

[Royal Decree Law 10/2020](#) of 29 March 2020 regulates paid leave that must be made up for employed workers not engaged in essential activities in order to reduce the mobility of the population in the context of the fight against COVID-19.

### 1. Is it mandatory?

Yes, this is a measure that the Government has imposed without the need for businesses to express a desire to carry it out.

### 2. Which employees and companies are affected?

Employed workers who provide services in public and private companies and institutions whose activity has not been interrupted by the declaration of the State of Emergency (RD 463/2020, of 14 March).

However, the recoverable paid leave **will not apply to following**:

- a) workers who provide services in the sectors classified as essential in the Annex of the Royal Decree)
- b) workers who provide services in the divisions or production lines whose activity corresponds to the sectors classified as essential in the Annex of the Royal Decree;
- c) workers hired by:
  - (i) companies that have requested or are applying a temporary employment regulation file (ERTE) for suspension (not a reduction in working hours), and (ii) companies that have been authorized a temporary employment regulation file (ERTE) ) of suspension (not of reduction of working hours) during the validity of the recoverable paid leave;
- d) workers who are on sick leave due to temporary disability or whose contract is suspended for other legally established causes;
- e) workers who can continue to carry out their activity normally by teleworking or any of the non-contact modalities for rendering services.

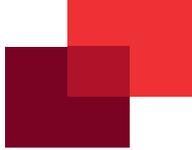
### 3. Are there any other exceptions to the application of compulsory paid leave?

Yes, in accordance with Article 4 of the law, companies that have to apply paid leave that must be made up for employees may, if necessary, establish the minimum number of employees or the shifts that are strictly necessary in order to ensure the maintenance of the essential activity. This activity and this minimum number of staff or shifts will have as reference the one held on an ordinary weekend or on holidays.

On the other hand, in those cases in which it is impossible to immediately interrupt the activity, workers may provide services on Monday, March 30, 2020 for the sole purpose of carrying out the essential tasks to enjoy the paid leave recoverable without irremediably or disproportionately damaging the resumption of business activity.

### 4. What is the length of paid leave?

It will apply from 30 March to 9 April 2020 inclusive.



### **5. Is there a right to be paid during the leave?**

Yes, employees will be exempt from providing their services, will retain the right to the payment that would have been due to them if they had been providing regular services, including basic salary and salary supplements.

### **6. Is it paid leave that must be made up for employees?**

Yes, working hours can be made up from the day after the end of the State of Emergency until 31 December 2020.

### **7. Is making up for lost working hours to be negotiated collectively?**

Yes, this making up of hours must be negotiated in a consultation period held for this purpose between the company and the employees' legal representatives, which will last a maximum of 7 days. In the event that there is no legal representation of the employees, a trade union committee must be set up or, if no such committee exists, a committee made up of three employees from the company itself. The representative committee must be constituted within a period of 5 days, which cannot be extended.

The parties may agree at any time to replace the consultation period with any mediation or arbitration procedure provided for in inter-professional agreements at state or regional level.

The agreement reached may regulate making up all or part of the working hours during the compulsory leave, the minimum notice with which the working person must be informed of the day and time of the subsequent provision of work, as well as the standard length of time for making up the lost working hours.

If no agreement is reached during this consultation period, the employer will notify the employees and the representative committee, within 7 days following the end of the consultation period, of the decision on making up the lost working hours during application of the leave.

In any event, making up for these hours may not involve breaching the minimum daily and weekly rest periods provided for by law and in the collective agreement, establishing a period of notice of less than 5 days, or exceeding the maximum annual working time provided for in the applicable collective agreement, and the rights to balance personal, working and family life that are legally and contractually agreed must be respected.

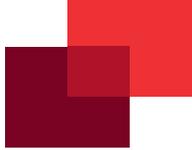
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### **Annex. List of employees to whom paid leave that must be made up does not apply.**

1. Persons working in activities that must continue to be carried out under Articles 10.1, 10.4, 14.4, 16, 17 and 18 of Royal Decree 463/2020 of 14 March, declaring the State of Emergency to manage the health crisis situation due to Covid-19 and the regulations approved by the relevant authority and the delegated relevant authorities.
2. Persons working in activities that contribute to the market supply chain and the functioning of services at production sites for basic goods and services, including food, beverages, animal feed products, hygiene products, medicines, health products or any product necessary to protect health, allowing them to be distributed from their point of origin to their final destination.
3. Workers who provide services in restaurant activities that provide home delivery services.



