Working hours, Absences, Holidays, Vocational Training

Which legislation regulates working hours?

Arts. 58, 197, 201 to 205, 207 to 209, 211, 212 to 225, 229, 265, 268 and 269 of the TC

In which way can working time be defined?

Working time is any period during which the worker performs his/her activity or is at the employer's disposal.

Working time are also considered:

- The interruption of work as such considered in IRCT, in internal regulations of the company or resulting from the use of the company;

- The occasional interruption of the daily work period inherent to the satisfaction of the employee's unavoidable personal needs or resulting from the employer's consent;

- The interruption of work for technical reasons;

- The meal break in which the worker has to remain in or near the usual working space in order to be called to perform normal work in case of need;

- The interruption or break in the work period imposed by occupational safety and health rules.

What is the working time record?

The recording of working times is a documentary medium that must contain an indication of the start and end times of working time, as well as breaks or rest breaks that are not included in it.

The record of working times, including those workers who are exempt from working hours, must be kept by the employer in an accessible place and in such a way as to allow immediate consultation, and must be kept for five years.

What is the working time record for?

The record must make it possible to ascertain the number of hours worked per worker, per day and per week, as well as those worked in addition to the normal working period.

The record must also make it possible to establish the hours worked in compensation for lost time due to absence.

Is it necessary to record working times outside the company?

Yes. Employers must ensure that employees working outside the company either register immediately after returning to the company or send the register duly endorsed so that the employer has the register within 15 days of their service.

Which are the maximum limits of the normal working period?

The normal working period may not exceed eight hours per day and forty hours per week.

There is a fifteen-minute tolerance for transactions, operations or other tasks started and not finished at the time established for the end of the normal daily work period, having such tolerance an exceptional character and the increase of work must be paid when it reaches four hours or at the end of the calendar year.

The maximum limits of the normal working period may be reduced by collective work regulation instrument, and may not result in a reduction of the workers' compensation.

What is adaptability?

Adaptability is the definition in average terms of the normal working period, following a constant IRCT forecast.

In this case, the daily limit of the normal working period may be increased up to four hours and the weekly working time may reach sixty hours, for which purpose no account is taken of overtime worked due to force majeure.

The normal working period thus defined may not exceed 50 hours on average over a two-month period.

By agreement between the parties is it possible to agree on adaptability?

By an agreement, the employer and the employee can define the normal working period in average terms.

Such an agreement may provide for the normal daily working period to be increased up to two hours so that the weekly work can reach fifty hours, and for this purpose overtime worked because of force majeure is not taken into account.

In weeks where the working time is less than forty hours, the reduction may be up to two hours a day or, if agreed, in days or half days, without prejudice to the right to meal allowance.

The agreement may be concluded upon written proposal of the employer, assuming acceptance by the worker who does not oppose it, in writing, within 14 days of knowledge thereof.

What is the reference period for establishing the average duration of work under the adaptability regime?

In the adaptability regime, the average duration of work is calculated by reference to a period laid down in a collective labour regulation instrument that does not exceed 12 months or, failing that, a period of four months.

In special cases, provided for by law (art. 207, no. 2 of the TC), the reference period may be 6 months.

Is a pregnant worker, worker who has recently given birth or worker who is breastfeeding entitled to be exempted from working hours organised in accordance with the adaptability regime?

Yes, as well as any of the parents in the case of breastfeeding, when the provision of work under this regime affects their regularity (art.58 of the CT).

Are there any differences between working hours and the normal working period?

The law establishes fundamental differences between the two concepts:

Working hours is the setting of the start and end times of the normal daily work period and rest breaks.

Normal working period is the working time that the employee is obliged to provide to the employer. It can be measured in "hours per day" and "hours per week", and the employer must record and keep updated the number of hours worked (per day and per week), with an indication of the start and end of the work.

The maximum limits of the normal working period are eight and forty hours per day and week respectively.

Who is in charge of working hours?

The preparation of working hours is the responsibility of the employer, in accordance with the legal rules and after consultation with the workers' commissions or, in their absence, the inter-union commissions, the trade union commissions or the shop stewards, if any. The definition of working hours makes it possible to quantify the daily and weekly working period.

What is meant by operating period?

It is the daily interval of time during which the establishments can exercise their activity. It is fixed between 6 a.m. and midnight. (art. 1 of Dec - Law No. 48/96).

The period of operation of an establishment for sale to the public is called - if period of opening.

The period of operation of an industrial establishment is called - if period of operation.

Is it possible for the establishment to work continuously?

For economic and technological reasons, continuous operation is possible, if a joint authorisation is requested from the Minister for Labour and the Minister for the sector concerned.

The application must be submitted to the Authority for Working Conditions, accompanied by

- Opinion of the workers' committee or, in its absence, of the union or interunion committee or of the union delegates or, 10 days after the consultation, proof of the request for the opinion;
- Draft working time map to be applied;
- Proof of licensing of the company's activity;
- Declarations issued by the competent authorities proving that the tax and social security authorities have regularized the tax situation.

Should the working hours be posted at the company?

The working time must be shown on a working time map, which must be drawn up by the employer and posted in the company in a clearly visible place. When several companies, establishments or services carry out activities at the same place of work at the same time, the holder of the premises must consent to the posting of the different working time maps.

Which elements should be included in the working time map?

The working time map must contain the following elements:

a) The business name or name of the employer;

b) The activity performed;

c) Headquarters and place of work of the workers to which the schedule refers;

d) Beginning and end of the period of operation and, if any, day of closure or suspension of operation of the company or establishment;

(e) The beginning and end times of normal working periods, with an indication of rest intervals;

(f) Mandatory weekly rest day and additional weekly rest period, if any;

g) Applicable collective work regulation instrument, if any;

(h) The resulting system establishing working hours in an adaptable way, if any.

Whenever working hours include shifts of different personnel, they shall also be shown on the respective chart:

- Number of shifts;

- Scale of rotation, if any;

- Staff rest days for each shift;

- Indication of shifts where there are minors.

What are the maximum limits for the average weekly working time?

The average weekly working time, including overtime, may not exceed forty-eight hours in a reference period established by the IRCT that does not exceed 12 months or, in the absence thereof, four months, or six months in special cases regulated by law (art. 207/2 of the CT).

What is the Time Bank?

It is a form of organization of working time in which the normal working period can be increased daily and weekly.

Which are the modalities of the Bank of Hours?

The Hour Bank may be instituted by a Collective Work Regulation Instrument, by Individual or Group Agreement.

Which are the limits to the duration of working time in a bank of hours defined by IRCT?

- The working time is not subject to the limits imposed by art. 203 of the CT (eight hours per day and forty hours per week);
- The normal working period (daily working time) can be increased up to four hours;
- The weekly duration of working time can reach sixty hours;
- The increase in working time is limited to two hundred hours per year;
- This limit may be cancelled by the IRCT if the use of time banks is aimed at avoiding the reduction of the number of workers. The new limit that may be established by IRCT may only be applied for a maximum period of 12 months.

What are the limits to the duration of working time in a bank of hours by individual agreement?

