

**Main Spanish Legislation on COVID-19 and summary of its legal implications of interest.**

**I.- Main state regulations COVID-19.**

- Royal Decree-Law 6/2020, of March 10, by which certain urgent measures are adopted in the economic field and for the protection of public health.
- Royal Decree-Law 7/2020, of March 12, by which urgent measures are adopted to respond to the economic impact of COVID-19.
- Royal Decree 463/2020, of March 14, declaring the state of alarm for the management of the health crisis situation caused by COVID-19.
- Royal Decree 465/2020, of March 17, which modifies Royal Decree 463/2020, of March 14, declaring the state of alarm for the management of the health crisis situation caused by the COVID-19.
- Royal Decree-Law 8/2020, of March 17, on extraordinary urgent measures to face the economic and social impact of COVID-19.

1

**II.- Main measures of Royal Decree 463/2020, of March 14, by which the state of alarm was declared.**

1. Mobility: Traffic is suspended on public use roads except for certain cases:
  - Acquisition of food, pharmaceuticals or basic necessities.
  - Assistance to health centers.
  - For Laboral reason.
  - Travel to financial or insurance entities.
  - Return to habitual residence.
  - Elderly, minor, dependent, disabled or especially vulnerable care.
  - Situation of need.

2. Suspension of face-to-face educational activity in all educational centers.
3. Suspension of opening to the public of commercial activity, cultural facilities, recreational establishments and activities, hotel and restaurant activities, except:
  - Food, pharmaceutical, health, press and other essential products and services.
  - Home deliveries from hotels and restaurants.
4. Sanctioning regime: Different sanctions are established for those who do not respect the rules established by the Royal Decree, which can range from fines to arrests.
5. Procedural terms suspension: Terms established in procedural laws are interrupted and suspended for all jurisdictional orders. Interrupted terms will start again when the alarm state ceases. Exceptions are collected for urgent needs for the criminal jurisdiction and other jurisdictions.
6. Administrative deadlines: Terms are suspended and deadlines for processing procedures of public sector entities are interrupted (with certain exceptions).
7. Limitation periods and prescriptions: The limitation periods for rights and actions are suspended while the state of alarm lasts.

### **III.- Main measures of Royal Decree-Law 8/2020, of March 17, on extraordinary urgent measures to face the economic and social impact of COVID-19.**

This Royal Decree-law is aimed at the following objectives:

1. Strengthen the protection of workers, families and vulnerable groups.
2. Support the continuity of productive activity and the maintenance of employment.
3. Strengthen the fight against disease.

1. Regarding **labor and social measures**, this Royal-Decree includes the following:

a) The files of temporary employment regulation (ERTE) of suspension or reduction of working hours that are justified in the loss of duly accredited activity caused by COVID-19 will be considered as caused by force majeure. Their processing is therefore reduced to a maximum of five days to authorize them. Examples of loss of activity would be: suspension or cancellation of activities, temporary closure of public affluence premises, restrictions on the mobility of people or goods, lack of supplies that seriously impede the continuation of the activity, urgent situations due to the contagion of the workforce or cases in which the health authority imposes isolation measures.

When the relationship between the cause of force majeure and the coronavirus cannot be directly demonstrated, companies may choose an ERTE for economic, organizational, technical or production reasons.

It will not be necessary to prove the minimum contribution period required to be entitled to the contributory benefit. The time in which this benefit is received will not count for the purposes of future unemployment benefits (colloquially, unemployment is not consumed). These benefits could not be applied to contracts entered into after the date of this publication (March 18). No rights are lost for submitting the application after the deadline. Neither will it be necessary to renew as a job seeker while the current situation of limitation of citizen mobility is maintained.

3

The companies that have benefited from the measures approved in the Royal Decree undertake to maintain at least the same number of workers as before the ERTE during the 6 months following the end of the measures to suspend the contract or reduce the working day.

b) These authorized files based on force majeure, will imply a 100% exemption from Social Security contributions if the company has up to 50 workers and 75% if it has 50 workers or more. This exemption must be urged by the company to the General Treasury of Social Security and is linked to a commitment to maintain the workforce.

c) In cases of suspension or reduction of working hours for economic, technical, organizational or production reasons related to COVID-19, but not covered by force majeure, the terms are reduced, since the consultation period will be seven days (so far 15).

d) Employees are allowed, when they prove that due to COVID-19 they must take care of dependents (spouse, domestic partner or relatives by blood relationship to the second degree), adapt their working hours and, where appropriate, even reduce it, with proportional decrease in salary. This reduction can be up to 100% of the day. The worker must communicate that he will exercise this right 24 hours in advance to his company.

e) It is indicated that the company must give preference to remote work, whenever it is technically and reasonably possible and the adaptation effort is proportionate. The implantation of remote work as a consequence of COVID-19 implies the exemption from carrying out the occupational risk assessment by the company on these new situations, replacing it with a voluntary self-evaluation of the workers.

