



EMERGENCY MEASURES COVID-19: Royal Decree-Law 2/2021 for the strengthening and consolidation of social measures to defend employment. Extension of temporary lay-off schemes.

In this news alert we discuss the main regulations introduced by Royal Decree-Law 2/2021 of 26 January for the strengthening and consolidation of social measures to defend employment, approved by the Spanish Government in the context of the global pandemic caused by COVID-19.

The main purpose of the Royal Decree-Law is to make the necessary adjustments to maintain the support measures established in Royal Decree-Law 30/2020 of 29 September, including the extension of temporary lay-off schemes (ERTEs), exemptions from certain employer contributions and the extension of support and protection measures for different groups of workers.



EMERGENCY MEASURES INCLUDED IN RDL 02/2021

Extension of temporary lay-off schemes due to force majeure related to COVID-19

A) The temporary lay-off schemes in force, **adopted under Article 22 of Royal Decree-Law 8/2020 of 17 March**, will be automatically extended until **31 May 2021**. Social Security exemptions are conditional on the following being involved:

- a. Companies whose activity comes under one of the **CNAE-09 codes** included in the Annex to RDL 2/2021 ([SEE THE FULL RDL 2/2021 HERE](#) or consult the table on page 7 of this document).
- b. Companies that **are dependent on the companies referred to above** or form part of their value chain.

EMPLOYER CONTRIBUTION EXEMPTIONS

LESS THAN 50 EMPLOYEES	MORE THAN 50 EMPLOYEES
85%	75%

Exemption period: February 2021 to May 2021

Workers affected by the exemption:

- (i) workers that recommenced their employment as from 01/02/2021 (or from 13/05/2020 under the terms of Article 4.2 a) of RDL 18/2020) and
- (ii) workers whose employment is suspended from 01-02-2021 until 31-05-2021.

These exemptions shall be **incompatible** with the exemptions envisaged for **temporary lay-off schemes due to an IMPEDIMENT or LIMITATION** on business activity.

B) Temporary lay-off schemes due to **IMPEDIMENT** based on Article 2.1 RDL 30/2020 (**and previous temporary lay-offs due to resurgence** based on A.P. 1 RDL 24/2020) are also extended until **31 May 2021**, and will remain in force under the same terms set out in the relevant official resolutions, whether expressly or implicitly approved. The exemptions applicable while the restrictive measure is in force and until 31-05-2021 are as follows:

EMPLOYER CONTRIBUTION EXEMPTIONS

LESS THAN 50 EMPLOYEES	MORE THAN 50 EMPLOYEES
100%	90%

C) Finally, the temporary lay-off schemes due to **LIMITATION** based on Article 2.2 RDL 30/2020 have also been extended until 31 May 2021. The exemptions applicable to these schemes will be as follows:



MONTH	EMPLOYER CONTRIBUTION EXEMPTIONS	
	LESS THAN 50 EMPLOYEES	MORE THAN 50 EMPLOYEES
February	100%	90%
March	90%	80%
April	85%	75%
May	80%	70%

Temporary lay-offs due to an IMPEDIMENT or LIMITATION on the business activity

Companies affected by restrictions or health containment measures may apply for temporary lay-off proceedings due to an **IMPEDIMENT or LIMITATION** on business activity from 1 February 2021 until 31 May 2021 under the terms set out in art. 2 of RDL 30/2020 (See our News Alert XXXIII for more details in this [LINK](#)).

The exemption percentages for Social Security contributions applicable to the **IMPEDIMENT temporary lay-off schemes** while the restrictive measure is in force and until 31-05-2021 are as follows:

EMPLOYER CONTRIBUTION EXEMPTIONS	
LESS THAN 50 EMPLOYEES	MORE THAN 50 EMPLOYEES
100%	90%

In the case of **LIMITATION temporary lay-off schemes**, the exemption percentages for Social Security contributions will be as follows:

MONTH	EMPLOYER CONTRIBUTION EXEMPTIONS	
	LESS THAN 50 EMPLOYEES	MORE THAN 50 EMPLOYEES
February	100%	90%
March	90%	80%
April	85%	75%
May	80%	70%

Once the existence of force majeure due to an impediment or limitation has been confirmed as from 01/02/2021 by the employment authorities (by means of their express or implicit approval), the change from impediment to limitation or vice versa as a result of changes in the health restrictions



will not require the processing of a new temporary lay-off scheme, although the applicable exemption percentages will depend on the nature of the impediment or limitation derived from the force majeure situation.

Although this change in the situation does not require the processing of a new temporary lay-off scheme, it will be necessary to report the change in situation, the effective date and the centres and persons involved to the **employment authority that approved the scheme** and to the **workers' legal representatives**, and the relevant signed statement must also be submitted to the Social Security Treasury Department.

Extension of supplementary contents under Royal Decree-Law 30/2020 of 29 September

- A. Temporary lay-off schemes based on economic, technical, organisational and production (ETOP) reasons linked to COVID-19 **initiated from 27 January 2021 until 31 May 2021** will be subject to the provisions of Article 3 of RDL 30/2020.

Likewise, temporary lay-off schemes **initiated prior to 27 January 2021** will remain in force under the terms set out in the company's final communication, and their duration may be extended if they end before 31-05-2021 and an agreement is reached with the workers' legal representatives. This extension must be reported to the employment authority receiving the final communication on the lay-off scheme for ETOP reasons.

