense with consulting the law. It is intended to be distributed to Clients and Colleagues and contains information of a general and abstract nature.

The information provided does not constitute legal advice and should not be used to support any decision without qualified professional advice on a specific case.

This Information Note should not be considered as an offer or incentive to anyone to invest in Portugal.

The contents of this Information Note may not be reproduced in whole or in part by any means without the prior written consent of David Carvalho Martins (DCM | Littler), via geral@dcmlittler.com.

dcmlittler.com • direitocriativo.com