



CENTURION

Lawyers and Business Advisors

**COVID-19 LEGAL
UPDATE:
ANGOLA**

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EMPLOYMENT

REDUCING EMPLOYEES' WORKLOAD AND PAY DURING THE COUNTRY PANDEMIC/ LOCKDOWN WITHOUT TRIGGERING REDUNDANCIES.

Under the rules set forth by the Presidential Decree no. 82/20, of 26 March, together with the Ministry of Labour's Decree no. 122/20, of 24 March, employers are prohibited from cutting or reducing wages or dismissing employees based on their absence to work. Thus, Employers are required to pay full salaries to employees even if the nature of their job is that they are unable to work remotely but need to stay home to be safe from the virus.

This could change if the state of emergency is extended.

OUTSTANDING LEAVE DAYS, AND FORCED PAID LEAVE OR UNPAID LEAVE DURING THE PANDEMIC/LOCKDOWN. DEDUCTING QUARANTINE PERIOD FROM ANNUAL OR SICK LEAVE

Outstanding leave days:

The general rule is that the definition of the vacation period must be a result of an agreement between the employer and the employee. Exceptionally, the General Labour Law admits that total or partial suspension of the company's activity based on economic imperatives, may result on the imposition of a general vacation period for all employees.

There are no specific provisions on the matter in the context of the state of emergency.

Forced Paid/Unpaid Leave:

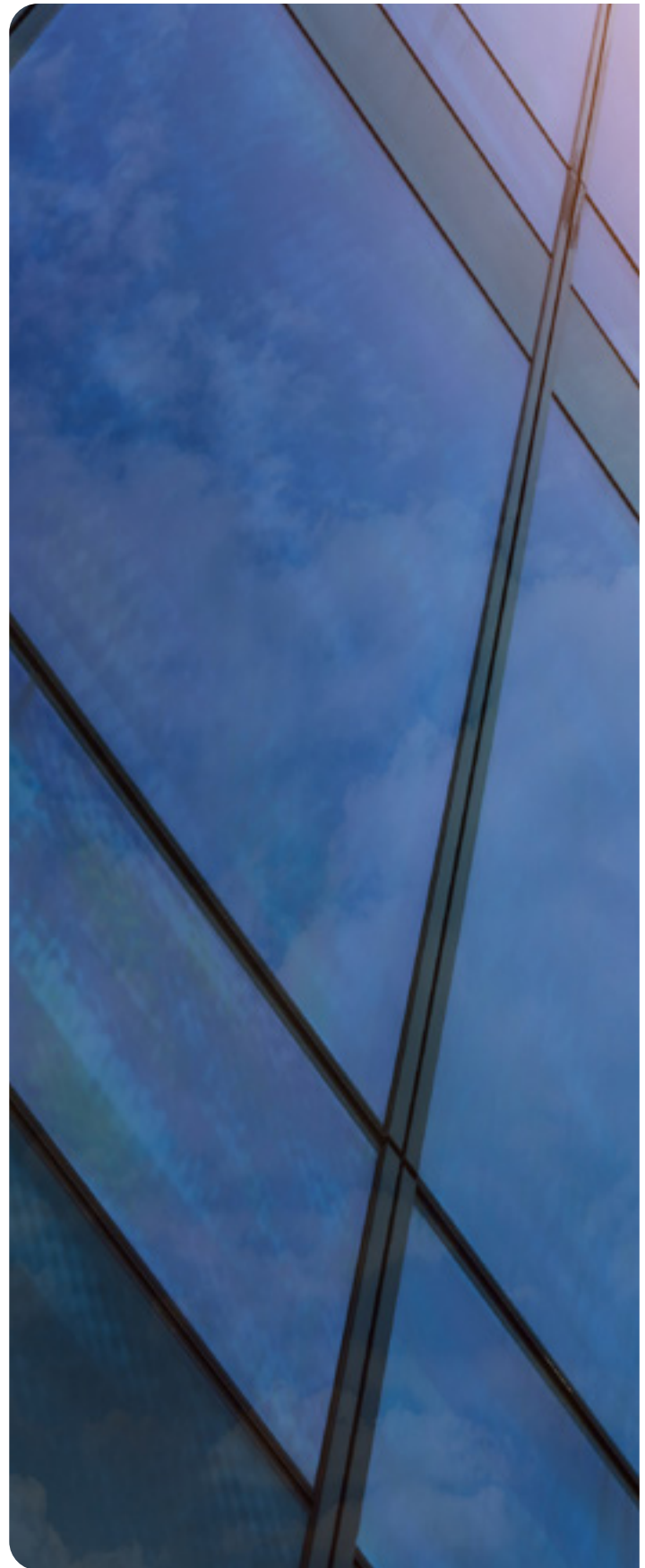
The rule is that all private and public institutions other than those providing essential goods and services are closed. As a result, a large percentage of the working population was sent home with full salary, to await notice on the possibility of wage cuts.

