

Employment Update

Extension of the scope of action of the ITSS, in certain cases, to spaces outside the company, centre or workplace where the work is carried out

4th March 2020

Regarding the Royal Decree-Law 5/2020 of 25 February

Although it has certainly gone unnoticed given the intensity and monothematic nature of the news in recent weeks, we will now proceed to comment on and develop in a summarized manner one of the developments **introduced by Royal Decree-Law 5/2020 of 25 February**, adopting certain urgent measures in the field of agriculture and food, which has consisted of amending the scope of action of the Inspectorate of Work and Social Security ("ITSS"), regulated by Article 19 of Law 23/2015 of 21 July, which regulates the System of Inspection of Labour and Social Security.

The change introduced by this amendment has consisted of the extension of the **cases in which the ITSS can act**.

Thus, prior to the amendment, the literal wording of the provision in question covered only actions in companies, workplaces and, in general, workplaces where work was performed (in addition to other specific cases such as vehicles, aircraft, ports, ships, etc.).

As of the entry into force of this regulation on 27 February, the scope of action of the ITSS will also expressly include those premises, homes or other authorized places where workers reside, lodge or stay by reason of their work during rest periods.

The precept clarifies that it is not necessary for these places to be within the companies, work centres or workplaces, since the intention is precisely to extend the scope of action beyond these assumptions. This means that the ITSS can even operate in the case of employees' private homes outside the company's premises.

However, one requirement is introduced for these premises, housing and facilities, and that they have been made available to employees by the employer under a legal, contractual or agreed obligation.

It should be noted that the cases for which this extension of the ITSS's scope of action has been specifically designed, according to the Explanatory Memorandum to the aforementioned Royal Decree Law 5/2020, concern seasonal and seasonal accommodation made available to workers, and that it is compulsory in the agricultural sector when collective management of contracts at source is carried out (for non-resident foreign workers).

However, given the general nature and scope of the wording with which this amendment has finally been incorporated into the regulatory text (Law 23/2015), nothing seems to prevent this area of action from being applied in other sectors.

In this regard, the Explanatory Memorandum to Royal Decree Law 5/2020 clarifies that, when this area of action affects the domicile of a natural person, the ITSS must obtain their consent, or a judicial authorization, as required by Article 13.1 of the aforementioned Law 23/2015.

This amendment was published on 26/02/2020 and came into force the following day, 27th February.

You can read the [aforementioned law](#) for more information.



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