

New regulations on social security benefits

6 August 2019

In brief

Law no. 289, dated 22 July 2004, on allowances for temporary work incapacity and other social security benefits ("Law 289") was revised and supplemented by Law no. 311, dated 30 November 2018. The most significant amendments apply as of 1 July 2019, with some exceptions related to allowances for childcare up to the age of three years, which enter into force on 1 January 2020.

In detail

Payment of social security benefits

Social security benefits covered by Law 289 are paid by the National Social Security House ("NSSH") directly to beneficiaries, except those payable by employers (i.e. the first five calendar days of temporary work incapacity, limited to 15 cumulative days during the calendar year).

Conditions for granting

Allowances for temporary work incapacity caused by tuberculosis, AIDS or cancer are determined and paid by the NSSH regardless of the contribution period.

Calculation base

The amount of social security benefits (except those payable by employers) are determined based on income, from which individual social security contributions were calculated and paid.

In the absence of insured income during any or all of

the previous 12 calendar months included in the calculation, it is possible to substitute them with the same number of consecutive calendar months immediately preceding the period included in the calculation during which insured income was received. The substitution period can not exceed 36 consecutive calendar months.

In the absence of insured income during any or all of the previous 12 calendar months due to maternity and / or childcare leave up to the age of three years, the maternity and childcare allowances consider the calculation base for the previous child. This treatment also applies if some unique payments were received during such leave.

In the absence of the required contribution period or calculation base for assessing some social security allowances, the calculation base is 35% of the forecast average monthly salary, established

by the Government for the year the insured risk occurred.

The calculation base for temporary work incapacity allowances due to a common illness or accidents unrelated to work paid by employers is 75% of the employee's average salary, as determined using the Government-approved methodology.

Recalculation of social security allowances covered by Law 289 are also possible, based on court decisions.

Entitlement to social security benefits in certain situations

As with other benefits, sick child care allowances are granted even when the insured risk occurred during annual holiday leave.

Children's custodians may also benefit from sick child care allowances.

Insured people on childcare leave for children up to the age of three years and returning to work on a full-time programme are

entitled to the benefits covered by Law 289.

Maternity leave allowance

For pregnancies with three or more babies, maternity leave allowances are granted from the twenty-fourth week of pregnancy, for a period of 182 calendar days.

Allowance for childcare for children up to three years old

As of 1 January 2020, allowances for childcare for children up to the age of three years will be granted according to one of the following options:

- Up to the child's third birthday, the monthly

amount of the allowance is 30% of the calculation base set by Law 289;

- Until the child is two years and two months old, the monthly amount of the allowance is 60% of the calculation base set by Law 289 for up to the child's first birthday and 30% for the following 14-month period (i.e. the age of two years and two months).

The option initially chosen can not be changed later.

[Source: Law no. 311 dated 30 November 2018 for the amendment of Law no. 289/2004 on temporary work incapacity allowances and other social

security benefits, Official Monitor no. 1-5 (6924-6928) dated 4 January 2019]

The takeaway

The main amendments to Law 289 relate to the right to social security benefits in certain circumstances, the conditions for being granted and their calculation method.

The amendments entered into force on 1 July 2019, except those relating to options for granting of allowance for childcare up to the age of three years, which apply as of 1 January 2020.

Let's talk

For a deeper discussion of how this new legislation might affect your business, please contact:



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