- The working time is not subject to the limits imposed by art. 203 of CT (eight hours per day and forty hours per week);
- The normal working period (daily working time) can be increased up to two hours;
- The weekly duration of working time can reach fifty hours;
- The increase in working time is limited to one hundred and fifty hours per year.

How can the agreement be concluded?

It can be done by written proposal of the employer, assuming acceptance by the employee if he/she does not object in writing within 14 days, (no. 4 of art. 205 by reference to no. 2 of art. 208-A of the TC).

The agreement shall contain the rules to be applied as to the amount of the agreement:

- The form/modality of the compensation for work in addition;
- The advance notice with which the employer must inform the worker of the need to provide work;
- The period in which the reduction of working time to compensate for work done in excess must take place, as well as the advance notice with which either of them must inform the other of the use of this reduction. (no. 4 of art. 208 by virtue of no. 1 of art. 208a of the TC).

What is the Group Hour Bank?

The IRCT, which establishes the bank of hours, may provide that the employer may apply it to all workers of a team, section or economic unit, in the circumstances foreseen in article 206 of the TC (if at least 60% of the workers of that structure are covered by it, through affiliation to a trade union association signing the convention and by choice of that convention as applicable), by reference to article 208-B of the TC;

Or

If 75% of the workers in the team, section or economic unit accept the proposal made by the employer under the terms of paragraph 3 of art. 208-A (Individual Hour Bank), the remaining workers may, by determination of the employer, be covered by the hour bank scheme.

Can the Group Hour Bank be applied even to workers covered by a collective agreement that provides otherwise?

No. The provisions of art. 208-B, para. 3 of the TC exclude the employer from extending the regime to workers covered by a collective agreement that provides otherwise, as well as the

extension to workers affiliated to a trade union that has filed an opposition to the ordinance extending the collective agreement in question.

Which are the restrictions on the duration of working time in a group time bank?

- Those arising from the IRCT, as provided for in article 208 of the TC if the conditions referred to in article 206(1) of the TC are met;
- Those arising from the proposal made by the employer, as provided for in art. 208-A of the TC (Individual Agreement) and accepted by at least 75% of the workers of the team, section or economic unit.

What are the modalities of compensation for the work done in addition?

At least one of the following modalities:

- Equivalent reduction of working time;
- Increase of the vacation period, in the proportion and in the terms defined in the IRCT or in the agreement signed;
- Payment in cash.

The pregnant worker, who has recently given birth or worker who is breastfeeding entitled to be exempted from working hours organised in accordance with the time bank scheme?

Yes, as well as any of the parents in the case of breastfeeding, when the provision of work under this regime affects their regularity (art.58 of the CT).

What is the concentrated schedule?

It is a working time, in which by agreement between employer and employee or by IRCT it is possible to concentrate the normal weekly working period to a maximum of 4 working days;

By means of IRCT it is possible to establish a working schedule that contains, at most, three consecutive working days, followed by at least two rest days, and the length of the normal weekly working period must be respected, on average, in a reference period of 45 days.

When organising and defining working hours, should the employer observe any special criteria in addition to the legal constraints?

Yes, the employer must pay special attention to and respect the special principle of prevention of occupational risks and adaptation of work to man in order to mitigate the effects of monotonous and repetitive work. Give priority to occupational safety and health requirements, in particular when establishing breaks and rests. It should also make it easier for the worker to attend school as well as technical or vocational training courses and facilitate the reconciliation of work and family life.

Can working hours be changed by the employer?

Yes. Only hours that have been individually negotiated (agreed) with the employee cannot be changed.

Which procedure should employers follow in the event of a change in working hours?

All changes to working hours imply:

- Prior consultation with the affected workers, the workers' committee or, in their absence, the union or inter-union committee or the shop stewards, if any;
- Posting in the company 7 days before it comes into force, or 3 days in the case of a micro-enterprise;

What if the change in working hours doesn't last more than a week?

The employer is exempt from having to resort to the change that does not last more than one week, up to three times a year, and provided that he records each change in a separate book in which he has previously consulted and informed the workers' committee or, failing that, the union or inter-union committee or the shop stewards, if any.

Does the change in working hours entitle the employee to any economic compensation?

Yes, the employer must provide economic compensation to those employees for whom a change in working hours entails additional costs.

Absences

Which is the legislation regulating this?

Arts. 248 to 257 CT; arts. 17 to 24 of Law No. 105/2009, of 14 September 2009

What are absences?

Absences are when the worker is not in the place where he/she was supposed to perform the activity during the normal daily work period.

If the employee's absence is for periods shorter than the normal working period, these times are added together to determine the absence. If the duration of the normal daily work period is not uniform, the average duration is considered.

Which are the justified and unjustified absences?

Justified absences are:

- The ones given, during 15 consecutive days, at the time of the wedding;
- Those motivated by the death of a spouse, father, mother, son or daughter, stepfather, stepmother, stepchild, father-in-law, mother-in-law, son-in-law and daughter-in-law, or person living in a consensual union with the worker, for 5 consecutive days;
- Death of grandparents, great grandparents, grandchildren, great-grandchildren, siblings and brothers-in-law, for 2 days in a row;
- Those motivated by the provision of proof in an educational establishment;
- Those motivated by the impossibility of rendering work due to a fact not imputable to the worker, namely the observance of a medical prescription following the use of medically assisted procreation technique, illness, accident or fulfilment of a legal obligation;
- Those motivated by the provision of unavoidable and essential assistance to the child, grandchild or member of the worker's household;

- Those motivated by the travel to the educational establishment of the person responsible for the education of a minor due to his/her educational situation, for the time strictly necessary, up to four hours per quarter, for each one;
- Those of workers elected to the collective representation structure of the workers;
- Those of candidates for public office, in accordance with the corresponding electoral law;
- Those authorized or approved by the employer;

Other absences so qualified by law will still be justified.

All other absences are unjustified.

Can collective agreements consider other absences as justified?

No. The provisions relating to the reasons justifying absences and their duration may not be waived by an instrument of collective labour regulation, except for absences given by the workers elected to the structures of collective representation and provided that they are more favourable to the worker, or by employment contract.

In case of death of a family member, how many days does the worker have the right?

The worker may justifiably be absent for up to five consecutive days due to the death of a spouse who is not separated from persons and property, or of a person living in a non-marital partnership or common economy and of a relative or kin in the first degree in the straight line (son/daughter/son/son/daughter/ father/ mother/ mother-in-law/son stepfather) and up to two consecutive days, by the death of another relative or relative in the straight line (grandfather/grandmother/grandchild/grandfather/greatgrandfather/greatgrandmother - of the own or the spouse) or in the 2nd degree of the collateral line (sister/brother/sister-in-law/ sister-in-law).

When counting absences due to death (five days or two days), rest days and intercurrent holidays cannot be counted.

When does the counting of absences due to the death of a relative begin?

The beginning of the counting of absences due to the death of a family member begins on the day of the death; however, a different moment can be agreed or another moment can be established by collective work regulation instrument.

If the death occurs at the end of the day, after the worker has fulfilled the normal daily work period, the counting of the days of absence from work due to death must begin on the following day.

To this end, the employee must take care to comply with the duty to report absences to the employer and take into account that he/she may be required by the employer, within 15 days following the report of the absence, to prove the reason.

