

April 2020

Labour Law Department

**NEW ADDITIONAL MEASURES TO SUPPORT THE ECONOMY AND  
EMPLOYMENT AND THE IMPACT ON THE ACTIVITY OF THE LABOUR AND  
SOCIAL SECURITY INSPECTORATE**

On 22 April, the Government published **Royal Decree-Law 15/2020, of 21 April, on additional urgent measures to support the economy and employment**. This includes two provisions of relevance to the Inspectorate's activities. These are analysed in a note by the aforesaid body, entitled **Provisions introduced by Royal Decree-Law 15/2020 of 21 April, with an impact on the activity of the Labour and Social Security Inspectorate ("ITSS")**.

In this regard, we highlight some of the measures that we have considered of particular interest (which amend previous Royal Decrees in particular, **Royal Decrees-Laws 8/2020 and 9/2020** (see previous commentary in AJ of March 2020 I and AJ March 2020 II)), which are summarised below:

- **Partial force majeure**

It includes the possibility of partial force majeure in companies carrying out essential activities. For this reason, art. 22.1 of RD-L 8/2020 is amended with the following added paragraph:

*"With regard to activities to be continued in accordance with the declaration of the state of alert, other rules with legal status, or the provisions issued by the delegated authorities pursuant to article 4 of Royal Decree 463/2020 of 14 March, it will be understood that the force majeure described in the paragraph above will be applicable regarding the suspension of contracts and working time reductions applicable to that part of the activity unaffected by said conditions for continuing the activity".*

That is to say, **force majeure may not extend to the entire workforce of those companies carrying out activities that are considered essential during this crisis, with the cause of force majeure affecting that part of the activity or workforce unaffected by the aforesaid essential nature.**

- **Suspending deadlines**

In order to ensure juridical certainty and consistency with measures to suspend time limits in general within the Public Administrations, the deadlines governing the field of ITSS's operation and action are suspended.

Without prejudice to the above, **cases where intervention is essential to ensure the protection of the public interest or linked to COVID-19 are exempt from this general rule.**

- **Extension of teleworking and adaptation of work schedules/working time "Plan MECUIDA"**

In order to ensure worker protection and to continue to meet the needs of work-life balance in the context of the COVID-19 crisis, the preferential nature of teleworking is extended, and the right to adapt work schedules and reduce working time, now christened "*Plan MECUIDA*", **is extended for up to 3 months following the end of the state of alarm** (by adding to the month initially provided for in final provision 10 of RD-L 8/2020 the fixed 2-month extension).

However, in the circumstances, the **Government may provide for further extensions.**

- **Liability for returning unduly generated benefits**

Additional provision 2 of RD-L 9/2020 and articles 23.1c), 23.2 and 43.3 of the Law on Infractions and Fines in the Social Order ("LISOS") are amended in such a way as to strengthen control and sanction mechanisms. The most significant points are:

- (i) **"Incorrections" and not solely falsehoods, are included as a very serious type of offence, and,**
- (ii) The liability of businesses extends to **returning any amounts unduly received by their workers,** when there is no deceit or guilt on the part of the former.

- **Legal status of unemployment**

**The cases in which there is a legal situation of unemployment are expanded,** either:

- (i) As of 9 March 2020, to workers whose contract has been terminated during the probation period: or,
- (ii) As of 1 March 2020, to persons who have voluntarily terminated the contract provided they had a firm job offer that has failed to materialise as a result of COVID-19.