



2025 | LABOUR

LABOUR RULES APPLICABLE TO THE PUBLIC BUSINESS SECTOR

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ABOUT US

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We are mentioned by The European Legal 500 in most of its practice areas, including Banking and Finance, Capital Markets, Project Finance, Corporate and M&A, Tax, Telecoms and Litigation. Our firm is also mentioned by IFLR 1000 in Project Finance, Corporate Finance and Mergers and Acquisitions and by Chambers and Partners in Banking and Finance, Corporate and M&A, TMT, Dispute Resolution and Restructuring and Insolvency.

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INTRODUCTION

The companies in the Portuguese Public Business Sector ("SBS") are subject to a set of specific legal provisions that apply to them, based on their nature.

Although some of them are subject to certain specific provisions, which do not apply to all, the majority are subject to a set of labour regulations that impact their daily operations, particularly in relation to the following topics:

- (i) Hiring of employees.
- (ii) Remuneration adjustments.
- (iii) Replacement of employees.
- (iv) Labour regime applicable to employees.
- (v) Regime applicable to subsistence and travel allowances, as well as remuneration for overtime work.
- (vi) Public interest secondment or assignment (?).
- (vii) Commission of service; and
- (viii) Management contracts.

Firstly, it is essential to consider their compliance with the State Budget Law ("SBL") and the State Budget Execution Decree-Law ("SBDL"), given their objectives of advancing the public interest and ensuring the proper management of public funds. Accordingly, companies should review and update themselves annually on the provisions of these legislative acts.

Therefore, consideration must be given to their compliance with the SBL and the SBEDL in view of their objectives related to the pursuit of the public interest and the effective management of public resources. Consequently, each year, the companies are required to consult and remain informed about the provisions of each of these regulations.

Currently, Law No. 45-A/2024 of 31 December ("SBL 2025") and Decree-Law No. 13-A/2025 of 10 March, which sets out the rules for the execution of the State Budget for 2025 ("SBDL 2025"), are in force.

Considering their legal nature, companies within the Public Business Sector ("PBS") are also subject to the legal Regime of the Public Business Sector ("RPBS"), as established by Decree-Law No. 133/2013 of 3 October, in its current version, as well as Decree-Law No. 71/2007 of 27 March, which enacted the Public Manager Statute ("PMS").

In this Study, we present the main labour regulations currently in force, which does not exempt the consultation of the relevant statutes.

I. HIRING OF EMPLOYEES

Regarding the hiring of employees, it is important to consider the provisions of Article 43 of the SBL 2025 and Article 138 of the SBEDL 2025, with particular emphasis on the following points:

- (i) The recruitment of new employees, whether on a fixed-term or indefinite-term, as well the conversion of fixed-term contracts into indefinite-term contracts, may only be carried out with express authorization of the act in the activity and budget plan.
- (ii) The conclusion of public interest assignment agreements with employees from entities covered by the scope of the General Labour Law in Public Functions can only be done with express authorization in the activity plan and budget.
- (iii) The acts can only be carried out if they are provided for in the activity plan and budget, including a cost-benefit analysis.
- (iv) At the time of recruitment, the following requirements must be met:
 - a) The annual and multi-annual budget proposal must include the costs arising from recruitment, showing the impact in the year of hiring and the respective three-year period, identifying the remuneration amount of the employees to be hired, with reference to the base of the respective career and professional category provided for in a collective labour regulation instrument or internal regulation, which must ensure the absence of discriminatory practices in terms of remuneration;
 - b) The existence of budget allocation for staff expenses.
 - c) Recruitment must be considered essential, with a view to pursuing the responsibilities and fulfilling the public service obligations of the respective entity.
 - d) Full and punctual compliance with the information duties set forth in Law No. 104/2019, of 6 September; and
 - e) Compliance with all other applicable legal requirements.
- (v) Proof of compliance with the above-mentioned requirements must be submitted to PBSIS – Public Business Sector Information System.
- (vi) Any other recruitment situations must be authorized by the member of the Portuguese Government responsible for the area of finance, following a favourable dispatch from the member of the Government responsible for the respective sectoral area.
- (vii) The situations referred to in the previous point should only be requested following a cost-benefit analysis and based on the existence of relevant public interest, considering the shortage of human resources and their overall evolution, as well as the Annual Operations

Plan ("AOP") being approved or submitted for approval in accordance with the issued instructions and having already been subject to a favourable opinion from the supervisory body.

- (viii) Recruitment processes initiated in 2024, and related to recruitment authorizations of 2024, must remain in progress if it is intended that such authorizations remain valid.

