

13<sup>th</sup> of NOVEMBER 2020

## COVID-19 AMENDMENTS TO THE EXCEPTIONAL AND TEMPORARY MEASURES STATE OF EMERGENCY

On the 3<sup>rd</sup> of November 2020, Decree-Law No. 94-A/2020, which amends the exceptional and temporary measures regarding the COVID-19 disease pandemic, was published. On the 8<sup>th</sup> of November the Decree of the Presidency of the Council of Ministers No. 8/2020, which regulates the implementation of the state of emergency declared by the Decree of the President of the Republic No. 51-U/2020, was also published

With regard to the changes in the exceptional and temporary measures concerning the COVID-19 pandemic, it is now **mandatory to adopt the teleworking regime** in all establishments located in the territorial areas where the epidemiological situation so requires (which are defined by the Government) regardless of the number of workers, as well as for workers residing or working there, whenever their functions allow it and the worker has the conditions to perform them. The employer must make the necessary equipment available for this purpose and guarantee that equal rights are ensured in relation to the other workers, namely that there is no reduction in pay and that the limit of the normal working time is maintained.

If it is not possible for the employer to provide the necessary work and communication equipment, telework may be carried out through the means that the worker has at his disposal, when consent is given.

The situation in which the conditions for teleworking are not met constitutes an exception to this regime. In that case the employer must notify the employee in writing of his founded decision and the employee must also notify the employer whenever he is unable to perform his duties. Following such communication by the employer, the employee may, within three working days, request the Working Conditions Authority to verify the requirements for the mandatory adoption of teleworking and the facts invoked by the employer for its non-implementation and the said Authority must assess and decide on the employee's request within five working days. The violation by the employer of the decision issued by Working Conditions Authority constitutes a serious offence.

This regime does not apply to workers in essential services, nor to those in establishments where telework is not mandatory.

As for the state of emergency, the **declaration of the state of emergency was authorized** and will take place between 00h00 of the 9<sup>th</sup> of November 2020 and 23h59 of the 23<sup>rd</sup> of November 2020 but may be extended after the end of the current period. Within the scope of such state of emergency, the exercise of the rights to freedom of movement, private, social and cooperative initiative, the rights of workers and the right to the free development of the personality and the negative side of the right to health shall be partially limited, restricted or conditioned, and the bodies and authorities responsible for the implementation of the measures that may be adopted under the present regime shall be responsible for their implementation.

In this context, the regulation of the state of emergency has determined the prohibition of circulation in the high risk councils and in public spaces and streets between 23h00 and 05h00 on weekdays and between 13h00 and 05h00 on Saturdays and Sundays, without prejudice of the exceptions foreseen such as movements for the performance of professional duties (for which it is necessary to present a statement), movements for health reasons or movements to grocery stores, supermarkets and food and hygiene sales establishments, among others.

The regulation authorizes the measurement of body temperature in the control of access to the workplace, public services or institutions, educational, commercial, cultural or sports establishments, means of transportation, residential structures, health establishments, prisons or educational centers, however, it may not be registered.

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A **PARES | Advogados** is available to provide information on this and other matters in a more specific and adequate way, suited to the reality of each Client, and can offer all necessary support regarding the exceptional and temporary measures related to the COVID-10 disease pandemic.

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