



EMERGENCY MEASURES COVID-19 **REGIONAL GOVERNMENT OF CATALONIA:** **Recent measures adopted (II)**

Barcelona, 31 March 2020

SUMMARY

- Under Decree-Law 10/2020 of 27 March 2020 of the Government of Catalonia to combat COVID-19, various measures have been adopted for private entities, including Catalan cooperatives, and for the operation of sports entities in Catalonia.
- Press release from the Data Protection Agency, dated 26 March 2020, regarding the use of websites and apps for the self-diagnosis of COVID-19

DECREE LAW 10/2020 OF 27 MARCH OF THE GOVERNMENT OF CATALONIA

By means of said Decree Law 10/2020 of 27 March, the Government of Catalonia, in addition to certain measures concerning the costs of statutory personnel at the Catalan Institute of Health and to matters of sanitary and mortuary policy, as well as those already mentioned at the end of our News Alert XIII, has adopted the following measures:

1.- MEASURES RELATING TO LEGAL ENTITIES GOVERNED BY PRIVATE LAW, INCLUDING CATALAN COOPERATIVES

The measures listed below are understood to be in effect from the entry into force of the state of emergency.

Λ Meetings and resolutions of collegiate bodies

During the current state of emergency, the legally established periods for meetings the collegiate bodies of private law legal entities subject to Catalan law, including cooperative societies, are **suspended** from the date of declaration of the state of emergency; the



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calculation of said periods will be resumed from the date of the end of the state of emergency or any extensions thereto.

Meetings convened before the declaration of the state of emergency which are to take place after such declaration may be postponed or modified as to the place, means, day and time of holding by the party that has convened them. If it has been decided to postpone the meeting or if the regulations governing the state of emergency make it impossible to hold the meeting, it **must be reconvened** within one month of the date on which the state of emergency terminates.

However, over the duration of the state of emergency, the aforementioned collegiate bodies (and where appropriate their delegated commissions), even if not provided for in the statutes of their legal entities, may:

- Meet and adopt resolutions by videoconference or other means of communication, in accordance with the provisions of Article 312-5.2 of the Civil Code of Catalonia.
- Adopt resolutions without a meeting, in accordance with the provisions of Article 312-7 of the Civil Code of Catalonia, provided that the person chairing the meeting decides to do so or at least two members request it.

Λ Preparation, approval and presentation of annual accounts and other documents that may be required by law or by the by-laws.

The legally stipulated deadlines for drawing up, approving and submitting annual accounts and other required documents are understood to be **suspended** from the date of the declaration of the state of emergency, and the calculation of these deadlines will be resumed from the date on which the state of emergency or any extension thereto terminates.

Λ Specific measures additional to the above applicable to Catalan Cooperatives

Exceptionally and during the state of emergency, the governing body may call extraordinary meetings with the minimum advance notice it considers appropriate, always taking into account the urgency of the resolution to be adopted. In any event, the governing body will be responsible for adopting the appropriate measures, taking into account the specific circumstances of each cooperative society, so that the members can



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receive notice of and attend governing body meetings, which can be held by videoconference or other means of communication, with the appropriate guarantees. In this respect, the notice of the meeting must state the reasons for calling the meeting less than 15 days in advance, as provided for in Article 44 of Law 12/2015 of 9 July of the Parliament of Catalonia on cooperatives.

Exceptionally and during the state of emergency, the governing body, based on the specific circumstances of each cooperative, may provide for arrangements other than those established in Article 48.2 of the Law on Cooperatives with regard to the obligation to make available to members the number of votes corresponding to each member.

Exceptionally, with regard to the provisions of Article 134 of the Law of the Parliament of Catalonia 12/2015 of 9 July, on Cooperatives, during the entire period of the state of emergency, **the governing body may agree to the total or partial suspension of the cooperativised activity of all or part of the working members, working partners or workers, when the following requirements** are met:

- a) The cooperative has more than 100 working members, working partners or workers.
- b) The meeting cannot be held either in person or remotely, due to the health measures to be followed to carry out meetings and a lack of telematic resources.

In this respect, it will be necessary that the resolution explains the fulfilment of the requirements indicated.

The **reimbursement of the contributions of cooperative members who resign** during the state of emergency **is deferred until six months after the end of the state of emergency**.

Λ Measures relating to owners' associations in horizontal property arrangements

The legal or statutory periods for calling and holding meetings of owners' associations subject to the horizontal property regime **are suspended** from the date of declaration of the state of emergency, and their calculation will be resumed from the date of completion of the state of emergency or any extension thereto.



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The meetings already convened that must be held during the state of emergency, unless it is possible to carry them out by the means established in Article 312-5.2 of the Civil Code of Catalonia, are **suspended and must be reconvened within the month following the date on which the state of emergency is lifted.**

During the state of emergency, the possibility of adopting **resolutions without a meeting** is also admitted, at the request of the person chairing the meeting, if the requirements established in Article 312-7 of the Civil Code of Catalonia are met.

2.- MEASURES RELATING TO THE FUNCTIONING OF SPORTS ENTITIES IN CATALONIA

As long as the state of emergency is maintained:

- Λ The holding of general assemblies**, both ordinary and extraordinary, of the sports entities of Catalonia is **suspended**, and any announcement that has already been made for a meeting planned to take place from 28 March 2020 will be void.
Assemblies already convened and suspended must be reconvened and reported, complying with the legally established deadlines.
- Λ The authority to convene electoral procedures by the competent bodies to elect the Board of Directors or the Management Committee of sports entities** in Catalonia is **suspended**.
The electoral procedures in progress are suspended until the state of emergency is lifted, the resumption thereof being subject to the provisions of this Decree Law.
- Λ The mandate of the governing bodies** of sports entities in Catalonia **that expires during the state of emergency is automatically extended until the corresponding electoral procedure can be called and carried out.**
- Λ** Actions that violate the provisions of the foregoing paragraphs are null and void.



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**STATEMENT FROM THE DATA PROTECTION AGENCY ON
CORONAVIRUS SELF-ASSESSMENT WEBSITES AND APPS**

The Spanish Data Protection Agency, in its latest press release of 26 March 2020, has published a number of indications regarding the use of mobile applications (Apps) for the collection and processing of citizens' health data in order to detect and control cases of Covid-19.

The release highlights that it is essential to differentiate those apps developed by a public administration, whether through a public-private collaboration or on a totally public basis, whose legality is supported by the public interest and the assurance of the public's vital interests, from other apps of a private origin, which must be submitted to a more detailed analysis as regards their compliance with data protection legislation.

Once again the Data Protection Agency reminds us that the exceptional situation of the state of emergency decreed by the Government does not in any way affect the citizens' data protection rights, although it may provide, for the central government and regional health administrations, a legal basis for legitimising certain processing and transfers of citizens' data on the basis of the interests mentioned in the foregoing paragraph, such as the control of the pandemic.

The press release may be consulted at <https://www.aepd.es/es/prensa-y-comunicacion/notas-de-prensa/aepd-apps-webs-autoevaluacion-coronavirus-privacidad>.



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We will continue to inform you of any new measures and/or changes in legislation that may arise as a result of the COVID-19 pandemic.

The professionals that regularly work with your company are at your disposal for any clarification or additional information you may require in relation to the content of this Circular Letter. Please contact us by telephone at **934 677 414**.

Yours sincerely,

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