Companies with an ETOP scheme in force may apply the **exemptions** indicated below in the following cases:

- When they **switch** from a **FORCE MAJEURE scheme** (Art. 22 RDL 8/2020) to an **ETOP scheme** between **01-02-2021 and 31-05-2021**.
- When they **switched** from a **FORCE MAJEURE scheme to an ETOP scheme during the term of RDL 30/2020**, they were entitled to the exemptions provided for in A.P. 1 of the aforementioned regulation and their activity as from 27-01-2021 is classified under one of the **CNAE-09 codes provided for in the Annex** (see page 7).
- When they applied for an ETOP scheme prior to RDL 24/2020 (i.e. 27.06.2020), they were entitled to the exemptions provided for in A.P. 1 of RDL 30/2020 **and their activity as from 27-01-2021 is classified under one of the CNAE-09 codes provided for in the Annex** (see p. 7).



EMPLOYER CONTRIBUTION EXEMPTIONS

LESS THAN 50 EMPLOYEES	MORE THAN 50 EMPLOYEES
85%	75%
Exemption period: February 2021 to May 2021.	

Workers affected by the exemption:

- i. workers that recommenced their employment as from 01/02/2021 (or from 13/05/2020 under the terms of Article 4.2 a) of RDL 18/2020) and
- ii. workers whose employment is suspended from 01-02-2021 until 31-05-2021.

These exemptions shall be incompatible with the exemptions envisaged for temporary lay-off schemes due to an IMPEDIMENT or LIMITATION on business activity.

- B. The limits and provisions related to **dividend distributions and tax transparency** will remain in force until 31.05.2021 for all temporary lay-off schemes authorised prior to 27-01-2021 or authorised under RDL 02/2021.
- C. The **safeguarding of employment will remain in force** until 31.05.2021 in accordance with Article 5 of RDL 30/2020 and will apply to the benefits set out in RDL 2/2021.
- D. The limits and exceptions envisaged for **overtime, new staff recruitments and outsourcing** will remain in force until 31-05-2021.
- E. The **limitations on dismissals on Covid-19 grounds and the interruption of the calculation of temporary contract terms** will remain in force until 31-05-2021.

Extension of protection measures for workers

The extraordinary unemployment protection measures regulated in Article 8 RDL 30/2020 will remain in force until 31 May 2021, both for persons affected by temporary lay-off schemes authorised prior to 27-01-2021 and for those affected by such schemes authorised after 27-01-2021, with the following particularities:

- a. Article 8.7 RDL 30/2020 will remain in force in accordance with the terms and deadlines provided for therein.
- b. Companies that have already submitted a collective application for access to unemployment benefit by virtue of the provisions of article 8.2 of RDL 30/2020 **are not obliged to submit a new application for the workers included in the previous application.**



The measures contained in Royal Decree-Law 30/2020 relating to the following have also been **extended** until 31 May 2021:

- (Art. 9) special benefit for **workers under permanent non-continuous contracts** or who perform fixed regular work that is repeated on certain dates;
- (Art. 10) the measures laid down for **workers included in temporary lay-off schemes that do not receive unemployment benefits**;
- (Art. 11) those concerning the **compatibility of unemployment benefits with part-time work** in certain cases.

[\[Click here to consult the full text of the articles\]](#) on pp. 13, 14 and 15 of RDL 30/2020]

Extension of Article 6 of RDL 8/2020 - MECUIDA Plan

The MECUIDA Plan will remain in force **until 31 May 2021**.

Entry into force

The measures contained in the Royal Decree-Law on social measures to defend employment came into force on **27 January 2021**.

To consult the full text of Royal Decree-Law 2/2021, click [HERE](#).

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.

Yours sincerely,
AUDICONSULTORES
Labour

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APPENDIX

CNAE-09 code under which the particularly affected enterprises included in Royal Decree Law 2/2021 are registered

710.	Extraction of iron ores.
1811.	Graphic arts and related services.
1812.	Other printing and graphic arts activities.
1820.	Publishing and printing.
2051.	Manufacture of explosives.
2441.	Precious metals production.
2670.	Manufacture of optical instruments and photographic equipment.
3212.	Manufacture of jewellery and similar articles.
3213.	Manufacture of imitation jewellery and similar articles.
3316.	Aeronautical and spatial repair and maintenance.
4624.	Leather and fur wholesaling.
4634.	Beverage wholesaling.
4741.	Retailing of computers, peripheral equipment and software in specialised shops.
4932.	Transport by taxi.
4939.	Other land passenger transport.
5010.	Maritime passenger transport.
5030.	Passenger transport by inland waterways.
5110.	Air passenger transport.
5122.	Space transport.
5223.	Air transport ancillary activities.
5510.	Hotels and similar accommodation.
5520.	Tourist and other short-term accommodation.
5530.	Campsites and caravan parks.
5590.	Other accommodation.
5610.	Restaurants and food stalls.
5630.	Drinks establishments.
5813.	Newspaper publishing.
5914.	Film screening activities.
7711.	Rental of cars and light motor vehicles.
7722.	Videotape and DVD rental.
7729.	Rental of other personal effects and household goods.
7734.	Rental of navigation vessels.
7735.	Rental of air transport vehicles.
7911.	Travel agency activities.
7912.	Tour operator activities.
7990.	Other reservation services and related activities.
8219.	Photocopying, document preparation and other specialised office activities.
8230.	Organisation of conventions and trade fairs.
9001.	Performing arts.
9002.	Ancillary activities to the performing arts.
9004.	Venue management.
9104.	Activities relating to botanical gardens, zoos and nature reserves
9200.	Gambling and betting activities.
9321.	Amusement and theme park activities.
9329.	Other recreational and entertainment activities
9601.	Washing and cleaning of textile and leather garments.
9604.	Physical training activities.