Deducting quarantine period from Annual/sick leave:

According to laws in force, an employer cannot deduct the quarantine period from an employee's annual leave or sick leave. This may be regulated differently if the state of emergency is extended.

RENEGOTIATING TERMS OF EMPLOYMENT

According to general labour laws, the employee may enter into an agreement with the employer on the terms of the employment. Therefore, there is no prohibition on the renegotiation of employment contracts during this period.



EMPLOYMENT TERMINATION

At this moment the rule is that all jobs shall be maintained despite of the effective provision of work by the employee (on site or remotely).

EMPLOYMENT BENEFITS DURING REMOTE WORK

When requested to work remotely, the employee should be granted with all necessary means to deliver the work (laptop, internet access). The employee is entitled to full salary, however allowances inherent to on site work may be cut.

COMPANY COVID-19 POLICY AND COMPANY LIABILITIES

Private and public institutions remaining in operation must prepare and implement a contingency plan. The law does not regulate what should be included, however it should clarify which positions are provisionally closed, which remain open as minimum services and the respective team members, in addition to the special health and safety measures adopted on the Covid 19 pandemic.

Directors and governing bodies of operating private and public institutions may be held liable for the absence of a contingency plan as well as for not creating the necessary sanitary conditions to keep the business open, namely for the crime of disobedience.

PERFORMING OTHER JOBS WHERE CORE FUNCTIONS ARE DOWN DURING PANDEMIC/LOCKDOWN

An employer may require that an employee perform other functions outside the employee's core functions of employment. The Presidential Decree expressly states that employers may determine that workers perform their work in a different location, for a different entity and in different work conditions and schedules than those established in their contract.

EMPLOYMENT INSURANCE POLICIES (GOVERNMENT OR PRIVATE) DURING THIS PERIOD AND ACCESSING THESE POLICIES.

None presently.

IMMIGRATION

CURRENT SITUATION IN THE COUNTRY

Angola is currently on lockdown and state of emergency. On the 9th of April, the President extended the state of emergency and the exceptional and provisional measures for the prevent of COVID-19 for 15 days to end on 25 April.

All private commercial establishments remain closed except those businesses identified in the Presidential Decree no. 82/80 of 26 March 2020. These include banks, hotels, telecommunication companies, restaurants, pharmacies, grocery stores, fuel stations, etc. Businesses considered essential such as hospitals, waste collection, energy and water services and security services are also in operation.

The following fundamental rights have been suspended during this period:

- Right to free movement;
- Right to property;
- Right to free economic initiatives; and
- The general rights of employees.

TRAVELLING TO ANGOLA

A national sanitary barrier which prohibits the entry and exit of the national territory by any means, was announced. The exception to this is any urgent and necessary trips such as: (i) humanitarian aid, (ii) entry and exit of essential goods and (iii) entry and exit of patients.

RESTRICTIONS OR CANCELLATION ON VISAS APPLICATIONS/ISSUANCE

As previously mentioned, national frontiers are closed saved for the situations identified. If applicable, most likely immigration authorities will issue an ad hoc permit.

EXPIRATION OF LEGAL STATUS WHILE IN ANGOLA

Although no particular measures were announced by the relevant immigration authority, it was determined by the Presidential Decree that, during the term of the State of Emergency, expired official documents are deemed as valid. This includes tourist and work visas as well as residency cards.

LEAVING ANGOLA

Although national frontiers are closed, expats are being allowed to leave the country in coordination with the respective consulates and embassies.

TAX

TAX EXEMPTIONS/RELIEFS

- Taxes on the import of food and medication and other essential goods may be paid according to an a posteriori regularisation regime, to be defined by the Ministry of Finance;

- 12-month tax credit on VAT due on the import of capital goods and raw materials used to produce goods that make up the basic food basket (identified in Presidential Decree 23/19 of 14 January 2020); and
- Possible deferred payment, without interest, of the social security contribution borne by the employer (8%), referring to the 2nd quarter of 2020, in 6 monthly instalments from July to December 2020.

GRACE PERIOD FOR THE FILING OF TAX RETURNS

The following extensions have been granted effective from 9 April 2020:

- Extension of the period for the settlement of the industrial tax for Group A companies to 30 June 2020; and
- Extension of the period for the settlement of the industrial tax for Group B companies to 29 May 2020;

CORPORATE

SUSPENDING OBLIGATIONS UNDER A CONTRACT IN LIGHT OF COVID-19

If a contract governed by Angolan Law includes provisions regulating force majeure events, change in the circumstances, etc., and the obligation cannot be performed due to a cause demonstrably related with Covid 19 pandemic, the party unable to fulfil the contract may claim expiry of the obligation based on the impossibility. It is not enough to claim that performance became difficult or more onerous; the effective impossibility of fulfilling the contract shall be demonstrated.

Although epidemics are not one of the typical circumstances included in force majeure clauses, in principle, it would be deemed as an event of force majeure resulting on the suspension or termination of the inherent obligations. This may depend largely on the wording of the contract.

