



**EMERGENCY MEASURES COVID-19:**  
**Royal Decree-Law 18/2020 of 12 March on social measures to**  
**defend employment**

**On Wednesday 13 May, Royal Decree Law 18/2020 of 12 March on social measures to defend employment in the context of the health crisis caused by COVID-19 was published in the Official State Gazette. The present News Alert details the measures taken.**



## TEMPORARY LAYOFF PROCEEDINGS DUE TO FORCE MAJEURE

### Total force majeure derived from COVID-19

- The temporary layoff proceedings (ERTE) governed by Article 22 of Royal Decree Law 8/2020 of 17 March which continued to be affected by the events that caused them in such a way as to prevent the resumption of the business activity involved will remain in a situation of **total force majeure derived from COVID-19** as long as the causes behind them continue to exist, until 30 June 2020 at the latest.
- The Social Security Treasury Department will exempt such companies from the contributions accrued in **May and June 2020** with respect to payment of the employer's contribution and of joint collection contributions, provided that, on 29 February 2020, the company had 50 employees registered for Social Security or with a similar status, in which case the exemption will be total. If the number of workers registered for Social Security is higher, the exemption will be 75%.

### Partial force majeure derived from COVID-19

- In the event that the causes of the temporary layoff proceedings allow the partial recovery of the activity, it will be regarded as a **partial force majeure arising from COVID-19** until 30 June 2020.
- Companies and entities that are in a temporary layoff situation due to partial force majeure may also be exempted from the payment of the employer's Social Security contribution and from joint collection under the terms of Article 4.2 of Royal Decree Law 18/2020, as set out in the table below:

TYPE OF ERTE (temporary layoff )		EMPLOYEE SITUATION	COMPANY WORKFORCE	EXEMPTION			
				MAY	JUNE	EXEMPTED PAYMENTS	
FORCE MAJEURE Art. 22 RDL 8/2020	FULL FM Art. 1.1 RDL 18/2020	SUSPENDED AND/OR REDUCED	<50	100%	100%	EMPLOYER'S CONTRIBUTION + JOINT COLLECTION	AT THE REQUEST OF THE COMPANY + SIGNED STATEMENT
			>50	75%	75%		
	PARTIAL FM Art. 1.2 RDL 18/2021	REINSTATED	<50	85%	70%	EMPLOYER'S CONTRIBUTION	
			>50	60%	45%		
		NOT REINSTATED	<50	60%	45%	EMPLOYER'S CONTRIBUTION + JOINT COLLECTION	
			>50	45%	30%		

TYPE OF ERTE			APPLICABLE REGULATION
ETOP	CURRENT	COVID-19 Art. 23 RDL 8/2020	Terms and deadlines reported by the company to the labour authority apply. (Art. 2.4)
		Art. 47 WS	
	Post RDL 18/2020	NEW	Art. 23 RDL 8/2020 applies. (Art. 2.1)
		Linked ERTE due to FM	Art. 23 RDL 8/2020 applies. (Art. 2.1) - Processing overlaps current ERTE due to FM. (Art. 2.2) - Retroactive effects on completion of ERTE due to FM if processed subsequently. (Art. 2.3)



- The above-mentioned exemptions, in cases of temporary layoff proceedings due to total and partial force majeure, will be applied by the Social Security Treasury Department at the company's request. Notification will be made by means of a signed statement for each contribution account code and will be submitted before the calculation of the corresponding contribution settlement is requested, through the RED System.

The period over which the exemption lasts will not affect the workers, whose contributions will continue to be **paid for all purposes**.

### **Wavier of authorised Temporary Layoff Proceedings**

The **total waiver** of the authorised temporary layoff proceedings should be notified to the labour authorities within a maximum of **15 days from the effective date**. In addition, in the event of the waiver of the authorised temporary layoff proceedings and the suspension or regularisation of the payment of benefits resulting from the alteration thereof, the Public Employment Service must be previously informed of the changes in the details of the initial group application for access to unemployment protection and any changes made.

### **PROCEDURE FOR THE SUSPENSION AND REDUCTION OF WORKING HOURS FOR ECONOMIC, TECHNICAL, ORGANISATIONAL AND PRODUCTION REASONS**

Temporary layoff proceedings due to economic, technical, organisational and production reasons initiated from 13 May 2020 until 30 June 2020 will comply with the scheme established under Article 23 of RDL 8/2020 of 17 March.

It is expressly stipulated that this procedure may be instigated while another is in effect due to force majeure arising from COVID-19. In this case, the effective date of the proceedings due to economic, technical, organizational and production reasons **will be backdated to the date of completion of the temporary layoff due to force majeure**.

Proceedings initiated prior to 13 May 2020 will be governed by whatever was agreed at the time.

### **EXTRAORDINARY UNEMPLOYMENT PROTECTION MEASURES**

The measures relating to **contributory unemployment benefit** regulated in Article 25 paragraphs 1 to 6 of Royal Decree-Law 8/2020 of 17 March will be applicable until 30 June 2020.

In addition, the **measures relating to unemployment benefits received by permanent workers employed on a non-continuous basis and permanent workers employed on a periodic basis**



regulated in Article 25.6 of Royal Decree-Law 8/2020 of 17 March will be applicable until 31 December 2020.

### **FISCAL TRANSPARENCY**

**Companies with registered offices located in territories classified as tax havens** are barred from applying the above-mentioned temporary layoff proceedings due to force majeure derived from Covid-19.

### **RESTRICTIONS ON DIVIDEND PAYMENTS**

- Legal entities that avail themselves the above-mentioned temporary layoff proceedings due to force majeure derived from COVID-19 and that utilise public resources for use therein **may not distribute dividends in respect of the tax year in which the above-mentioned proceedings apply, unless they pay beforehand the amount relating to the exemption applied in Social Security contributions.**
- For the purposes of shareholders' right of separation, the year in which no dividends are distributed will not be taken into account
- Dividends may be paid by companies which, on 29 February 2020, **had fewer than 50 employees or assimilated workers who were registered with the Social Security system.**

### **SAFEGUARDING EMPLOYMENT**

Additional Provision Six of Royal Decree Law 8/2020 of 17 March on safeguarding employment is amended to stipulate that the exceptional measures relating to procedures for the suspension of contracts and reduction of working hours on grounds of force majeure are subject to a **commitment by the employer to maintain employment for a period of six months from the date of resumption of its business activity**, "resumption" being understood to mean the return to work of employees affected by the layoff proceedings, even if on a partial basis or if only part of the workforce is involved.

This commitment will be considered to have been breached if dismissals or contract terminations occur on any grounds, except for disciplinary dismissals declared to be lawful, resignation, death, retirement or the total or absolute permanent disability of the worker concerned, or the end of the period for contacting workers under permanent discontinuous contracts, when this does not entail a dismissal but an interruption thereof, with respect to any person affected by layoff proceedings.



In the event of non-compliance, the company must **reimburse in full the amount of the exempted contributions plus the applicable penalty charges and late-payment interest.**

Companies at risk of insolvency are exempted from this commitment.

The measures adopted by Royal Decree-Law **18/2020 on social measures to defend employment** entered force on 13 May 2020, without prejudice to any subsequent amendments or extensions.

The full legal text may be consulted at the following link

<https://www.boe.es/boe/dias/2020/05/13/pdfs/BOE-A-2020-4959.pdf>

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

Yours sincerely,  
**AUDICONSULTORES**

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 News Alert. Please contact us by telephone at 934 677 414.

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