

LABOR LAW BULLETIN

Provisional Measure No. 927

Dated of March 22, 2020

MP 927 Measures



The Provisional Measure No. 927, dated of March 22, 2020 (“**MP 927**”) sets forth employment measures that may be taken by companies to face the state of public calamity (*estado de calamidade pública*) (Legislative Decree No. 6 of 2020) and is deemed as a force majeure case (Article 501 of the Brazilian Labor Code).

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HOME OFFICE

Companies are allowed to adopt the home office regime for their employees, interns and apprentices. This may occur the entire time or most of the time outside the premises of the employer. In such regime, there will be no extra hours or on-call bonus.

In order to establish the home office regime, it is not necessary that employer and employees previously execute an agreement for this purpose. The home office regime may be imposed by the company upon a 48-hour advance notice.

The company must provide the employees with the necessary equipment to perform their duties, by means of the execution of a free lease agreement and/or the reimbursement of expenses borne by the employees. Within 30 days as of the implementation of the home office regime, the employer and the employees must formalize how the reimbursement of the expenses already incurred and to be incurred by the employees will be carried out. After the beginning of the home office regime, the employees that do not have the necessary equipment to perform the duties are considered on call and must be paid regularly.

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VACATIONS

INDIVIDUAL VACATION – The company may oblige the employee to take his/her vacations, upon a 48-hour advance notice. The individual vacations taken by the employee must not last less than 5 days and may be taken even if the employee has not completed the 12-month accrual period (*período adquisitivo*) yet. The company may also advance future vacations, provided that the employee agrees with that.

The one-third vacation bonus may be paid by the Christmas bonus payment deadline. The employee is only able to convert 10 days of his/her vacation into compensation in case the employer so agrees.

The employer will not have to pay upfront the wage due to vacations. The company may pay the vacation compensation on the 5th business day of the month following the vacation period.

Employees of the risk group must take priority over others in advancing individual vacations.

COLLECTIVE VACATIONS – The company may impose collective vacations by means of a 48-hour prior notice. It is not necessary that the employer notify unions or local authorities of the Ministry of Economy.

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PUBLIC HOLIDAYS

The employer may advance federal, state, district and municipal public holidays; on the other hand, religious holidays may only be advanced in case the employee so agrees. In any case, the employee must be notified at least 48 hours in advance.

COMPENSATORY TIME

During the state of public calamity (*estado de calamidad pública*), the employer may implement a “special regime of compensatory time” in order to compensate working hours, either in the benefit of the employer or the employee.

Such compensatory time regime may be implemented by means of a collective or individual formal agreement.

This special regime of compensatory time may be implemented regardless of other existing compensatory time regimes and must not be confused with them.

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OCCUPATIONAL HEALTH AND SAFETY

The administrative requirements regarding occupational health and safety are suspended, such as occupational, clinical and complementary medical exams, except for the dismissal exam (in case it has not been carried out in the last 180 days).

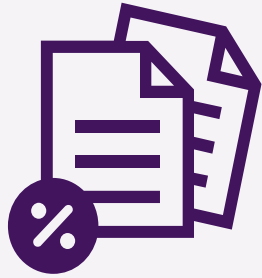
The physician in charge of the occupational control program may, in case he/she understands that there is a risk to the employee's health, determine that the suspended medical examinations be carried out.

The suspended exams must be carried out within 30 days as of the termination of the state of public calamity (*estado de calamidade pública*).

Staff training concerning safety at work may be postponed until 30 days after the termination of the state of public calamity (*estado de calamidade pública*) or may be carried out by means of distance learning.

The Internal Commissions of Accident Prevention (*Comissão Interna de Prevenção de Acidentes - CIPA*) may be maintained during the state of public calamity (*estado de calamidade pública*), but the ongoing election processes may be suspended.

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EMPLOYEE SEVERANCE INDEMNITY FUND (“FGTS”) PAYMENT

The payment of FGTS regarding the months of March, April, May and June of 2020 are suspended.

FGTS payment may be carried out in 6 monthly installments as of July 2020, with no inflation adjustment or penalties.

MISCELLANEOUS

Health institutions may implement exceptional regimes in relation to the working hours of their staff.

COVID-19 infection cases will not be deemed as occupational disease, except in the event there is evidence of causation.

Deadlines for the filings of defenses and appeals in administrative procedures are suspended for 180 days. During such period, labor inspectors will act mostly in a guiding manner.

Workers that received social security allowance during the year of 2020 will receive their yearly allowance in advance.

OBSERVATIONS

The Brazilian Federal Government revoked an article of MP 927 that set forth the suspension of labor agreements for up to 4 months and is considering to return the original wording that set forth that wages could be reduced proportionally to the reduction of the working hours.

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