



NEWS FROM SPAIN

Royal Decree Law 18/2020 of 12 May on social measures in defence of employment

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Package of measures to progressively reactivate the economy, for those sectors whose activity continues to be limited by health restrictions, among other situations, by the confinement and containment agreed by the state of alarm.

Contents to be highlighted

Specialities to be applied in the **ERTES approved due to Force Majeure**:

- Those companies and entities that have an ERTE due to force majeure, and are affected by such causes that prevent the resumption of their activity, will continue in a situation of total force majeure derived from COVID-19, as long as they last and **in no case beyond June 30, 2020**.
- Those companies and entities that have an authorized ERTE due to force majeure and that the causes allow the **partial recovery of their activity**, are allowed to proceed to reincorporate the workers affected by temporary employment regulation measures, to the extent necessary for the development of their activity, giving priority to adjustments in terms of reduction of working hours.
- The aforementioned companies and entities must **notify the labour authority** of the total resignation of the authorised ERTE within 15 days from the date of effect of the resignation.
- These companies will have to **communicate to the SEPE** those variations that refer to the end of the application of the measure with respect to the total or part of the affected persons, either in the number of these or in the percentage of part of their individual working day, when the relaxation of the restriction measures that affect the activity of the company allows the effective return to work of those persons.

ERTE for economic, technical, organizational and production (ETOP) reasons reported from deconfinement

- The processing of these cases may be initiated while an ERTE for major causes is in force.
- When the ETOP ERTE is initiated after the termination of an ERTE based on a major cause, the date of effects of the ETOP will be retroactive to the date of termination of the ERTE.

Extraordinary measures in the field of unemployment protection

- **Unemployment benefits** received by discontinuous permanent workers and by those performing permanent and periodic work that is repeated on certain dates, will be applicable until 31 December 2020.
- **The recognition of unemployment** even if there is not enough contribution and the not counting of this period of unemployment for the calculation of the maximum periods established in the RD law 8/2020, will be applicable until June 30, 2020.

Extraordinary contribution measures in relation to the procedures for the suspension of contracts and reduction of working hours due to force majeure related to COVID-19

- Exemptions will be handled by:

The Social Security budgets in the case of the employer's contribution for Common Contingency.

Mutual Collaborators in the case of business contributions for professional contingencies.

SEPE in the case of the employer's contribution for unemployment and vocational training.

FOGASA in the case of the contributions that finance its benefits.

The Tesorería General de la Seguridad Social (TGSS) will exonerate:

- The companies and entities affected by an **ERTE due to Force Majeure** and that are **prevented from restarting the activity** of the payment of the social security contributions for the months of **May and June**:

When the company has **less than 50 workers** registered with Social Security on 29 February 2020 (**100%**).

If the company has **50 or more employees**, the obligation to pay social security contributions is **75%** of the company's contribution.

- Companies and entities affected by an **ERTE due to Force Majeure**, but which are able to **partially restart their activity** will be exonerated from the payment of the company contribution to the SS during the unemployment situation, under the following conditions:

Less than 50 workers registered with Social Security on 29 February 2020:

- For workers who **restart their activity** from the date of effect of the resignation and the periods and percentages of working time from that restart, the exemption will reach **85%** of the employer's contribution accrued in May 2020 and **70%** of the employer's contribution accrued in June 2020.

- For workers in these companies who continue with **their activities suspended** from the date on which the resignation takes effect and the periods and percentages of working time affected by the suspension, the exemption will reach **60%** of the employer's contribution accrued in May 2020 and **45%** of the employer's contribution accrued in June 2020.

More than 50 workers registered with the SS on 29/02/2020:

- For workers who **restart their activity** as from the date of effect of the resignation and the periods and percentages of working time from that restart, the exemption will reach **60%** of the employer's contribution accrued in May 2020 and **45%** of the employer's contribution accrued in June 2020.

- For employees of these companies who **continue their activities suspended** from the date of effect of the resignation and the periods and percentages of working time affected by the suspension, the exemption will reach **45%** of the business contribution accrued in May 2020 and **30%** of the business contribution accrued in June 2020.

The exemptions shall be applied by the TGSS **at the request of the company**, after communication of the situation of total or partial force majeure, as well as the identification of the workers affected and the period of suspension or reduction of the working day.

The exemptions in the contribution will not have effects for the workers, maintaining the consideration of the period in which they are applied as effectively contributed for all purposes.

Limits related to dividend distribution and tax transparency

- Companies and entities that have their tax domicile in a **tax havens** will not be able to take advantage of the ERTE's temporary employment regulation files regulated in this RD law.
- The commercial companies or other legal entities that make use of the ERTE's and that use the public resources destined to the same, **will not be able to proceed to the distribution of dividends corresponding to the fiscal year in which these ERTE's are applied**, except if they previously pay the amount of the exoneration applied to the Social Security contributions.
- The restriction on distributing dividends **does not apply to entities which**, on 29 February 2020, **had fewer than 50 employees**, or similar persons registered with the Social Security authorities.

Extension of temporary layoffs based on force majeure and extraordinary measures for unemployment protection and contributions

- By means of an agreement of the **Council of Ministers**, an extension of the ERTE's due to Force Majeure may be established, in view of the restrictions on activity linked to health reasons that remain on 30 June 2020.
- This agreement may extend the regulated exemptions, or extend them to the ERTE's for objective reasons, as well as extend the protection measures due to unemployment.

A Tripartite Labour Monitoring Commission is created for the deconfinement process

It is established **that the exoneration** of the company from the payment of the company's contribution, as well as the quotas for joint collection, **refers exclusively to the months of March and April 2020**. In the months of May and June the above-mentioned reductions apply.

It is incorporated that **the commitment to maintain employment** will be assessed in accordance with the specific characteristics of the various sectors and the applicable labour regulations, taking into account the specific features of those companies that present a high variability or seasonality of employment.

Articles 2 and 5 of Royal Law 9/2020, which refer to extraordinary measures for the protection of employment and the interruption of the calculation of the maximum duration of temporary contracts respectively, **will remain in force until 30 June 2020**.

Amended regulations

- **Royal Decree Law 8/2020**, of 17 March, on urgent extraordinary measures to deal with the economic and social impact of COVID-19.
- **Royal Decree Law 9/2020**, of 27 March, adopting complementary measures, in the field of employment, to alleviate the effects of the COVID-19.