

ABREU & MARQUES

E ASSOCIADOS

SOCIEDADE DE ADVOGADOS, RL

PUBLIC LAW

GENERAL LAW OF LABOUR IN PUBLIC FUNCTIONS.

LAW 35/2014 OF JUNE 20

It has been recently published in the Official Gazette, **Law 35/2014 of June 20**, which approves in schedule the **General Law of Labour in Public Functions** (LLPF) which will enter into force on August 1, 2014.

The LLPF aims to collect in one single diploma all general legal material concerning the labour bound in public functions, without prejudice to the special regimes which are safeguarded whilst also foreseeing complementary legislation on (i) the system of management and valuation of performance in the Public Administration; (ii) the regime of labour accidents and professional illnesses of the public service employees; (iii) the training regime of public service employees; and (iv) the status of the directing personnel in Public Administration.

Under the terms foreseen in Law 35/2014, the term contracts in execution at the time of entry into force of this legislation become subject to it, as shall equally be the bounds of public service contracted and the instruments of collective labour regulations, established and subscribed prior to this law coming into force, save for any conditions of validity and effects of facts or situations totally prior to such former moment.

Pursuant to Law 35/2014, its disciplinary regime is immediately applicable to the facts performed, and any ongoing procedures and to the penalties in the course of being executed at the date in which this law comes into force, whenever, in each cases' specificities the new regime is evidenced to be more favorable to the worker, or it better safeguards the latter's ability to intervene and its defense.

Law 35/2014 defines, among other items, the form of calculation of compensation on termination of employment contracts in public functions (either indefinite or temporary), entered into prior to this law coming into force.

Among the multiple legal diplomas which are revoked by Law 35/2014, are, inter alia, Law 12-A/2008 of February 27, (which established the Regimes of Bondage, Career, and Remuneration of workers who exercise public functions), Law 58/2008 of September 9 (which approved the Disciplinary Statute of workers who exercise public functions) and Decree Law 100/99 of March 31 (which approved the

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(CONTINUATION)

regime of holiday, absences and licenses of public service employees and agents of the central regional and local administration).

LLPF comes to regulate the bound of work in public functions, establishing that work in public functions may be performed via a public service bound (in the forms of employment contract in public functions, designation, or commission of service) or by a service contract (in the forms of task contract or retainer).

As to the scope of its application, established in Part 1 (General dispositions) the LLPF is applicable, among other entities, to services and bodies of (i) direct and indirect administration of the State; (ii) the regional and municipal administration, with the necessary adaptations; (iii) to the bodies assisting the Presidency of the Republic, the courts, the Public Prosecutor's office and respective bodies of management and to other independent bodies, with the adaptations imposed by the respective capacities; (iv) to the bodies of service and support of Parliament, without prejudice to the adaptations imposed by the respective capacities.

LLPF is not applicable, inter alia, to corporate public entities, to the independent administration entities with functions of regulating the economic activity of the private, public and cooperative sectors, to the Bank of Portugal, the military of the Armed Forces, of the National Republican Guard and to the personnel with police functions in the Police of Public Security, which applicable regimes are contained in special legislation, without prejudice to the observation of the principles applicable to the bound of public service employment.

LLPF establishes the subsidiary application to the bound of public service with the necessary adaptations, the content of the Labour Code, and respective complementary legislation, with the exceptions legally foreseen.

Part II of LLPF, treats items regarding the individual bound of public service employment, whilst Part III, deals with Collective Law.

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