2. REMUNERATION INCREASES

With respect to remuneration increases, it is important to highlight the framework established in Article 132 of the SBDL 2025, which states that:

- (i) The mechanisms for valuing employee's remuneration and developing careers must be included in instruments that provide mechanisms for valuing employee's remuneration and developing careers.
- (ii) The mechanisms referred to in (i) must be based on predefined objective criteria for performance evaluation, ensuring differentiation based on merit.
- (iii) The outcome result of implementing the valuing mechanisms must be reflected in quarterly reports, grounded in, and demonstrating the degree of achievement of the objectives set out in the activity and budget plan, which should include the investment plan and its respective sources of financing.
- (iv) The quarterly reports must specify the level of execution of the company, as well as the financial operations contracted.
- (v) The execution of any act or legal transaction that results in actual or contingent financial liabilities for the company exceeding the annual budget, or that does not arise from the investment plan approved by the shareholder function holder, can only be carried out upon request and obtaining authorization from the shareholder function holder for its execution.

Additionally, under Article 133 of the SBDL 2025, the following points regarding "*other remuneration adjustment*" are highlighted:

- (i) Adjustment in remuneration positioning made by managerial discretion can only be done for up to 5% of the total workforce and up to the limit of one remuneration position.
- (ii) The awarding of performance bonuses can only be done up to the amount equivalent to the employees monthly base remuneration, or up to that amount if the maximum set charges for that universe are not sufficient.
- (iii) The adjustments referred to in points (i) and (ii) can only comply with the legally stipulated requirements and in accordance with the budgetary allocations provided for this purpose and within the initially approved appropriation.

3. CONTROL OF OPERATION EXPENSES

Regarding the control of operational expenses that must be considered by companies in the Public Business Sector, Article 52 of the SBL 2025 and Article 140 of the SBDL 2025 are particularly relevant,

The following points are highlighted:

- (i) The definition of a policy for optimizing operational expenses must promote budgetary balance.
- (ii) The ratio of operational expenses to turnover, excluding any extraordinary impact arising from compliance with legal provisions, must be properly substantiated and not exceed the ratio observed in 2024.
- (iii) Operational expenses must be equal to or less than the amount recorded in 2024. For personnel expenses, those related to social bodies must be excluded, corrected for the impacts of compliance with legal provisions, explicit guidelines from the Public shareholder regarding the implementation of the tripartite agreement 2025-2028 on remuneration enhancement and economic growth, signed on October 1, 2024, mandatory remuneration improvements as stipulated in the State Budget Law, as well as the effect of absenteeism and severance payments, except in cases of mutual agreement terminations.

4. REPLACEMENT OF EMPLOYEES

The companies in the Public Business Sector must, in relation to the replacement of employees, consider the provisions of Article 139 of the SBDL 2025 and act in accordance with the following:

- (i) The conclusion of permanent employment contracts/public interest assignment agreements with employees from entities covered by the scope of the General Law on Public Employment ("GLPE"), for replacement, for the same or a different function identified as a priority, of employees who terminate their employment relationship and perform tasks corresponding to permanent needs, must be properly justified. Regarding the remuneration of the employee to be hired, it must comply with the following requirements:
 - a) To correspond to the base remuneration of the respective career and professional category as outlined in the applicable collective labour agreement or internal regulations, or, in the absence of an applicable career regulation, to correspond to the lowest base remuneration previously paid within the company for the performance of the same professional category; or
 - b) Represent an annualized cost equal to or less than the annualized cost of the replaced employee.
- (ii) The conclusion of the contracts/agreements referred to in the previous point falls within the competence of the highest management body of the Public Business Sector Company.
- (iii) The Conclusion of fixed-term employment contracts or public interest assignment agreements with employees covered by the scope of the GLPE, for replacement, for the same function, of employees who suspend their employment relationship must correspond to a duration limited to the maximum duration of the suspension of the employment relationship of the employee to be replaced, and with respect to the remuneration of the employee, it must:
 - a) Correspond to the base remuneration of the respective career and professional category as provided in the instrument of collective labour regulation or internal regulations, or, when there is no applicable career regulation exists, correspond to the lowest base remuneration previously paid in the company for the same professional category; or

- b) Represent an annualized cost equal to or less than the annualized cost of the replaced employee.
- (iv) The conclusion of fixed-term employment contracts for the replacement of employees holding permanent contracts, for the same function, who are absent, namely due to illness or parental leave, falls within the competence of the highest management body of the company, and the remuneration of the employees must:
 - a) Correspond to the base of the respective career and professional category provided for in a collective labour regulation instrument or internal regulation, or, when there is no applicable career regulation, correspond to the lowest base remuneration that was being paid in the company for the exercise of the same professional category; or
 - b) Represent an annualized cost equal to or less than the annualized cost of the replaced employee.
- (v) The replacement of employees must not result in an increase in the overall staffing level of the company, nor in personnel expenses compared to the previous year, and must be fulfilled at the time of recruitment.
- (vi) The conclusion of employment contracts for replacement must be communicated to the Directorate-General for Treasury and Finance ("DGTF"), through PBSIS or Human and Financial Resources Information System ("HFRIS"), as applicable, within a maximum period of 10 working days from the effective date of the respective contract.
- (vii) Any early recruitment for the replacement of employees who cease functions in the year to which the AOP refers must comply with the limit of 5% of the number of employees in the category, rounded up, provided it is foreseen in the human resources planning that is part of the AOP.

