

On April 1, 2020, President Jair Bolsonaro enacted the Presidential Provisional Measure no. 936/2020 (PM), which provides the Employment Maintenance Emergency Plan against the novel coronavirus crisis (COVID-19) in Brazil. The emergency plan aims to preserve jobs and workers' income, as well as the country's economic activity by reducing negative impacts caused by the state of public calamity and health emergency.

The PM creates the Job and Income Preventive Emergency Benefit, applicable to the following situations:

- A. Proportional reduction of working hours and salary, or
- B. Temporary suspension of the employment agreement

### A. Proportional reduction of working hours and salary

The PM allows employers to reduce the salaries and working hours of the employees proportionally, **for up to 90 days**, as follows:

Working Hours Reduction	Emergency Benefit Amount	Employees
25%	25% of the unemployment insurance	Applicable to all employees
50%	50% of the unemployment insurance	Employee who earns salary up to BRL\$3,135.00; or higher than BRL\$12,202.12 with college degree
70%	70% of the unemployment insurance	Employee who earns salary up to BRL\$3,135.00; or higher than BRL\$12,202.12 with college degree

The federal government will pay a social security according to the percentage of the reducing salary and working hours.

For salaries between the amounts outlined above, the PM allows modification of the employment agreement through collective bargaining agreement.

The requirements outlined by the PM are the following:

- Term of up to 90 days, during the state of public calamity.
- Employer must preserve the hourly wage.
- Tenure period equal to the period of the agreement.
- Tenure period not applicable to employees dismissed with just cause or at the request of the employee.
- Payments of the emergency plan must start 30 days from the date of the agreement.
- Employers must provide notice to the federal government of the amendment to employment agreements up to 10 days as of the date of execution. In the event of non-compliance with the deadline, employer will remain responsible for the full salary until the date of the notice provided to the federal government.
- The PM allows reductions by different percentages through collective negotiation with the union, as follows:
  - A. Less than 25%: No Emergency Benefit will be granted
  - B. From 25% to 49%: Emergency Benefit of 25%
  - C. From 50% to 69%: Emergency Benefit of 50%
  - D. Over 70%: Emergency Benefit of 70%
- Collective bargains may be renegotiated within 10 days from the publication of the PM.
- Companies may pay monthly compensation to employees that must be included in the agreement or collective bargain. The additional payment will not be considered as salary for legal purposes.
- Regular working hours and salary must resume two days as of:
  - A. The end of the state of public calamity
  - B. The end of the period established in the employment agreement amendment or collective agreement, or
  - C. The employee is duly informed of employer's decision to return to the regular working hours
- In addition to the regular severance compensation, employees dismissed without just cause during the tenure period will be entitled to 50% to 100% of the salary due during the tenure period.

## B. Temporary suspension of the employment agreement

In addition to the reduction of the working hours and salary, the PM allows the temporary suspension of the contract for **up to 60 days**. Employee will receive the benefit equivalent to the unemployment insurance that he or she would be entitled.

Companies with gross revenue higher than BRL\$4.8 million in the 2019's calendar year must pay a monthly compensatory allowance of 30% of the employee's salary.

In sum, the main rules for temporary suspension of the employment agreement are:

Gross Revenue (2019)	Monthly Compensatory Allowance	Emergency Benefit Amount	Employees
Up to BRL\$4.8 Million	Optional	100% of the unemployment insurance	Employee who earns salary up to BRL\$3,135.00; or higher than BRL\$12,202.12 with college degree
More than BRL\$4.8 Million	30% of the salary	70% of the unemployment insurance	

The requirements outlined by the PM for the temporary suspension of the employment agreement are very similar to those for the proportional reduction of working hours and salary, with few exceptions, such as the maximum term and employer's obligation to continue paying benefits, as follows:

- Term of up to 60 days, which can be allocated in two terms of 30 days.
- During the suspension period, employer must remain paying any benefits established in collective agreements or freely paid to the employee.
- If employee continues to work, even partially, during the temporary suspension of the employment agreement, he or she will be entitled to receive the entire salary for the period, and the employer will be subject to penalties established in the law, collective agreement and agreement.

If you would like to obtain further information on PM no. 936/2020 and its legal consequences, please contact our Brazil Desk.