

ADDITIONAL MEASURES IN THE AREA OF EMPLOYMENT TO MITIGATE THE EFFECTS OF COVID-19

The Spanish Government has approved [Royal Decree Law 9/2020](#), of 27 March, adopting **additional measures in the area of employment to mitigate the effects of COVID-19**. The regulation expands on and clarifies some of the measures provided for in Royal Decree Law 8/2020 and sets out new content intended to ensure more effective application of its provisions. It also provides for specific measures for some sectors of activity and creates a more flexible public procurement system during the health crisis.

Key features include the following:

- 1. Mandatory continuation of operations in health centres and centres caring for the elderly, dependent persons or persons with disabilities during the State of Emergency.**
 - If necessary, they may only reduce or suspend their activity partially.
- 2. Limitation on dismissals during the State of Emergency and subsequent extensions.**
 - Termination of contracts or dismissals on grounds related to COVID-19 will not be permitted (force majeure or economic, technical, organisational or productive grounds), meaning that, during the State of Emergency and subsequent extensions, no objective dismissals may be carried out on the basis of appropriate business grounds, unless the company can prove that the grounds for the objective dismissal are unrelated to the crisis arising from COVID-19.
 - The restriction will cover both individual and mass redundancies on business grounds, in addition to collective redundancies.
 - However, the Royal Decree-Law does not clarify what the judicial assessment would be of termination on business grounds related to COVID-19 (i.e. whether the court would deem it an "unjustified" dismissal or one that is "null and void").
- 3. Application for collective unemployment benefits by the employer on behalf of the employees affected by the COVID-19 temporary redundancy procedures (based on force majeure or economic, technical, organisational or productive grounds) and specification of the documents and procedure that must be followed.**
 - The company must start the collective procedure by sending the unemployment benefits authority a notice stating the details of the company and the employees concerned, specifying the measures to be adopted and their individual scope, among other things.
 - This notice must be sent within 5 days of the request for the temporary redundancy procedure due to force majeure or from the date the company informs the relevant labour



authority of its decision in the case of temporary redundancy procedures due to economic, technical, organisational or productive grounds.

- The notice will be sent electronically and in the manner defined by the State Public Employment Service.
- The provision clarifies that, in the event that the request for unemployment benefits was submitted prior to the entry into force of Royal Decree Law 9/2020, the five-day period for sending the business notice will start to run from 28 March 2020.
- Failure to send the notice is considered a serious administrative offence (Article 22.13 of the Consolidated Text of the Law on Offences and Sanctions in Labour Matters).

4. Clarification of the date on which unemployment benefits deriving from temporary redundancy procedures due to force majeure or on economic, technical, organisational or productive grounds take effect (COVID-19).

- The effective date of the legal status of unemployment in cases of force majeure will be the date of the event that caused it.
- The effective date of the legal status of unemployment for temporary redundancy procedures on economic, technical, organisational or productive grounds must be, in any case, on or after the date on which the company notifies the labour authority of the decision taken.
- The cause and effective date of the legal status of unemployment must, in any event, appear on the official company earnings certificate, which will be considered a valid document for the purpose of accreditation.

5. Maximum length of temporary redundancy procedures due to force majeure (COVID-19).

- Its scope is restricted to the duration of the State of Emergency and any subsequent extensions.
- This time limit is applicable both to temporary redundancy procedures due to force majeure that are expressly ruled on and to those that are ruled on by administrative silence, regardless of the content of the specific business application.

6. Strengthening the control mechanisms for temporal redundancy procedures due to force majeure and on economic, technical, organisational or productive grounds (COVID-19).

- Requests submitted by the company containing false or incorrect information will result in the relevant administrative fines, in accordance with the provisions of the Law on Offences and Sanctions in Labour Matters.
- Similarly, the company's actions involving requests for employment measures that are not necessary or not sufficiently related to the cause of the request will be subject to administrative sanctions, if they result in the creation or collection of undue benefits.



- Unjustified acceptance of unemployment benefits may be reviewed ex officio and, in such cases, the employer's obligation to pay the amounts received by the employee to the unemployment benefits authority is an additional sanction.
- In addition, in order to prevent the improper use of public funds, it is envisaged that there will be collaboration between the unemployment benefits authority and the Labour and Social Security Inspectorate, and in particular that the latter will be obliged to include in its action plans confirmation of the existence of the causes alleged in the temporary redundancy procedures due to force majeure and on economic, technical, organisational or productive grounds, in collaboration with the State Tax Administration Agency and even with the State Security Forces and Agencies.

7. Suspension of calculation of maximum duration of temporary contracts.

- In cases of temporary redundancy procedures due to force majeure or for economic, technical, organisational or productive grounds, suspending temporary contracts, including training, substitute and interim contracts, will mean suspending the calculation of both the length of these contracts and the reference periods corresponding to the suspended term, in each of these contractual types, for the employees affected by them.

8. Extension of extraordinary measures regarding contributions and unemployment protection provided for in Articles 24 and 25 of Royal Decree-Law 8/2020 to those affected by the contract suspension and working hours reduction procedures that were notified, authorised or initiated prior to 18 March 2020, provided that they are directly related to Covid-19.