Examples:

•An employee with working hours from 9 a.m. to 6 p.m. from Monday to Friday

The worker's brother died on February 3 (Saturday) at 7pm, abroad. The funeral will take place in Portugal on February 7th (Wednesday). The worker and employer have agreed that the funeral will begin on the day of the funeral.

The two consecutive days of absence will start on Wednesday and count on Wednesday and Thursday.

• Worker with working hours from 9 a.m. to 6 p.m. with fixed days off on Mondays and Thursdays

The worker's brother died on 3 (Saturday) at 7 p.m., abroad. The funeral will take place in Portugal on February 7th (Wednesday). The worker and employer have agreed that the funeral will begin on the day of the funeral.

The two consecutive days of absence will start on Wednesday and count on Wednesday and Friday.

Should rest days and intercurrent holidays be counted when counting absences due to the death of a relative?

No. In the counting of absences due to death, rest days and intercurrent holidays cannot be counted.

Examples:

• Worker with working hours from 9 a.m. to 6 p.m. from Monday to Friday

The worker's mother died on 4 May (Thursday) at 7 p.m.. The worker worked that day from 9am to 6pm.

If the five consecutive days of absence begin on Friday, Friday, Monday, Tuesday, Wednesday and Thursday are counted. The counting can never start on Thursday, May 4th, since the worker was not absent that day.

•An employee with working hours from 3 p.m. to 24 p.m. from Monday to Friday

The worker's mother died on 4May (Thursday) at 10 a.m.

The five consecutive days of absence are counted on Thursday, Thursday, Friday, Monday, Tuesday and Wednesday.

•An employee with working hours from 9am to 6pm with fixed breaks on Mondays and Wednesdays

The mother of the worker died on May 4 (Thursday) at 7pm. The worker worked that day from 9am to 6pm.

When the five consecutive days of absence begin on Friday, Friday, Saturday, Sunday, Tuesday and Thursday are counted. The counting can never start on Thursday, May 4th, since the worker was not absent that day.

• An Employee with working hours from 9am to 6pm from Monday to Friday

The worker's mother died on 2 February (Saturday) at 7 p.m.

If the five consecutive days of absence begin on Monday, the second, Tuesday, Wednesday, Thursday and Friday are counted.

•An employee with working hours from 9 a.m to 6 p.m. from Monday to Friday.

The worker's mother passed away on 28 April (Saturday) at 7 p.m. 1 May (Tuesday) is a holiday.

When counting the five consecutive days of absence on Monday, the second, fourth, fifth, sixth and second days are counted.

- An Employee with working hours from 9am to 6pm with fixed breaks on Mondays and Wednesdays

The mother of the worker died on 2 February (Saturday) at 7 p.m. The worker worked that day from 9 a.m. to 6 p.m.

The five consecutive days of absence are counted on Sunday, Tuesday, Thursday, Friday and Saturday. The counting can never start on Saturday 2nd February since the worker was not absent that day.

- An Employee with working hours from 9am to 6pm from Monday to Friday.

The worker's mother died on 3 February (Sunday) at 7 p.m.

If the five consecutive days of absence begin on Monday, the second, Tuesday, Wednesday, Thursday and Friday are counted.

Will the passing of a family member postpone or suspend the enjoyment of the holiday?

The death of a family member postpones or suspends the enjoyment of holidays, insofar as it does not depend on the worker's will and makes it impossible to enjoy the right to holidays that aim at the worker's rest and physical recovery.

Examples:

- An employee with working hours from 9 a.m. to 6 p.m. with fixed breaks on Fridays and Wednesdays.

The worker has 5 days of vacation from 2 July (Monday) to 8 July (Sunday). The brother or sister of the worker died on 29 June (Friday) at 10 a.m. On 29 June, the working brother or sister informed the employer that the brother or sister has passed away and that the funeral will take place on 30th June (Saturday). The worker and employer have agreed that the funeral will begin on the day of the funeral.

If the two consecutive days of absence begin on Saturday, Saturday (30 June) and Sunday (1 July) will be counted.

The worker will enjoy the vacation days from the 2 July.

• An employee with working hours from 9am to 6pm from Monday to Friday.

The worker has 2 days of vacation from 2 (Monday) to 3 July (Tuesday). The worker's brother or sister passed away on 28 June 28 (Thursday) at 6 p.m. On 29 June (Friday), the working brother or sister informed the employer that the brother or sister passed away and that the funeral will take place on that day.

If the two consecutive days of absence are counted on Friday, Friday (29 June) and Monday (2 July) are counted.

The worker will take the remaining vacation day: Tuesday (July 3). The period corresponding to the days of leave not taken (1 day) must be marked by agreement or, in the absence of such agreement, by the employer, without being subject to the vacation period established in no. 3 of article 241 of the CT.

- An employee with working hours from 9am to 6pm from Monday to Friday.

The worker has 2 days of vacation from July 2 (Monday) to July 3 (Tuesday). The brother or sister of the worker died on 28 June (Thursday) at 6 p.m., abroad. On Friday, 29 June, the working brother or sister notified their employer that they had passed away and that the funeral would take place on 2 July. The worker and employer have agreed that the funeral will begin on the day of the funeral.

If the two consecutive days of absence begin on Monday, the second (2nd July) and the third (3rd July) will be counted.

The period corresponding to the days of leave not taken (2 days) must be marked by agreement or, in the absence of this, by the employer, without being subject to the holiday period established in no. 3 of article 241 of the CT.

•An employee with working hours from 9 a.m. to 6 p.m. from Monday to Friday.

The worker has 10 days of vacation from 23 April (Monday) to 4 May (Friday). The father of the worker died on 23 April at 6 p.m. On 24 April (Tuesday), the worker informed his/her employer that his/her father died and that the funeral will take place on that day. On 25 April and 1 May,

it is a holiday. The worker and employer have agreed that the funeral will begin on the day of the funeral.

If the five consecutive days of absence begin on Tuesday, Tuesday (24 April), Thursday, Friday, Monday and Wednesday (2 May) will be counted.

The worker will take the remaining vacation days: Thursday (3 May) and Friday (4 May). The period corresponding to the vacation days not taken (7 days) must be marked by agreement or, in the absence of such agreement, by the employer, without being subject to the vacation period established in no. 3 of article 241 of the CT.

For how many days can the worker be absent to assist the members of the household?

The worker has the right to be absent from work for up to 15 days a year in order to provide urgent and essential assistance in case of illness or accident to his/her spouse or to the person living with him/her in a consensual union or common economy with the worker, relative or relative in the ascending line (father, mother, father-in-law, mother-in-law, father-in-law, stepfather, stepmother, grandmother, grandfather, great-grandmother) or in the 2nd degree of the collateral line (brother, sister, brother-in-law, sister-in-law).

In addition to these 15 days, there are 15 days per year in the case of urgent and essential assistance to a person with a disability or chronic illness, who is a spouse or lives in a de facto union with the worker. In the case of assistance to a relative or relative in the ascending line, membership of the same household is not required.