COVID-19 AS A MATERIAL ADVERSE CHANGE IN A CONTRACT

COVID-19 could be deemed as vital change of the circumstances that motivated the deal and thus may constitute a material adverse change.

REMEDIES FOR A PARTY'S FAILURE TO PERFORM ITS OBLIGATION UNDER CONTRACT

The counterparty may claim for a breach of contract in accordance with the provisions of the contract. Note that the Angolan courts are closed during the state of emergency and all timelines are suspended until further notice.

REQUIREMENTS TO REGISTER DOCUMENTS UNDER THE COMPANIES REGISTRY

Prior to the declaration of the State of Emergency, the Ministry of Justice announced the general suspension of registrar and notary services for a 15-day period.

The suppression of certain bureaucratic procedures related to the establishment and operation of companies have been announced. These include:

a) Direct communication between the General Tax Authority (AGT) and the National Statistics Institute (INE) to release companies from carrying out statistical registration at the time of incorporation and during their activity;

b) Elimination of the requirement of obtaining business license for most companies, saved for those related to sale of food products, live animal species, poultry and fisheries, medicine, car sales, fuel, lubricants and chemicals. Other remaining commercial activities may be carried out with a permit to be issued by the respective municipal administration.

c) Elimination of the obligation to register and / or license foreign technical assistance contracts with the National Bank of Angola and the Ministry of Economy, as previously regulated by Presidential Decree no. 271/11, of 27 October.

EFFECTS OF COVID-19 ON DELAYS TO OBTAIN REGULATORY APPROVALS

As previously stated, the following have been announced:

Elimination of the requirement of obtaining business license for most companies, saved for those related to sale of food products, live animal species, poultry and fisheries, medicine, car sales, fuel, lubricants and chemicals. Other remaining commercial activities may be carried out with a permit to be issued by the respective municipal administration; and

Elimination of the obligation to register and / or license foreign technical assistance contracts with the National Bank of Angola and the Ministry of Economy, as previously regulated by Presidential Decree no. 271/11, of 27 October.

GENERAL

FISCAL MEASURES TOWARD COUNTERING THE ECONOMIC EFFECTS OF THE PANDEMIC

The following have been announced:

Companies

- Allocation of funds from the Fund for Support to Agrarian Development (FADA), Development Bank of Angola (BDA), Active Venture Capital Fund (FACRA) to support and finance companies in the most diverse sectors;
- 12-month tax credit on VAT due on the import of capital goods and raw materials used to produce goods that make up the basic food basket (identified in Presidential Decree 23/19 of 14 January 2020); and
- Possible deferred payment, without interest, of the social security contribution borne by the employer (8%), referring to the 2nd quarter of 2020, in 6 monthly instalments from July to December 2020.

Individuals

- Obligation for employers in the private sector to transfer the amount of the social security discount to workers' wages that would be borne by them (3%) in salaries of April, May and June 2020;
- Prohibition of power and water cuts to clients facing payment difficulties in the month of April;
- Creation of a fund to support campaigns for the distribution of goods of the basic food basket to be carried out by the Ministry of Social Action, Family and Promotion of Women together with the Provincial Governments; and
- Implementation of the first phase of the Social Monetary Transfer Program for the benefit of 1,600,000 disadvantaged families beginning in the month of May.

NEW LAWS/REGULATIONS TOWARDS COMBATING THE PANDEMIC

The Presidential Decree no 98/20 of 9 April 2020 was enacted and published. The decree provides measures designed to mitigate the adverse impact of the pandemic on the Angolan economy and inhabitants.

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The decree also includes measures aimed at accelerating the process of transition from activities commonly carried out informally to the formal sector of the economy, such as street selling, markets, transportation, resulting in the creation of a multisectoral working group under the ongoing Informal Economy Reconversion Program (PREI). In the same direction, a different multisectoral group will oversee an action plan to promote the use of digital payment methods, education and financial inclusion of economic agents, as well as the promotion of fintech.

EFFECT OF THE PANDEMIC ON THE COUNTRY'S ECONOMY AND ANY RECESSION RISKS

Considering that most of commercial establishments, industries and public services of the Direct and Indirect State Administration are closed, and that so far no fiscal or support measures were announced, we expect a big impact in the economy. There have been forecast of impending recession. The economy has been greatly affected by the fall in the price of oil. The State Budget is currently under revision with a view to consider the impacts of the pandemic and the oil price variations.

BANKING RESTRICTIONS AND BORROWER PROTECTIONS AND MORATORIUM ON LOAN REPAYMENTS

Financial institutions performing credit operations must grant their clients a 60 (sixty) day moratorium on the repayment of capital and interest inherent to credit obligations, ensuring that this does not cause a change in the value of the ongoing instalments, as well as temporarily suspend all demands, arrears and executions resulting from delay in compliance of said obligations that cannot be performed as a result of the significant impact of the Covid-19 pandemic.

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