

Main measures included in the Royal Decree-Law 24/2020 of 26 June for the reactivation of employment and protection of self-employment and competitiveness of the industrial sector

30 June 2020

On 26 June 2020, Royal Decree-Law 24/2020 of 26 June on social measures for the reactivation of employment and protection of self-employment and competitiveness of the industrial sector was approved, and whose main measures are as follows:

- [Files for the Temporary Regulation of Employment \("ERTE"\) due to Force Majeure processed by Article 22 of Royal Decree Law 8/2020: Extension until 30 September 2020.](#)
 - From 26 June 2020, only the ERTES due to Force Majeure (based on Article 22 of Royal Decree Law 8/2020) that were requested before the entry into force of Royal Decree Law 24/2020 and until 30 September 2020 at the latest, will be applicable.

The companies that apply this type of ERTES must reincorporate the affected employees to the extent necessary for the development of their activity, communicating (i) to the Labor Authority these disaffections (in case they are total) within a period of 15 days from the date of effects of the same and (ii) to the Employment Public Service of ("SEPE") any other variation with respect to the initial collective request for access to unemployment protection.

- No overtime, new outsourcing of activity or new recruitment, whether direct or indirect, may take place during the implementation of an ERTE due to Force Majeure and until 30 September 2020 at the latest.

This prohibition may be waived (i) in the event that the persons who provide services in the work center affected by the new hiring (direct or indirect or outsourcing), cannot (for training, qualification or other objective reasons) develop that type of activity, (ii) and after informing the company's employees' legal representatives.

Failure to comply with this prohibition may constitute an infringement initiated by the Labour and Social Security Inspectorate.

- **ERTE for productive, technical, organizational or productive grounds ("ETOP") processed by art. 23 of RDL 8/2020: Extension of the shortened procedure until 30 September 2020.**

- Article 23 of Royal Decree Law 8/2020, of 17 March, will be applicable to the ERTES ETOPs derived from COVID-19 initiated from 26 June 2020 until 30 September 2020. That is, the shortened procedure of the consultation period is extended with priority participation in the negotiation of the most representative trade unions in the sector.
- When an ERTE ETOP is initiated after the termination of an ERTE due to Force Majeure, the date of effects of the first one (ETOP) will be backdated to the date of termination of the second one (Force Majeure).
- No overtime, new outsourcing of activity or new recruitment, either direct or indirect, may be carried out during the implementation of an ETOP ERTE.

This prohibition may be waived (i) in the event that the persons who provide services in the work center affected by the new hiring (direct or indirect or outsourcing), cannot (for training, qualification or other objective reasons) develop this type of activity, (ii) after informing the company's employees' legal representatives.

Failure to comply with this prohibition may constitute an infringement initiated by the Labour and Social Security Inspectorate.

- **Extraordinary measures on unemployment protection for ERTES due to Force Majeure and ERTES ETOP: Extension of the extraordinary unemployment measures until 30 September.**

- The unemployment protection measures provided for in Article 25 (1) to (5) of RDL 8/2020 will be applicable until 30 September 2020. This implies that it extends until 30 September 2020:
 - The recognition of the right to unemployment benefit for those employees affected by an ERTE and who do not have the minimum contribution period.
 - Do not include the time in which the unemployment benefit is received for the purpose of consuming the established maximum periods of receipt.
 - The possibility of benefiting from these measures is available to people who are working members of labour companies and associated work cooperatives who intend to pay contributions in the event of unemployment.
 - The possibility of benefiting from these measures for all the employees concerned both (i) if, at the time of the business decision, they had a previous right to unemployment benefit or allowance suspended (ii) and if they did not have the minimum period of contribution for the entitlement to perceive unemployment benefits, or had not received previous unemployment benefit.
 - The specialties established with respect to the amount and duration of the contributory benefit, so that it will no longer be extended until the end of the ERTE period.

- The extraordinary measures on unemployment protection for discontinuous permanent employees (trabajadores fijos-discontinuos) will be applicable until 31 December 2020.
- The SEPE will automatically extend until 30 September 2020 the maximum duration of the rights recognised under the ERTES due to Force Majeure and ETOP whose starting date is prior to the entry into force of Royal Decree Law 24/2020.
- The obligation for companies that carry out an ERTE ETOP after 26 June 2020 to make a collective application for unemployment benefits in the model established for this purpose on the SEPE's website or electronic headquarters is maintained.

For the purposes of the regularisation of unemployment benefits, when during a calendar month there are periods of activity and inactivity, as well as in the cases of reduction of the normal working day, and in the cases in which both days of inactivity and days in reduction of working day are combined, the company must communicate at the end of the month, (by means of the application certific@2), the information on the days worked in the previous calendar month.

In the case of days worked in reduction of working hours, the hours worked shall be turned into equivalent full days of activity. For this purpose, the total number of hours worked in the month will be divided by the number of hours that constituted the normal working day of the working person prior to the application of the reduction of the working day.