The employer may require the worker to justify any absences:

a) Proof that the assistance is unavoidable and indispensable;

b) Declaration that the other members of the household, if they exercise professional activity, have not been absent for the same reason or are unable to provide assistance;

c) in the case of assistance to a relative or relative in the ascending line, a declaration that other family members, if they are working, have not been absent for the same reason or are unable to provide assistance.

When should the notice of absence be made justified?

Any The absence, whenever predictable, shall be reported to the employer, together with the reason for the absence, at least five days in advance. The unpredictable ones, as soon as possible.

The absence of a candidate for public office during the legal period of the electoral campaign shall be reported to the employer at least 48 hours in advance.

If the absence is followed immediately by other absences, the employer must also be notified even if the absence causes the employment contract to be suspended due to prolonged impediment.

Failure to notify the employer will lead to the absence being unjustified.

How can the employer demand proof of fault?

Within 15 days of notification of the absence, the employer may, require the employee to furnish proof of the facts invoked to justify his/her absence within a reasonable time.

Proof of the employee's illness is provided by a declaration from a hospital or health centre or by a doctor's certificate and the illness can be checked by a doctor.

Submitting a fraudulent medical declaration to the employer constitutes a false declaration for the purpose of dismissal.

If the employee does not provide proof of the reason for his/her absence or illness, or if he/she opposes the verification of his/her illness without any justifiable reason, his/her absence is considered unjustified.

The scheme already established for the supervision of illness during the holiday period, provided for in articles 17 to 22 of Law no. 105/2009, of 14 September, shall apply.

Are all justified absences paid by the employer?

No. The following absences, even if justified, determine the loss of wages:

- Due to illness, as long as the worker benefits from a social security scheme of protection in case of illness;

- Due to an accident at work, as long as the employee is entitled to any allowance or insurance;
- The absence for assistance to a member of the household;
- Those who are qualified as such by law, if they exceed 30 days a year;
- Those authorised or approved by the employer.

The lack of care for a household member is considered to be effective work performance.

Which are the consequences for unjustified absences?

Unjustified absences constitute a violation of the duty of attendance and lead to the loss of the remuneration corresponding to the period of absence, which will not be counted in the employee's seniority. The employee shall be considered to have committed a serious offence if he/she unjustifiably absent from a normal period of work immediately before or after the day or half day of rest or a holiday.

In this case, the period of absence to be considered for the purpose of loss of wages shall cover the days or half-days of rest or holidays immediately preceding or following the day of absence. If the employee arrives more than thirty or sixty minutes late, the employer may refuse to accept the benefit during that part or all of the normal working period.

Are the absences of candidates for public office paid?

Despite the provisions of the law, it should be understood that during the 11-day period of the electoral campaign, candidates for elections for public offices (effective candidates or supplementary candidates, these being at least the legally required minimum), are entitled to time off in the exercise of their respective functions, counting this time for all purposes, including the right to compensation, as time of effective service – cf. article 47 of Organic Law 1/2001, of 14 August and sole article of Organic Law 3/2005, of 29 August.

Can the employee be fired for unreasonably absent from work?

Yes, unjustified absences that directly determine serious losses or risks for the company or whose number reaches in each calendar year five in a row or ten interpolated, regardless of damage or risk.

Can the employee request the replacement of the loss of wages determined by the fault with another penalty?

The loss of wages due to absence can be replaced:

- By renouncing vacation days in the same number, the employee may only renounce the enjoyment of vacation days exceeding 20 working days, upon express declaration of the employee communicated to the employer;
- By rendering work in addition to the normal period, when the collective work regulation instrument allows it.

The substitution of the loss of wages due to absence does not imply a reduction in the holiday allowance corresponding to the holiday period overdue.

Is there any possibility for the employer to monitor the employee's illness during the holiday period?

Yes, for the purpose of verifying temporary incapacity for work due to illness, the employer requires his/her submission to the commission for verification of temporary incapacity for social security in the area of the employee's habitual residence.

The employer must, on the same date, inform the employee of the application.

Once the application has been submitted, the social security services must, within 48 hours of receiving the application:

- Summon the worker to present him/herself to the temporary incapacity check commission, indicating the place, day and time of its realization, which must occur within the following 48 hours;
- Inform the employer of this summons;
- Inform the worker that during his/her observation, he/she must present clinical information and the auxiliary elements of diagnosis at his/her disposal, proving his/her incapacity;
- If it is impossible to attend for an attendant reason, the worker must notify the fact within twenty-four hours of receiving the summons;

- His/her non-attendance without an answerable reason has as consequence that the days of alleged illness can be considered unjustified absences or that, if they occur in vacation period, they are considered in the duration of the vacation.

The social security services must notify the employer:

- Within 24 hours of receiving the application, that it is impossible to carry out a check on the illness within three working days
- Failure to carry out the medical examination, due to the worker's non-attendance with an indication of the reason for the impediment alleged by him/her, or due to a period of temporary incapacity to work due to a previously verified illness, this being the case, within the twenty-four hours following receipt of the application.

After the examination, the social security services must inform the employer and the employee whether or not he/she is fit to perform the activity, within the following twenty-four hours.

What should the worker do if he/she cannot attend the medical examination for which he/she was summoned?

The worker who cannot attend the medical examination for a justifiable reason must, in any case, inform the entity that summoned him/her of this impossibility by the date scheduled for the examination or, if it was not possible, within the following twenty-four hours. Depending on the nature of the impediment of the worker, a new date for the examination is set, to take place within forty-eight hours and, if necessary, at the worker's home.

Can an employer appoint a doctor to monitor the employee's illness?

If it is impossible for the social security authorities to carry out a check on the illness or if 48 hours have elapsed since the application was submitted and the employer has not been informed of the worker's appointment, the employer may appoint a doctor to carry out the check, who may not have any previous contractual relationship with the employer.

The employer may also appoint a doctor to check the employee's illness if he/she is informed that the medical examination has not taken place within three working days of the application or if the employee is unable to attend if he/she has not been given a new date for the examination by the social security services within 48 hours.

The assessment carried out by a doctor designated by the employer respects all the requirements inherent in the assessment by the social security services.

What happens if medical opinions have different diagnoses?

In the event of a discrepancy between the certificate of illness submitted by the employee and the opinion of the doctor who checked the illness, either party may request the social security committee to review the case.

The reassessment of the sickness of the employee is carried out by a reassessment committee of the social security services of the area of his/her usual residence. This commission is made up of three doctors, one appointed by the social security services, who presides with their casting vote, one appointed by the employee and one appointed by the employer. However, the re-evaluation committee may only consist of two doctors if the employer or employee has not indicated a doctor. If both the employer and the employee do not indicate a doctor at the same time, the social security authorities will appoint another doctor.

Can the doctor who performed the assessment report the result?

The doctor who carries out the assessment can only inform the employer if the employee is or is not fit to perform the activity. The communication must be made to the employer within twenty-four hours after the sickness check.

Who can ask for a reassessment of the disease situation?

