

## Main employment-related measures in relation to COVID-19 adopted by the 28th April Royal Decree Law 16/2020

29th April 2020

Regarding the 28th April Royal Decree Law 16/2020 on procedural and organisational measures to deal with COVID-19 in the area of the administration of justice

Today, 29 April 2020, the [28th April Royal Decree-Law 16/2020](#), on procedural and organisational measures to deal with the COVID-19 in the area of the Administration of Justice was published in the BOE (Official State Gazette).

This regulation includes a wide range of organizational and procedural measures, within the framework of the Administration of Justice, and in view of the de-escalation plan presented by the Executive and the gradual return to the activity of courts and tribunals after the confinement, in the fundamental interest of avoiding a collapse of the administration of justice, after the lifting of the suspension of deadlines and procedural actions imposed by the declaration of the State of Alert.

Among the wide range of procedural measures adopted, regarding the field of employment, the following should be highlighted:

### **1. Processing of challenges to Temporary Employment Regulation Schemes ("ERTEs") on economic, organisational or production-related grounds, as referred to in Article 23 of the 17th March Royal Decree Law 8/2020**

Among the measures of an urgent nature as outlined in the regulation, it is established that the challenge of the ERTE processed in accordance with the procedure provided for in Article 23 of RD 8/2020 (ERTE for economic, technical, organizational and productive causes in the context of Covid-19), will be dealt with by the procedural modality of the collective conflict, without prejudice to the possible individual challenge of the measure by the affected worker, when said measure affects more than 5 workers.

In line with the above, the regulation makes the requirements set out in article 153 of the LRJS more flexible, corresponding to the collective conflict procedure for challenging measures to suspend or reduce the working day, delimiting the subjective budget for assigning the measure to more than 5 workers, instead of the reference to the thresholds of article 51.1 of the Workers' Statute which it had established up to now.

As for the parties entitled to bring a collective dispute, in addition to those referred to in Article 154 of 10th October Law 36/2011, regulating social jurisdiction ("LRJS") - trade unions, bodies legally representing workers, employers, business associations, as well as the labour authority and employing public administrations - the Workers' Representative Committee, appointed ad hoc in accordance with the labour regulations, is added to the negotiation of the contested ERTE.

### **2. On the extension of self-employed persons situations in the rules on the exceptional availability of pension schemes by covid-19**

In order to apply for the availability of consolidated pension plan rights in situations arising from the crisis caused by the COVID-19, Article 23 of the 12th April Royal Decree Law 15/2020 ("RDL 15/2020") provided only for those self-employed workers who had previously been integrated into the General Social Security System, or under an alternative mutual insurance scheme, and who had ceased their activity during the State of Alert decreed by the Government, presenting for this purpose the certificate issued by the Tax Office, or the competent body of



the Autonomous Community, or on the basis of the declaration of cessation of their activity, declared by the interested party.

In accordance with the fifth final provision of the regulation, by virtue of which article 23 of the aforementioned RDL 15/2020 is amended, the subjective scope of application of the regulation is extended, and the possibility is provided for those self-employed workers whose turnover has been reduced by 75% as a result of the State of Alarm, also have the option of requesting the availability of consolidated pension plan rights, provided that they prove the accounting information justifying the reduction of their turnover under the terms of Article 17(1) of Royal Decree Law 8/2020.

Therefore, and in line with the above, Article 23.3.1, paragraph c) is also amended to provide for the application of the maximum limits of availability of pension plans, also with regard to those self-employed workers who have reduced their turnover by up to 75% as a result of Covid-19.

We hope the information is useful and of your interest. At Andersen Tax & Legal we have created a multidisciplinary team to attend to all the questions that may arise on this aspect or in relation to the COVID-19.

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