

## Portugal

### CHANGES TO THE LABOUR CODE, TO THE LEGAL FRAMEWORK ON HEALTH AND SAFETY AT WORK AND TO THE LEGAL FRAMEWORK OF PRIVATE PLACEMENT AND TEMPORARY EMPLOYMENT AGENCIES

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Law No. 28/2016, of 23 August 2016, has recently been published, amending (i) the Labour Code; (ii) the legal framework on health and safety at work; and (iii) the legal framework of private placement and temporary employment agencies.

The main changes introduced are:

- a) Providing for joint liability of the (i) main contractor; (ii) of the company or farming operation; (iii) of their directors or managers; (iv) companies in reciprocal shareholding relationships or in a controlling or group relationships with the above referred entities; for labour misdemeanors of the subcontractor that executes the contract wholly or partially at third-party's premises. Up until now, such liability was restricted to contractors, as well to serious infractions, excluding situations where the action was handled with due diligence. The new wording now covers all type of infractions and not only serious infractions; the possibility of excluding such liability in cases where the action was handled with due diligence was repealed.
- b) Extension of joint liability for receivables owed to temporary employees, as well as for the corresponding social charges and payment of fines (i) to the temporary employment agency, (ii) to its directors and managers, as well as (iii) to the companies in reciprocal shareholding relationship, or in a controlling or group relationship with the temporary employment agency. Up until now, such liability was restricted to the temporary employee's user and to the first 12 months of work.
- c) Providing for the entities responsible for temporary employee's health and safety breaches, of the employees occasionally assigned or working for service providers, for breaches committed during the execution of the services at its premises, as well as for the respective fines, which are (i) the main contractor; (ii) the company or farming operation; (iii) the user or awarded company of the work or



service; (iv) their directors or managers; and (v) the companies that are in a reciprocal shareholding relationship, or in a controlling or group relationship with the main contractor, company or farming operation, user or awarded company of the work or service.

- d) Joint liability (i) of the user; (ii) its directors or managers; and (iii) companies that are in a reciprocal shareholdings relationship, or controlling or group relationship with the user, for the noncompliance by the temporary employment agency with its legal obligations and obligations related to the employees, as well as for the payment of the corresponding fines.

The amendments mentioned above come into force 30 days after the date of its publication, i.e., on 22 September 2016.