- **Extraordinary social security contribution measures: Exemption from the payment of the company's social security contribution and from joint collection.**
 - Companies that have carried out an ERTE due to force majeure and whose activity is restarted as from 1 July 2020:
 - **Companies with less than 50 employees on 29 February 2020:** The General Treasury of Social Security ("TGSS") will exempt 60% of the company contribution accrued in the months of July, August and September 2020.
 - **Companies with more than 50 employees on 29 February 2020:** The TGSS will exempt 40% of the company contribution accrued in the months of July, August and September 2020.
 - Companies that have carried out an ERTE due to force majeure and whose activity continues to be suspended as of 1 July 2020:
 - **Companies with less than 50 employees as of 29 February 2020:** The TGSS will exempt 35% of the company contribution accrued in the months of July, August and September 2020.
 - **Companies with more than 50 employees on 29 February 2020:** The TGSS will exempt 25% of the company contribution accrued in the months of July, August and September 2020.

In this case, the exemption will apply to the payment of the business contribution provided for in article 273.2 of the revised text of the LGSS, as well as that relating to the fees for joint collection.

- Companies that have decided to suspend contracts or reduce the working day by means of an ERTE ETOP prior to the entry into force of this Royal Decree-Law, or when this ERTE ETOP is initiated after the termination of an ERTE due to Force Majeure, will be exempt from the payment of the employer's contribution to Social Security and for concepts of joint collection, in the percentages and conditions indicated below:
 - Companies whose activity restarts from 1 July 2020:
 - ✓ Companies with less than 50 employees on February 29, 2020: The TGSS will exempt 60% of the company contribution accrued in the months of July, August and September 2020.
 - ✓ Companies with more than 50 employees on 29 February 2020: The TGSS will exempt 40% of the company contribution accrued in the months of July, August and September 2020.
 - Companies whose activity continues to be suspended as from 1 July 2020:
 - ✓ Company with less than 50 employees on 29 February 2020: The TGSS will exempt 35% of the company contribution accrued in the months of July, August and September 2020.
 - ✓ Companies with more than 50 employees on 29 February 2020: The TGSS will exempt 25% of the company contribution accrued in the months of July, August and September 2020.
- The exemptions in the contribution shall be applied by the TGSS at the request of the company, after communication of the identification of the employees and the period of suspension or reduction of the working day, and after submission of a responsible declaration, with respect to each contribution account code and month of accrual, on the maintenance of the validity of the ERTES.
- The contribution exemptions will have no effect on employees, and the period in which they are applied will continue to be considered as effectively contributing for all purposes.

- Safeguarding of employment: Applicable to ERTES ETOP

The commitment to maintain employment initially envisaged for the ERTES due to Force Majeure will be extended to companies applying ERTES ETOP and benefiting from the extraordinary contribution measures.

For companies benefiting for the first time from the extraordinary quotations measures from 26 June 2020, the 6 month period of the commitment will start to run from that date (i.e. 26 June 2020).

- Protection of employment: Extension of art. 2 and 5 of Royal Decree Law 9/2020

- Force majeure and objective grounds (economic, productive and technical) related to COVID, cannot be understood as justifying the termination of the employment contract or dismissal.

- The suspension of temporary contracts, including training, relief and provisional employment contracts, due to the processing of an ERTE due to force majeure or an ERTE ETOP, will mean the interruption of the calculation of these temporary contracts until the end of the corresponding ERTE.
- **Transitional provisions: Temporary transition and accompanying measures regarding contributions.**
 - Companies in a situation of total force majeure on 1 July 2020 will be exempt from the business contribution payment provided for in article 273.2 of the revised text of the LGSS, as well as from payment of the contributions for joint collection, in the percentages and under the conditions indicated below:
 - **If the Company has less than 50 employees on 29 February 2020:**
 - ✓ 70 % of the contributions accrued in July 2020,
 - ✓ 60 % in respect of contributions accrued in August 2020 and
 - ✓ 35 % in relation to the contributions accrued in September 2020.
 - **If the Company has more than 50 employees as of 29 February 2020:**
 - ✓ 50 % of the contributions due in July 2020,
 - ✓ 40 % in respect of contributions accrued in August 2020 and
 - ✓ 25 % in relation to the contributions accrued in September 2020.
 - Companies that, as of 1 July 2020, are prevented from carrying out their activities by the adoption of new restrictions or containment measures on one of their workplaces, may benefit from the exemption percentages provided for below, subject to authorisation of a temporary regulation of employment of force majeure on the basis of the provisions of Article 47.3 of the Workers' Statute:
 - **If the Company has less than 50 employees on 29 February 2020:**
 - ✓ 80 % of the company's contribution accrued during the closure period, and until 30 September.
 - **If the Company has more than 50 employees as of 29 February 2020:**
 - ✓ 60 % of the business contribution accrued during the closing period, and until 30 September.

These exemptions are incompatible with the extraordinary contribution measures established in this royal decree law (RDL 24/2020).

When the companies restart their activity, they will be subject from that moment until 30 September 2020, to the measures regarding contributions regulated in this royal decree law (art. 4.1 RDL 24/2020).

- **Transitional provisions: Employees included in ERTES who are not beneficiaries of unemployment benefits.**
 - Employees included in an ERTE due to Force Majeure or an ERTE ETOP who are not beneficiaries of unemployment benefits during periods of suspension of contracts or

reduction of working hours and for whom the company is not obliged to pay the employer's contribution referred to in article 273.2 of the revised text of the LGSS, shall be considered in a situation assimilated to the registration in social security ("situación de alta asimilada") during those periods, for the purposes of considering them as effectively contributing.

- To this end, the contribution basis to be taken into account during the periods of suspension or reduction of working hours shall be the average of the contribution bases of the six months immediately prior to the start of such situations.
- The provisions of this section shall be applicable only during the periods of application of the contribution exemptions.

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