4. Indispensable workers that provide services in the chain of production and distribution of goods, services, health technology, medical supplies, protective equipment, health and hospital equipment and any other materials necessary for the provision of health services.
5. Those workers who are indispensable for the maintenance of the productive activities of the manufacturing industry that offer the supplies, equipment and materials necessary for the correct development of the essential activities included in this annex.
6. Persons working in activities that must provide transport services, both for people and goods, that have continued to be carried out since the declaration of the State of Emergency, in addition to those who must ensure the maintenance of the means used for this purpose, under the protection of the regulations approved by the relevant authority and the delegated relevant authorities since the declaration of the State of Emergency.
7. Prison Service personnel and Civil Protection, Maritime Rescue and Fire Fighting Service personnel, mine safety, traffic and road safety personnel. In addition, private security company personnel that provide security transport, alarm response, patrol or intermittent surveillance services, and those that need to be used for the performance of security services to guarantee essential services and supplies to the general public.
8. The workers who are indispensable to support the maintenance of the material and equipment of the armed forces.
9. Persons working in health centres, services and establishments, in addition to those who care for the elderly, minors, dependent persons or persons with disabilities, and those who work in research and development and biotechnology companies, entities and centres in which projects related to Covid-19 are being carried out, (ii) together with their respective animal facilities and (iii) the maintenance of the minimum services of the facilities associated with them and the companies that provide services and products necessary for research in these areas and (iv) persons working in funeral services, and also in burial and other related activities.
10. The workers of animal health centres, services and establishments
11. Persons working in press sales outlets and in public and private media or news agencies, as well as in their printing or distribution.
12. Persons working in financial services companies, including banking, insurance and investment companies, for the provision of essential services, and the activities of payment infrastructures and financial markets.
13. Workers in telecommunications, audiovisual and essential computer services companies, as well as those networks and facilities that support them and the sectors or subsectors necessary for their proper functioning, especially those that are essential for the adequate provision of public services, as well as for the operation of the remote work carried out by civil servants.
14. Workers in companies providing essential services related to protecting and caring for victims of gender-based violence.
15. Lawyers, solicitors, labour relations experts, translators, interpreters and psychologists who provide assistance in the Justice Administration area, may continue their professional activity as necessary in order to attend proceedings not suspended by Royal Decree 463/2020, of 14 March, which declared the State of Emergency to manage the health crisis situation due to COVID-19 and, in this way, comply with the essential services agreed upon by the Ministry of Justice, the General Council of the Judiciary, the State Attorney General and the Autonomous Communities with jurisdiction in the matter and reflected in the Resolution of the Secretary of State for Justice dated March 14, 2020, and any adaptations that may be agreed upon.



16. Those workers that provide services in law firms and legal consultancies, administrative agencies and social graduates, and risk prevention services providers, in urgent matters.
17. Those workers that provide services in notaries and registries for the fulfillment of essential services set by the General Directorate of Legal Security and Public Faith.
18. Workers who provide cleaning, maintenance and urgent fault repair services and surveillance, as well as services related to the collection, management and treatment of hazardous waste, as well as municipal solid waste, both hazardous and non-hazardous, wastewater collection and treatment, decontamination activities and other waste management services, or any of the entities belonging to the Public Sector, in accordance with the provisions of Article 3 of Law 9/2017, of November 8, on Public Sector Contracts.
19. Workers in Refugee Reception Centres and Temporary Residence Centres for Immigrants and in privately run public entities subsidised by the Secretariat of State for Migration and operating within the framework of International Protection and Humanitarian Assistance.
20. Persons working in water supply, purification, piping, drinking water and sanitation activities.
21. Indispensable persons that are working in the provision of meteorological services including prediction/observation, and linked processes of maintenance, monitoring and control of operational processes.
22. Staff of the operator designated by the State to provide the universal postal service, to provide collection, sorting, transport, classification, delivery and handling services for the exclusive purpose of guaranteeing that universal postal service.
23. Workers who provide services in those sectors or subsectors involved in importing and supplying health care material, such as logistics, transport, storage, customs transit (freight companies) and, in general, all those involved in health care corridors.
24. Persons working in distributing and delivering products bought on the internet, over the phone or by mail order.
25. Any others that provide services that have been considered essential.

In addition, the following particular situations must be taken into account:

1. The judges, prosecutors, lawyers of the Administration of Justice and other personnel at the service of the same will continue attending to the procedural actions not suspended by Royal Decree 463/2020, of March 14, declaring the state of alarm for the management of the health crisis situation caused by COVID-19 (Additional Provision 3).
2. Activities not included in the Annex that have been contracted through the procedure established in article 120 of Law 9/2017, of November 8, on Public Sector Contracts may continue (Additional Provision 4).
3. The recoverable paid leave shall not apply to workers of companies awarded public works, services and supplies contracts that are essential for the maintenance and safety of buildings and the adequate provision of public services, including the provision of such services on a non face-to-face basis, all without prejudice to the provisions of article 34 of Royal Decree-Law 8/2020, of March 17, of extraordinary urgent measures to face the economic and social impact of COVID- 19 (Additional Provision 5).