f) A new extraordinary benefit of cessation of activity is created for the self-employed who have had to close the business or have experienced a decrease in income of 75% compared to the average of the previous semester. This feature will only last one month, expandable until the last day of the month in which the current alarm state ends. It will consist of 70% of its regulatory base or 70% of the minimum contribution base if the self-employed person has not been credited with the minimum contribution period.

g) Sick or quarantined workers will be considered exceptionally as assimilated to an accident at work, only for benefit purposes, which means that it is not for the purposes of business supplements or insurance.

h) Moratorium on mortgage debts for the debtor's habitual residence and extendable to guarantors and guarantors when they become unemployed, or their income suffers a significant decrease.

i) Communications (telephone, internet ...) that were already contracted prior to the publication of this RD may not be suspended or interrupted.

j) All the deadlines for returning products purchased both in physical stores and on-line are interrupted (when closing shops and shipping services, it would not be possible to do so within the established deadlines).

k) Extension of the ID Card validity, even if the expiration date is exceeded during this health crisis, as it is not possible to renew it at the police station.

## **2. Liquidity guarantee measures to sustain economic activity.**

- Expand the net debt capacity of the Official Credit Institute to provide additional liquidity to companies, especially SMEs and the self-employed, through the existing ICO Lines of financing.

- Line of guarantees on behalf of the State for companies and the self-employed, covering both the renewal of loans and new financing by credit institutions, financial credit institutions, electronic money institutions and payment institutions, to meet their derived needs, among others, invoice management, current needs or other liquidity needs, including those derived from maturities of financial or tax obligations.

- In order to strengthen the liquidity of exporting companies, CESCE's capacity to increase coverage on behalf of the state of its guarantees is strengthened.

- The import customs procedures in the industrial sector are streamlined.

For all these measures, the legislative development that will determine the requirements to access them is pending. What does seem evident is that said "special" aid will be allowed if it is proved that the losses that need financing are due to the situation created by COVID-19.

## **3. Measures in the tax field.**

- The terms for the payment of tax debts are made more flexible, both in the voluntary period and in the executive period, as well as the payment derived from the deferment and fractionation agreements.

- The deadlines that the taxpayer has are made more flexible in order to favor their right to plead and prove and facilitate compliance with the duty to collaborate with the State Tax Administration and to provide the documents, data and information of tax significance in question.

#### 4. Measures in the commercial and corporate sphere.

- A series of extraordinary measures are established that are applicable to the operation of the governing bodies of legal entities governed by private law, and a series of extraordinary measures that are applicable to the operation of the governing bodies of listed corporations are also established.

The decisions of the management or directive bodies of legal entities that do not have in their internal regulations or statutes the system of meetings by videoconferences or other remote means will be given full validity. It would only be necessary to authenticate the identity of the participating members to be valid and it will be understood that the meeting was held at the domicile of the legal person or registered office.

It is also allowed to hold meetings by means of a written vote and without a session when the President or at least two of the members of the management body so decide.

- The period of three months from the end of the year to prepare the annual accounts by the administrative body of a legal person (all kinds of annual accounts and attached documents) is suspended. Said three-month period will start again from the date the alarm state ends.

- The term established in Bankruptcy Law 22/2003 of July 9 is interrupted so that the debtor who is insolvent does not have the duty to request the bankruptcy declaration while the state of alarm lasts.

If the management body had prepared the annual accounts prior to March 14, 2020 (alarm statement) and was required to be audited, the deadline for issuing the audit report will be two months from the end of the alarm state.

- In **contractual matters**, we consider the following recommendations useful:

##### 1. Existing contracts.

In contracts in which force majeure or an analogous event is regulated, the provisions of the parties must be followed.

In those who do not contemplate force majeure and who are subject to Spanish Law, they must abide by the provisions of article 1105 of the Civil Code, which allows the parties to free themselves, in whole or in part, from their contractual obligations whenever causes of force majeure or fortuitous event may occur.

The cases of force majeure could also exempt from non-contractual liability derived from commercial relationships.

2. New contracts.

We recommend that the new contracts that are signed contemplate the force majeure and its effects, specifically considering the case of COVID-19 in the way they may affect the sector in question.

3. International contracting.

Depending on the applicable law, the concept of force majeure in that jurisdiction must be studied to assess whether it damages or favors the company in the current situation.

4. In case of conflict.

It is very likely that the emergency situation in which we find ourselves will lead to breaches of contract that will lead to possible litigation. It is advisable to avoid litigation and reach a balanced agreement between the parties, among other things due to the foreseeable saturation of the courts, which would generate a delay in the judicial terms. An alternative is voluntary submission to mediation or arbitration by the parties.