A reassessment of the disease situation may be requested by either party within 24 hours of becoming aware of the outcome of the reassessment, and they shall communicate that request to the counterparty on the same date. The person requesting the reassessment shall

indicate the doctor or declare that he/she waives this option, and the other Party may indicate a doctor within twenty-four hours of knowledge of the request. The social security services must, within forty-eight hours of receiving the request, summon the worker to the medical examination, indicating the place, day and time of the examination, which must take place within the following three working days; inform the worker that if he/she does not attend the medical examination, without an answerable reason, it has as a consequence that the days of alleged illness are considered days of vacation, and he/she must present clinical information and the auxiliary elements of diagnosis available to him/her on the day of the examination, proving his/her incapacity. The committee must re-evaluate the worker's illness within eight days of the application and communicate the result to the worker and the employer within 24 hours of the examination.

How should communications regarding the disease situation be made?

Communications should be carried out by means of a fast wire, telephone, telefax, or e-mail.

Can the result of the assessment be used by the employer to disadvantage the employee?

No, the employer may not base any unfavourable decision on the result of the finding of temporary incapacity for work due to illness for as long as the period for requesting the reassessment has elapsed or, if it is requested, until the final decision.

Vacation

What legislation regulates holiday entitlement?

- Articles 237 to 247, 257 and 264 of the Labour Code (CT);
- Law no. 23/2012, of 25 June;
- Ruling of the Constitutional Court no. 602/2013, of 20 September.

Which are the general characteristics of holiday entitlement?

The worker is entitled, in each calendar year, to a period of paid vacation, which is due on 1 January.

As a rule, the right to vacation refers to work done in the previous calendar year, but is not conditioned to attendance or effectiveness of service.

Can the employee withdraw the right to vacation?

In the first place, the right to leave is irrevocable, and enjoyment cannot be replaced, even with the employee's agreement, by any economic or other compensation.

However, the worker may only take 20 working days of holidays, renouncing the rest or the corresponding proportion in the case of holidays in the year of admission, without reducing the salary or the allowance related to the holiday period overdue, which accumulate with the salary of the work done on those days.

Which vacation is the worker entitled to?

The worker is entitled to a minimum of 22 working days of vacation per year.

For holiday purposes, working days are considered to be the days of the week from Monday to Friday, with the exception of holidays.

If the worker's rest days coincide with working days, the days of vacation are considered for the purpose of calculating the days of vacation, instead of Saturdays and Sundays that are not holidays.

However, there are also special rules for the implementation of this right:

In the year of admission, the employee is entitled to 2 working days of holidays for each month of the duration of the contract, up to 20 days, the enjoyment of which may take place after 6 full months of performance of the contract. If the calendar year ends without the worker having completed the six months, the leave can be taken until 30 June of the following calendar year. However, no worker may take more than 30 working days of leave in that year, except if the collective work regulation instrument allows it.

What is the holiday entitlement of an employee with a contract of less than 6 months?

The worker with a contract whose total duration does not reach six months is entitled to take two working days of holiday for each full month of the duration of the contract, counting for this purpose all the days followed or interpolated of work.

In contracts of less than six months, the holidays must be taken before termination of the contract, unless the parties agree.

Will the worker have the right to leave in the year in which the prolonged impediment started in the previous year ceases?

In the year of termination of prolonged impediment, which began in the previous year, the worker is entitled to holidays on the same terms as the year of admission. That is, the employee is entitled to 2 working days of holidays for each month of the duration of the contract, up to 20 days, the enjoyment of which may take place after 6 full months of the contract. If the calendar year ends without the worker having completed the six months, the holidays can be taken until 30 June of the following calendar year. However, no worker may take more than 30 working days of leave in that year, unless the collective working regulation instrument allows it.

What if the extended impediment starts and ends in the same year?

In these circumstances, in case of total or partial impossibility to take holidays, which have already expired, due to the impediment of the worker, he/she is entitled to the remuneration corresponding to the period of holidays not taken or to the enjoyment of the same until 30 April of the following year and, in any case, the respective allowance.

Is it possible for the worker to accumulate holidays of several years?

In principle, the vacation must be taken in the calendar year in which it expires.

However, if there is an agreement between the employer and the worker, or whenever the worker wishes to take the holidays with family members residing abroad, these can be taken

until 30 April of the following calendar year, accrued or not, with those due at the beginning of this year.

In addition, by agreement between the employer and the employee, the latter may accumulate the enjoyment of half of the holiday period due in the previous year with that due in the year in question.

How and by whom are holidays booked?

Holidays are marked by agreement between employer and employee. If there is no agreement, the holiday must be marked by the employer and cannot start on the worker's weekly rest day, listening to the workers' commission or, in their absence, the inter-union commission or the union commission representing the worker concerned.

In small, medium or large companies, employers may only schedule the holiday period between 1 May and 31 October, unless the collective labour regulation instrument or the opinion of the workers' representatives allows for a different season.

In the absence of an agreement, an employer engaged in tourism-related activities is obliged to mark 25 % of the holiday period to which workers are entitled, or a higher percentage resulting from an instrument of collective labour regulation, between 1 May and 31 October, which is taken consecutively.

When scheduling holidays, the most desired periods should be apportioned, whenever possible, benefiting workers alternately according to the periods taken in the two previous years.

Spouses who work in the same company or establishment, as well as persons who live in a non-marital partnership or common economy, must take holidays in the same period, unless there is serious damage to the employer.

The enjoyment of holidays can be interpolated, as long as there is an agreement between employer and employee and as long as they are taken at least 10 consecutive working days.

The employer must draw up the holiday map, indicating the beginning and end of each worker's holiday periods, by 15 April of each year, and keep it posted at the workplace between this date and 31 October.

Can the employer close the business or establishment for holidays?

Yes, as long as it is compatible with the nature of the activity, you can close the company or establishment, totally or partially, for holidays in the following cases:

- Up to 15 consecutive days between May 1st and October 31st;
- For a period of more than 15 consecutive days or outside the period between 1st May and 31st October, when so established in an instrument of collective labour regulation or with the favourable opinion of the workers' committee;
- For a period exceeding 15 consecutive days, between 1 May and 31 October, when the nature of the activity so requires.

The employer may also close the company or establishment, totally or partially, for workers' holidays, for five consecutive working days during the Christmas school holidays, and on a day that is between a Tuesday or Thursday holiday and a weekly rest day. In the latter case, the employer must inform the workers of the respective closure by 15 December of the previous year.

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The employer may also close the company or establishment, totally or partially, for workers' holidays, for five consecutive working days during the Christmas school holidays, and on a day that is between a Tuesday or Thursday holiday and a weekly rest day. In the latter case, the employer must inform the workers of the respective closure by 15 December of the previous year.

And for worker-related reasons can holidays also be changed?

Yes, the enjoyment of holidays does not begin or end when the employee is temporarily prevented by illness or any other fact not imputable to him/her, as long as he/she communicates it to the employer, continuing after the end of the impediment, and the period corresponding to the days not taken must be marked by agreement or, in the absence of it, by the employer, without being subject to the period from 1 May to 31 October.

In case of total or partial impossibility of taking holidays due to the employee's impediment, he/she is entitled to the remuneration corresponding to the period of holidays not taken or to the taking of the same until 30th April of the following year and, in any case, the respective allowance.

The illness is justified by a declaration from a hospital establishment, health centre or medical certificate, but can be supervised by a doctor.