5. LABOUR RULES

Regarding the rules to be applied to employees, particularly concerning meal allowances, travel expenses, night-time work, and overtime work, it is important to refer to Articles 17 and 18 of the GLPE, the following should be highlighted:

- (i) Application of the individual employment contract regime.
- (ii) Application of the regime provided for public sector employees concerning the meal allowance
- (iii) Application of the regime provided for public sector employees concerning travel allowances and transportation for travel within Portuguese territory and abroad, due to holders of administrative or management bodies.
- (iv) Application to employees of the regime provided for the remuneration of overtime work performed by public sector employees, in accordance with the Regime of Public Employment Contracts, approved by Law No. 59/2008, of September 11.
- (v) Application to employees of the regime provided for the remuneration of night-time work performed by public sector employees, in accordance with the Regime of Public Employment Contracts, approved by Law No. 59/2008, of September 11.
- (vi) The entering into of public interest assignments with employees holding a public employment relationship must be carried out in accordance with the terms of the Law on Employment Relationships, Careers, and Remuneration, approved by Law No. 12-A/2008, of February 27, as set forth in Article 19 of the Regime of the Public Business Sector (“RPBS”).

Regarding the execution of any service commissions, it is important to note that, under Article 20 of the RPBS, they must be carried out:

- (i) In respect of the rights inherent to the professional status of employees in the company, including retirement and survivor benefits, considering the entire period of the commission as service provided to the original company.
- (ii) Ensuring that the employees covered by the point can opt for their original base remuneration.

6. OTHER OBLIGATIONS ARISING FROM THE REGIME OF THE PUBLIC BUSINESS SECTOR

Under the terms of articles 24, 25, 43 to 53 of the RPBS, the following obligations of SB companies stand out:

- (i) Compliance with the strategic guidelines defined by the State shareholder.
- (ii) Ensuring the presentation of substantiated quarterly reports, demonstrating the degree of execution of the objectives set out in the activity plan and budget, which must include the AOP.
- (iii) Compliance with the mission and objectives set by the shareholder.
- (iv) Preparing activity plans and budgets appropriate to the available resources and sources of financing.
- (v) Disclosing a set of information pertaining to the company:
 - a) The composition of its shareholder structure.
 - b) The identification of the social participations it holds.
 - c) The acquisition and disposal of social participations, as well as participation in any associative or foundational entities.
 - d) The provision of financial guarantees or the assumption of debts or liabilities of other entities, even in cases where they assume group organisation.
 - e) The degree of execution of the set objectives, the justification for any deviations observed, and the corrective measures applied or to be applied.
 - f) The activity and budget plans, both annual and multi-annual, including investment plans and sources of financing.
 - g) Annual and multi-annual budget.
 - h) The annual financial statement.

- i) The quarterly budget execution reports, accompanied by the reports of the supervisory body.
 - j) The identity and curriculum vitae of all members of its corporate bodies, particularly the management body, as well as their respective remunerations and other benefits.
- (i) Inform the shareholder representative and the general public about how its mission was pursued, the degree of achievement of its objectives, the manner of compliance with the social responsibility policy, sustainable development, the terms of public service provision, and the extent to which its competitiveness was safeguarded, particularly through research, development, innovation, and the integration of new technologies into the production process.
 - (ii) Comply with the legislation and regulations in force regarding the prevention of corruption, and annually prepare a report identifying occurrences, or the risk of occurrences, of the facts mentioned in subparagraph (a) of paragraph 1 of Article 2 of Law No. 54/2008, of 4 September.
 - (iii) Adopt or adhere to a "code of ethics" that encompasses stringent ethical and deontological behaviours, and ensure its dissemination among all its employees, clients, suppliers, and the public.
 - (iv) Pursue objectives of social and environmental responsibility, consumer protection, investment in professional development, promotion of equality and non-discrimination, environmental protection, and respect for principles of legality and business ethics.
 - (v) Implement human resources policies aimed at valuing the individual, strengthening motivation, and stimulating increased productivity, treating employees with respect and integrity, and actively contributing to their professional development.
 - (vi) Adopt equality plans aimed at achieving effective equality of treatment and opportunities between men and women, eliminating discrimination, and enabling the reconciliation of personal, family, and professional life.
 - (vii) Ensure that members of the management bodies refrain from intervening in decisions that involve their own interests, particularly in the approval of expenses incurred by themselves.
 - (viii) Ensure that members of the management bodies comply with the duty to declare any equity interests they hold in the company, as well as any relationships they maintain with its suppliers, clients, financial institutions, or any other business partners, which may give rise to conflicts of interest.
 - (ix) Ensure that the Public Business company's website includes historical and current financial information for each company, the identity and curriculum vitae of all members of its corporate or statutory bodies, as well as their respective remunerations and other benefits.

