



# Update

Momentum



Labour

September 2, 2015

## LAW NO. 120/2015, OF SEPTEMBER 1

### AMENDMENT TO THE LABOUR CODE: STRENGTHENING MATERNITY AND PATERNITY RIGHTS

Law No. 120/2015<sup>1</sup> amends the Portuguese Labour Code, approved by Law No. 7/2009, of 12 February<sup>2</sup>, strengthening maternity and paternity rights. We summarize the most relevant changes:

a) The period of paternity leave/“father’s-only parental leave” (“*licença parental exclusiva do pai*”) has been extended to up to 25 working days (formerly 20 working days), 15 of which are mandatory (previously 10) and must be taken during the first month after the birth (5 of these 15 days must be taken consecutively immediately after the birth). Note, however, that this extension will only be effective on the date of entering into force of the next State Budget Law.

b) The period of initial parental leave (“*licença parental inicial*”) has not been changed: 120 or 150 calendar days, it being mandatory for the mother to take 6 weeks immediately after the birth: the remaining period may be shared between parents and an extra 30 days is available if both parents share the leave. However, before Law no. 120/2015, the parents were not allowed to take the initial parental leave simultaneously and often the mother or the father had to use her/his annual vacation leave in

---

<sup>1</sup> Available on <https://dre.pt/application/conteudo/70152047> (Portuguese version). The legislative process related to this Act may be consulted on <http://www.parlamento.pt/ActividadeParlamentar/Paginas/DetailIniciativa.aspx?BID=39340> (Portuguese version).

<sup>2</sup> Amended by Laws No. 105/2009, of 14 September, 53/2011, of 14 October, 23/2012, of 25 June, 47/2012, of 29 August, 69/2013, of 30 August, 27/2014, of 8 May, 55/2014 of 25 August and 28/2015, of 4 April. See also Rectification No. 38/2012, of 10 July Law No. 7/2009, of 12 February.



Update

Momentum



Labour

order to avoid having to return to work during the period the other parent was on parental leave. This Act allows parents to simultaneously take this leave, except if both work in the same microenterprise (“microempresas” – enterprises employing fewer than 10 employees), where the agreement of the employer is always required.

- c) It is now expressly foreseen that the employees with parental responsibilities entitled to flexible forms of employment (e.g. part-time work or flexible time work arrangements) shall not be placed at any disadvantage concerning performance assessment and career progression.
- d) The employer is obliged to display information on parental rights on the enterprise’s facilities.
- e) The parent of a child aged 3 or less is entitled to telework on the condition that this is consistent with the work performed and if the employer holds the necessary means to implement this. In this case, the employer may not oppose the exercise of such a right.
- f) The parent of a child aged 3 or less is also entitled to refuse the application by the employer of flexible working time instruments as adaptability (“adaptabilidade”) or bank of hours accounts (“banco de horas”).
- g) Moreover, misdemeanours imposed in case of breach of parental rights have been aggravated.

Save for the amendment referred above in *a)*, the remaining ones will enter into force on September 6, 2015. In general, the approval of these changes is an important step in order to promote gender equality, to boost the birth rate and to raise awareness of the relevance of the effectiveness of parental rights.

Rita Canas da Silva  
rcs@servulo.com

Sérvulo & Associados | Sociedade de Advogados, RL

This publication was prepared by Sérvulo & Associados exclusively for information purposes and its content does not imply any sort of legal advice nor establish a lawyer client relation  
Total or partial copy of the content herein published depends on previous explicit authorization from Sérvulo & Associados.

Rua Garrett, n.º 64 1200-204 Lisboa - Portugal Tel: (+351) 21 093 30 00 Fax: (+351) 21 093 30 01/02  
geral@servulo.com www.servulo.com