If the worker objects to the verification of the illness without any reason, the absence is considered unjustified.

What happens if the employer does not give the employee a holiday?

If the employer culpably obstructs the employee from taking leave, the employee is entitled to compensation in the amount of three times the salary corresponding to the missing period, which must be taken by 30 April of the following calendar year.

Can the employee engage in another activity during the holidays?

No, the employee may not exercise any other remunerated activity during the holidays, unless he/she is already exercising it cumulatively or the employer authorizes it.

An employee who works in another activity during the holiday period, in addition to committing a disciplinary infraction, gives the employer the right to recover the holiday pay and allowance, reverting half to the department responsible for the financial management of the Social Security budget.

Accordingly, the employer may deduct up to one sixth from the employee's salary for each subsequent salary period.

Are the absences deducted in the holidays?

Usually the absences have no effect on holidays. But if the absences result in a loss of wages, the worker can replace one day's absence with one day's holiday, subject to a period of 20 working days or the corresponding proportion in the year of admission.

Does the death of a family member postpone or suspend the enjoyment of holidays?

The death of a family member postpones or suspends the enjoyment of holidays, insofar as it does not depend on the will of the worker and makes it impossible to enjoy the right to holidays that aim at the worker's rest and physical recovery.

Examples:

- Worker with working hours from 9 a.m. to 6 p.m. with fixed breaks on Fridays and Wednesdays

The worker has 5 days' vacation scheduled from 2 July (Monday) to 8 July (Sunday). The brother or sister of the worker died on 29 June (Friday) at 10 a.m. On 29 June, the working brother or sister notified the employer that the brother or sister has passed away and that the funeral will take place on 30 June (Saturday). The worker and employer have agreed that the funeral will begin on the day of the funeral.

When the five consecutive days of absence begin on Saturday, Saturday (June 30), Sunday, Monday, Tuesday and Thursday (5 July) are counted.

The worker will take the remaining days of vacation: Saturday (7 July) and Sunday (8 July). The period corresponding to the unused vacation days (3 days) must be marked by agreement or, in the absence of it, by the employer, without being subject to the vacation period established in no. 3 of article 241 of the CT.

• The Employee with working hours from 9 a.m. to 6 p.m. from Monday to Friday

Worker has 2 days of vacation from 2 July (Monday) to 3 July (Tuesday). The brother or sister of the worker died on 28 June (Thursday) at 6 p.m. On Friday, 29 June, the working brother or sister notified their employer that they had passed away and that the funeral would take place on that day.

If the two consecutive days of absence are counted on Friday, Friday (29 June) and Monday (2 July) are counted.

Worker will take the remaining day of vacation: Tuesday (3 May). The period corresponding to the days of leave not taken (1 day) must be marked by agreement or, in the absence of this, by the employer, without subjecting the period of leave established in no. 3 of article 241 of the CT.

- The Employee with working hours from 9 a.m. to 6 p.m. from Monday to Friday

The employee has 2 days of vacation from 2 July (Monday) to 3 July (Tuesday). The brother or sister of the worker died on 28 June (Thursday) at 6 p.m., abroad. On Friday, 29 June, the working brother or sister notified their employer that they had passed away and that the funeral would take place on 2 July. The worker and employer have agreed that the funeral will begin on the day of the funeral.

If the two consecutive days of absence begin on Monday, the second (2nd July) and the third (3 July) will be counted.

The period corresponding to the days of leave not taken (2 days) must be marked by agreement or, in the absence of this, by the employer, without being subject to the holiday period established in no. 3 of article 241 of the CT.

- The employee with working hours from 9 a.m. to 6 p.m. from Monday to Friday

The worker has 10 days of vacation from 23 April (Monday) to 4 May (Friday). The father of the worker died on 23 April at 6 p.m. The worker informed the employer on 24 April (Tuesday) that the father died and that the funeral will take place on that day. 25 April and 1 May are both holidays. The employee and employer have agreed that the funeral will begin on the day of the funeral.

If the five consecutive days of absence begin on Tuesday, Tuesday (April 24), Thursday, Friday, Monday and Wednesday (2 May) will be counted.

The worker will take the remaining vacation days: Thursday (3 May) and Friday (4 May). The period corresponding to the vacation days not taken (7 days) must be marked by agreement or, in the absence of such agreement, by the employer, without being subject to the vacation period established in no. 3 of article 241 of the CT.

If the employment contract is terminated, what rights do you have with regard to holidays?

Upon termination of the employment contract, the employee is entitled to receive holiday pay and the respective allowance:

a) Corresponding to overdue and unused leave;

b) Proportional to the time of service provided in the year of termination

In the event of termination of a contract in the calendar year following admission or the duration of which does not exceed 12 months, the total amount of holidays or corresponding remuneration to which the employee is entitled may not exceed the proportion of the annual holiday period taking into account the duration of the contract.

If the contract is terminated after the worker has been prevented from working for a long time, he/she shall be entitled to the holiday pay and allowance corresponding to the period of service in the year in which the suspension began.

What is the salary corresponding to the holiday period, and the respective allowance?

The vacation allowance corresponds to the one that the worker would receive if he/she was in effective service.

In addition to this remuneration, the worker is entitled to a holiday allowance, including the basic remuneration and other remunerative benefits that are a counterpart to the specific way of performing the work, corresponding to the minimum holiday remuneration and proportionally in the case of interpolated holiday enjoyment.

Some practical examples will help to understand the right to leave.

Example 1: What holiday is a worker entitled to on 1 May 2014?

The worker is entitled in the year in which he/she is hired (2014), to 16 working days of holiday (8 months X 2 working days = 16 working days), which can be taken after 6 months of the contract, i.e. in November, and should be taken until the end of the year. In the following year, you are entitled to a further 22 working days of holiday.

Some practical examples will help to understand holiday entitlement. Example 2: What holiday is a worker entitled to on 1 July 2014?

In the year of admission (2014), a worker is entitled to 12 working days of leave (6 months X 2 working days = 12 working days), which are due the following year and must be taken by 30 June. In 2015, the right to a further 22 working days of holidays expires. However, as both holiday periods will necessarily be taken in the calendar year following admission, the sum of these 2 holiday periods reaches 34 working days of holiday (12 + 22 = 34 working days). It happens that the worker in the calendar year following admission cannot take more than 30 working days of holiday. The worker's leave, which was 34 days, will be reduced to 30 working days.

Some practical examples will help to understand the right to leave. Example 3: What holidays does a worker have on 1 June 2014?

In the year of admission (2014) you are entitled to 14 working days of holiday (7 months X 2 days = 14 days), which can be taken from 1 December. In this case, the 14 days of leave in the year of admission are not added to the 22 working days that fall due in the following year because after the expiration of the leave in the year of admission, i.e. on 1 December, the worker has enough time to take the full amount of his/her leave. And even if he/she takes this holiday period in the following year, the provisions of article 239 n.º 3 of the Labour Code cannot be applied, that is, it will not be reduced to 30 days. If the holidays in the admission year are still due in that year, with the possibility of being taken in that year, they can no longer be accumulated with the holidays due in the following year, for the purposes of applying the 30-day limit.

