

LAW 14020/2020: CONVERTED FROM MP 936/2020

Law 14020/2020 (converted from MP 936/2020) – published on 07/07/2020 – establishes the rules for proportional reduction of working hours and salary and for suspension of the employment contract. Among the latest novelties introduced by Law 14020/2020, we highlight the following points:

- the maximum deadlines for proportional reduction of working hours and salary and for suspension of the employment contract – which according to the wording of MP 936/2020 were 90 days and 60 days, respectively – can be extended by an act of the Executive Branch;
- in the case of pregnant employee: **(i)** the provisional employment guarantee resulting from the proportional reduction of working hours and salary or the suspension of the employment contract will only start after the end of the provisional guarantee resulting from pregnancy; **(ii)** the employer must immediately inform the Ministry of Economy when the employee starts receiving the paid maternity leave; **(iii)** the proportional reduction of working hours and salary or the suspension of the employment contract must be interrupted with the start of payment of paid maternity leave; and **(iv)** for the purpose of paid maternity leave, the employee's last remuneration before the proportional reduction of the working hours and salary or the suspension of the employment contract must be considered;
- the individual negotiation between employer and employee for proportional reduction of working hours and salary or suspension of the employment contract is now possible in the following situations:
 - (a)** employees with a salary equal to or less than R\$ 2,090.00 if the employer has earned gross revenue greater than R\$ 4,8 million in 2019;
 - (b)** employees with a salary equal to or less than R\$ 3,135.00 if the employer has earned gross revenue equal to or less than R\$ 4,8 million in 2019;
 - (c)** employees with a higher education diploma and monthly salary equal to or higher than R\$ 12,202.12;
 - (d)** proportional reduction of working hours and salary of 25%;
 - (e)** when the employer, with the payment of the monthly compensatory aid, maintains the total amount received monthly by the employee before the proportional reduction of working hours and salary or the suspension of the employment contract;
- the retiree may negotiate the proportional reduction of working hours and salary or the suspension of the employment contract, provided that **(i)** one of the assumptions that authorize the conclusion of an individual agreement are met and **(ii)** the employer pays, at least, the equivalent monthly compensatory aid;

(a) to the Emergency Employment and Income Preservation Benefit (BEm), to which the retiree would be entitled, in the case of companies with gross revenue equal to or less than R\$ 4,8 million in 2019; or

(b) to the BEm to which the retiree would be entitled plus 30% of the retiree's gross monthly salary, in the case of companies with gross revenue above R\$ 4,8 million in 2019.

- if there is a conflict, the conditions provided for in collective bargaining for proportional reduction of working hours and salaries or suspension of the employment contract will prevail over the conditions negotiated individually; the conditions more favorable to the worker provided for in the individual agreement will prevail over collective bargaining;
- during the state of public calamity caused by Covid-19, dismissal without cause of an employee with special needs is prohibited; and
- employees whose working hours and salary have been reduced or whose employment contract have been suspended may pay the Social Security as optional insured worker.

Finally, we highlight measures that had been approved by the National Congress in the bill for the conversion of MP 936/2020, but that were vetoed by the President of the Republic (therefore, **not converted into law**):

- the possibility of the monthly compensatory aid paid by the employer to be deducted (i) from the income of self-employed persons; (ii) from taxable income received by the domestic employer, subject to the annual adjustment in the income return; and (iii) from the result of rural activity as an expense paid in the base year;
- amendments to Law 10101/2000 (PLR); and
- extension of the Social Security Contribution on Gross Revenue (CPRB) until 12/31/2021.

For more information, please contact:

Renato Silveira - rsi@machadoassociados.com.br

Marcel Augusto Satomi - mrs@machadoassociados.com.br