- (x) Ensure that the Public Business Company website includes clear, relevant, and up-to-date information about the public service obligations to which it is subject, the contractual terms of public service provision, the underlying financing model, and the financial support received from the State over the last three fiscal years.

7. OBLIGATIONS OF THE PUBLIC MANAGER STATUE

From the Public Manager Statute (“PMS”) arises a set of rules that regulate the activities of those designated or appointed to manage a Public Business company, specifically from Articles 5, 6, 18, and 28 to 34.

The following rights and obligations of public managers stand out:

- (i) Fulfil the company's objectives as defined in the general meeting or, where applicable, in management contracts.
- (ii) Ensure the implementation of the guidelines defined by law, particularly those provided for in Article 11 of Decree-Law No. 558/99, of 17 December, and in the management contract, and the execution of the company's strategy.
- (iii) Monitor, verify, and control the progress of the company's activities and business in all its components.
- (iv) Assess and manage the risks inherent to the company's activities.
- (v) Ensure the sufficiency, accuracy, and reliability of information related to the company as well as its confidentiality.
- (vi) Maintain professional secrecy regarding facts and documents that come to their knowledge in the exercise of their functions and not disclose or use, for any purpose, for their own benefit or that of others, directly or through an intermediary, the knowledge derived from such facts or documents.
- (vii) Ensure equitable treatment of shareholders.
- (viii) Conduct a systematic evaluation of the managers' performance based on the objectives set out in the strategic guidelines or arising from the management contract, as well as the criteria defined in the general meeting.
- (ix) Enter a management contract that includes the elements provided for by law and complies with the template provided in specific legislation.
- (x) Enter contracts within three months from the date of the public manager's appointment, between the manager, the shareholder representatives, and the Government member responsible for the respective sector of activity.

- (xi) Ensure that the contracts do not establish specific regimes for indemnification or any other compensation for termination of functions.
- (xii) Comply with the existing rules regarding the definition of remuneration, namely:
 - a) The remuneration of public managers includes a monthly remuneration which cannot exceed the monthly remuneration of the Prime Minister.
 - b) The remuneration of public managers also includes a monthly allowance, paid 12 times a year, for representation expenses amounting to 40% of the respective remuneration.
 - c) Non-executive directors are entitled to a fixed remuneration corresponding to the normal activity they perform, up to a limit of one quarter of the fixed remuneration established for executive directors.
 - d) When non-executive directors have effective participation in committees specifically created to monitor the company's activities, they are also entitled to a supplementary remuneration, in which case the limit of the total remuneration is one third of the fixed remuneration established for executive directors; and
 - e) The remuneration of non-executive directors does not include any monthly allowance for representation expenses.
- (xiii) Management contracts must include:
 - a) Fixed values for each component of the considered remuneration.
 - b) Management bonuses that may be awarded at the end of the fiscal year or term, which cannot exceed half of the annual remuneration earned, based on the fulfilment of objective criteria on which their potential award depends, without prejudice to the limit set in the respective statutes; and
 - c) Other rewards or benefits applicable to the company's other employees.
- (xiv) Public Business Sector companies, in their relationship with the public manager, must:
 - a) Ensure that public managers do not use credit cards and other payment instruments for company-related expenses.
 - b) Ensure that public managers are not reimbursed for any expenses that fall under the concept of personal representation expenses.
 - c) Define by general meeting resolution the maximum value of communication expenses, including mobile phone, home phone, and internet.
 - d) Ensure that the maximum value of service vehicles assigned to managers is set by general meeting resolution, in the case of public limited companies.
 - e) Comply with the value referred to in the previous point, which is defined in accordance with the guidelines established for this purpose by the shareholders or

by order, published in the *Diário da República*, of the Government member responsible for the finance sector.

- f) Comply with the maximum value of fuel and tolls allocated monthly to service vehicles, which is set at one quarter of the monthly allowance for representation expenses.
- g) Ensure that managers comply with the prohibition of exercising any option to purchase service vehicles assigned to them; and
- h) Grant managers the social benefits conferred to the company's employees where they perform their duties, as specified by the respective remuneration committees, the general meeting, or the Government responsible for the finance sector and the respective activity sector, as applicable, except for supplementary pension, retirement, survival, or disability plans

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