Some practical examples will help to understand holiday entitlement. Example 4: Fixed-term contracts of less than 6 months.

Fixed-term contracts of less than six months have a specific holiday scheme. If the contract lasts less than six months, the employee is entitled to two working days of holiday for each full month of the contract duration, i.e. an employee with a 3-month contract is entitled to 3 months X 2 working days = 6 working days.

Some practical examples will help to understand the holiday entitlement. Example 5: Fixed-term contracts of more than six months.

If the employee has a contract with a duration of 6 months or more, the holidays will be proportional to the duration of the contract. If the contract has a duration of 6 months, the holiday entitlement is 11 working days, (22 working days: 12 months = 1.83 working days X 6 months = 11 days).

A contract concluded on 30 June of one year only lasts for 12 months at 24.00 on 30 June of the following year. (Article 279 c) of the CC).

Some practical examples will help to understand the holiday entitlement. Example 6: Start of holiday.

If an employee works from Monday to Saturday with a weekly rest day, e.g. on Mondays, his/her holiday period cannot start on the weekly rest day. Since the days of the week from Monday to Friday are useful, with the exception of public holidays and working on Saturdays, it will be taken into account for holiday purposes on Monday instead of Saturday.

Some practical examples will help you understand holiday entitlement. Example 7: Sick leave suspension.

An employee begins 15 working days of holiday on 1 August 2014, which ends on 22 August. The employee becomes ill on 8 August and informs the employer that he/she is ill, and the holiday is suspended. The employee feels better and resumes his/her holidays from 17 until the 22 August. The remaining days of holidays that have not been taken because the worker has become ill will be marked by agreement. In the absence of an agreement, the employer is responsible for scheduling the remaining days, which can be scheduled from 1 May to 31 October.

Some practical examples will help to understand holiday entitlement. Example 8 An employee who suspends his/her contract on 1 May 2013 and returns to work in mid-April 2015. What is his/her holiday entitlement?

In the year of termination of the extended impediment started in the previous year, the lease expires in the terms foreseen for the admission year, that is, the employee is entitled to two working days for each month of the duration of the contract, in that year, up to twenty days, which can be taken after six complete months of the execution of the contract, and can be taken, in the case of the calendar year ending before 30 June of the following year.

Some practical examples will help to understand holiday entitlement. Example 9: An employee who falls ill on 1 June 2010, has his or her employment contract suspended and will retire in February 2012. What holidays is this employee entitled to?

If an employee terminates his/her employment contract after being prevented from working for a long time, he/she is entitled to a salary corresponding to the period of service in the year in which the suspension began, and the respective allowance.

Some practical examples will help to understand the holiday entitlement. Example 10: To what holiday is an employee entitled who was hired on 1 February 2014 and ends the employment relationship at the end of May 2015?

The employee is entitled to holidays in the year of admission, 2 working days for each month of the contract, up to a maximum of 20 working days and which expire after six full months of work (11 months X 2 days = 22 days), but not more than 20 working days in the year of recruitment. On January 1, 2015 the right to a further 22 working days expired. However, as the employment contract expires at the end of May 2015, i.e. in the calendar year following the year of admission, the total amount of holidays or corresponding remuneration to which the employee is entitled may not exceed the proportional to the annual holiday period, taking into account the duration of the contract (i.e. if 22 working days of holidays refer to 12 months, then the 16 months of the example in question will correspond to the enjoyment of 28.61 working days of holidays).

Some practical examples will help to understand holiday entitlement. Example 11: A female employee was admitted on 1 October 2014, suspending her contract in July 2015 because of illness until November 2015. On the same date (November) she took maternity leave. What leave is this worker entitled to in 2016?

In the year of employment, the worker was entitled to 2 working days per month (3 months X 2 working days = 6 working days) which must be taken by 30 June 2015. In March 2015 (after 6 months of the contract) she will be entitled to a further 22 working days of leave. But as you have not taken them because your contract is suspended due to illness, you must receive the salary corresponding to the period of leave not taken or the taking of it until 30 April of the following year and, in any case, the respective allowance. On 1 January 2016 you acquire the right to 22 working days of holiday, because despite the enjoyment of maternity leave, this counts as effective work.

Some practical examples will help to understand holiday entitlement. Example 12: To what holiday is an employee entitled who was admitted on 1 May 2014 and who suspended his/her employment contract from February 2015 until 15 December 2015 because he/she suffered an accident at work?

The employee is entitled to 16 working days of holiday (8 months X 2 working days = 16 working days) in the year in which he/she is hired, which are due after 6 months of the contract, i.e. they expire in November and must be taken by the end of the year. In the following year, you are entitled to a further 22 working days of holiday, which expired in January 2015 and which were not taken because the employee suffered the accident. In January 2016, the worker is in service and is entitled to an additional 22 days of holiday, to which the holiday bonus cannot be applied.

In this case, the employee is entitled to the remuneration corresponding to the leave not taken or to the enjoyment of the same until 30 April and, in any case, the respective allowance.

Holidays

Which legislation regulates holidays?

Arts. 234 to 236 of the CT.

Which holidays are mandatory?

The mandatory holidays are:

- 1 January

- Good Friday

- Easter Sunday

- 25 April

- 1 May

- Body of God

- 10 June

- 15 August

- 5 October

- 1 November

- 1, 8 and 25 December

Are there other holidays besides the mandatory ones?

In addition to the compulsory holidays, the following holidays may be enjoyed by means of an instrument of collective labour regulation or employment contract: Carnival Tuesday and the local municipal holiday. These optional holidays may be replaced by others agreed between employer and employee.

Can all companies work on days considered mandatory holidays?

No. Activities that are not allowed on Sundays must be closed or suspended.

Can employment contracts or collective regulation instruments indicate different holidays?

No. The collective bargaining instrument or the employment contract may not establish holidays other than those mentioned above.

Professional training

What is further training?

Continuing training means the process of acquiring knowledge, developed after the initial vocational training. Its aims are to adapt the worker to technological, technical and organisational changes, improve his/her employability and increase the competitiveness and productivity of the company.

Responsibility for continuing training is assigned by law to the employer.

What are the worker's training rights?

The employee is entitled to at least 35 hours of continuous training each year, which may be anticipated or deferred for four years, in accordance with the multiannual training plan drawn up by the employer.

After the end of this two-year period, the employee is credited with an equal number of hours to attend training on his/her own initiative. In this case, the employee must notify the employer of his/her intention to attend training on his/her own initiative at least 10 days in advance.

The training attended by the employee also gives him/her the right to issue a training certificate and to register in the Employee's Individual Skills Booklet, under the terms of the legal regime of the National System of Qualifications.

If the employer does not provide the employee with 35 hours of annual training over a period of two years, the employee is entitled to use the credit for hours corresponding to the minimum number of hours of annual training he has not received, to attend training sessions on his own initiative.

In this case, the employee must inform the employer of his/her intention at least 10 days in advance and the training chosen by him/her must correspond to the activity provided, respect information and communication technologies, safety and health at work or foreign language.

Training hours not organised by the employer become, for those workers not covered by these hours, credits accumulating over three years, after which they cease.

The right to use the accumulated training hours credits of the worker's choice can and must be used during the normal working period.

The exercise of the credit of hours is valid as effective service and confers the right to remuneration, which means that it will not be deducted from the employee's salary.

The hours that the worker has to take time off work to attend classes and the absences for assessment tests under the Student Worker Statute count for the 35 hours of annual continuing training.

Absences from work given by the worker within the scope of processes of recognition, validation and certification of skills are considered in the accounting of the 35 hours of annual continuous training.

Upon termination of the employment contract, the employee is entitled to receive the compensation corresponding to the minimum annual number of training hours not provided, or to the credit of hours for training he/she holds on the date of termination.

Does the employer have to provide training each year to all the employees of the company?

No. Employers must provide at least 10% of the company's employees with further training each year. This does not prevent it from having to draw up the multi-annual training plan in order to guarantee all employees' rights (35 hours per year) or to allow and grant credit for hours for the employee to attend training on his/her initiative.

Is the fixed-term worker entitled to continuous training?

Yes, if he or she is hired for a term of three months or more, in which case he or she will be entitled to a number of hours of continuous training proportional to the duration of the contract in that year.

Is the temporary worker entitled to further training?

Yes, the temporary agency must provide vocational training for a temporary worker under a fixed-term contract where the duration of the contract, including renewals, or the sum of successive temporary employment contracts in a calendar year exceeds three months, in which case the minimum duration of the continuing training is eight hours; the user undertaking may provide continuing training for a temporary worker in its service.

Can the company/temporary employment agency/private placement agency/recruitment company demand payment for the training given to the employee?

No. In no case may the employee, temporary worker or job-seeker be required to pay any amount whatsoever, in particular for vocational guidance or training services.

Is the part-time worker entitled to further training?

Yes, according to the law, the part-timer may not be treated less favourably than a full-timer in a comparable situation, unless different treatment is justified by the employer for objective reasons.

Is the worker under the age of 16 entitled to further training?

Yes. Employers must provide vocational training for minors in their service, with the cooperation of the competent bodies if they do not have the means to do so**.**

Must the continued training take place during working hours? And are the hours of training that take place after working hours paid? In what way?

No, continuing training does not necessarily have to take place during working hours. However, if it occurs beyond the normal working period, if it does not exceed two hours per day, it will not, up to this limit, be considered as overtime work and, therefore, such hours must be paid in single. After this limit, all hours shall be counted as overtime and shall be remunerated as such.

What is the content of continuous training?

The area of continuing training is determined

by agreement or, in the absence of an agreement, by the employer, in which case it must coincide or be related to the activity provided by the employee.

Continuous training must also be organised in order to cover some areas which the law considers fundamental from the outset, the demands of the function to be performed by the worker, considering the qualification he/she holds, the development of the workers' qualifications, considered from the needs of increasing productivity and competitiveness of the company, the skills considered transversal in the scope of information and communication technologies or foreign language and safety and health at work.

If the employer provides training in occupational safety and health, does this count towards the 35 hours of continuing training?

Yes, as long as it takes into account the job and the exercise of high risk activities, under the terms of Article 20 of Law No. 102/2009 of September 10 (Law approving the legal framework for the promotion of safety and health at work), amended by Law no. 42/2012. of 28 August, and Law no. 3/2014, of 28 January, and meets the requirements provided for in Article 131 no. 3 of the Labour Code.

The employer has assigned new functions to the employee. Does the employee have to be trained on them?

Yes. Whenever the exercise of functions ancillary to those usually performed requires a special qualification of the employee, he/she is entitled to vocational training of not less than 10 hours per year.

Who can develop further training?

Further training may be developed by the employer, by a training organisation certified for this purpose or by an educational establishment recognised by the competent ministry.

Does the continuing vocational training developed by the employer have to be certified?

According to the current legal regime, the continuous professional training provided for in article 131 of the Labour Code does not have to be certified (it may or may not be certified, depending on the type of entity that develops it).

Does an employer who develops further training under the Labour Code necessarily have to be certified?

An employer does not have to be a certified entity (or have recourse to one) to be able to provide continuing vocational training, but only to have professional knowledge to do so.

Thus, the training undertaken by the employer may be provided by himself/herself, by an employee of the company or by an external trainer, as long as the contents of the training coincide or are related to the activity provided by the employee.

What does the attendance of a continuing vocational training produce?

It produces the issuing of a certificate. In case of successful completion of a continuing vocational training course carried out by a non-certified training organisation (namely that assumed by the employer) its proof is made by professional training certificate (article 7, no. 8 of Decree-Law no. 396/2007, of 31 December). The professional training certificate has its model regulated in Ordinance no. 474/2010, of 8 July. In the case of training actions, namely those that take the form of a conference, seminar, or others that do not presuppose a successful conclusion, they do not need to adopt the model of certificate legally provided for (article 3, no. 3 of Administrative Rule no. 474/2010, of 8 July).

Registration in the Individual Competence Book is optional (Ordinance no. 475/2010, of 8 July), except in situations where the law determines otherwise.

How can the employer ensure further training?

The employer can ensure the continuing training of the employees, either through actions to be developed in the company or in a supplementary way, by granting time for the development of training on the initiative of the employee.

The law makes no mention of where the training should be given to workers, but it should be given on the spot and with the pedagogical methods that best fulfil the purposes intended by it.

Is there any obligation for the employer to draw up a training needs assessment and an annual or multi-annual training plan or training record?

Yes, the employer must prepare the annual or multi-annual training plan based on the diagnosis of the workers' qualification needs.

The training plan must specify, among others, the objectives, the training entities, the training actions, the location and the time of their implementation.

The employer must inform of the diagnosis of qualification needs and of the project of the training plan destined to each worker, as well as to the workers' committee or, in their absence, to the inter-union committee, the union committee or the union delegates.

Micro enterprises, i.e. those employing less than ten workers, are not covered by this obligation.

The employer must include information on the continuous training provided each year within the framework of the information on the company's social activity, currently included in "Annex C" of the Single Report, approved by Ordinance no. 55/2010, of 21 January.

Is the training that the employee chooses when using the time credit, paid for by the employer or is it funded by you?

A minimum of 35 hours per year of continuous training is an employer's cost. However, in this case, the Labour Code states that by collective labour regulation instrument or individual agreement, an allowance may be established for payment of the training cost, up to the amount of the remuneration for the period of credit of hours used.

What legal acts can I consult in case of doubt?

In this matter, it is essential to consult the Decree-Law no. 396/2007, of 31 December, a legal act that establishes the legal regime of the National System of Qualifications; Ordinance no. 474/2010, of 8 July, a legal act that establishes the model of the professional training certificate and also Ordinance 475/2010, of 8 July, legal act that approves the model of the individual competency notebook, in addition to articles 130 to 133 of the Labour Code,

approved by Law 7/2009, of 12 February, and also articles 13 to 15 of Law no. 105/2009, of 14 September, legal act that regulates the Labour Code, all available at www.dre.pt.

You can also consult the internal guidance of the ACT on continuing vocational training.

It is also useful to consult the website of the National Agency for Qualification (ANQ) at www.anqep.gov.pt.

Helpful Link: http://www.act.gov.pt