

**COVID-19 | Royal Decree-law 11/2020  
of 1 April on urgent and  
supplementary social and economic  
measures in the fight against the  
virus**

**Analysis of the measures and their  
application in different areas**

CMS Spain

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Royal Decree 11/2020 of 31 March adopting **supplementary urgent social and economic measures** in the fight against COVID-19 ("RDL 11/2020") was published in the Official State Gazette on 1 April 2020.

This latest Decree regulates the measures considered extraordinary and urgent by the Spanish Government, implemented between the enactment of Royal Decree-law 6/2020 of 10 March and Royal Decree-law 10/2020 of 30 March<sup>1</sup> and representing additional and further means to **Royal Decree 463/2020** of 14 March declaring a state of emergency.

Broadly speaking, the measures set out in RDL 11/2020 **will remain in force for one month following** the time at which the state of emergency is lifted, except for certain measures which are given a specific time frame.

## Public law

RDL 11/2020 addresses numerous aspects and amends certain laws. This report will focus on analysing the amended legislation linked to **public law and regulated sectors** (energy, public sector contracts, electronic communication, foreign investments in Spanish companies operating in strategic sectors, local authorities and subsidies), **most notably energy** as the sector most affected by the Decree. Nevertheless, towards the end of this document please also find a list of the measures adopted in relation to all other areas.

### Further extension to the expiry of rights of access and connection to the electricity network (fifth final provision)

The RDL amends the **eighth transitional provision of the Spanish Electricity Sector Act 24/2013 of 26 December**, replacing the expiry date given to rights of access and connection obtained prior to 28 December 2013.

**The 31 March 2020 deadline to obtain an operations permit for power generation facilities has been extended until two months after the initial or extended state of emergency declared under Royal Decree 463/2020 of 14 March is lifted, therefore ignoring the suspension and reinstatement of time frames arrangement set out under the third and fourth additional provisions of Decree 463/2020.**

**On the contrary, the second expiry event, i.e. five years from obtaining such rights of access and connection at a point of the network, remains unchanged.** While it is understood that the suspension of time frames regulated under Royal Decree 463/2020 would apply to this secondary event, the wording of the new Decree is unclear given that it specifically states that the eighth transitional provision of the Electricity Sector Act does not apply in this case.

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<sup>1</sup> **Royal Decree-law 6/2020** of 10 March adopting certain urgent economic public health-protection measures; **Royal Decree-law 7/2020 of 12 March** adopting urgent measures to combat the economic impact of COVID-19; **Royal Decree-law 8/2020** of 17 March on urgent and extraordinary measures to address the economic and social impact of COVID-19; **Royal Decree-law 9/2020 of 27 March** adopting supplementary employment-related measures to alleviate the effects of COVID-19 and **Royal Decree-law 10/2020** of 29 March regulating recoverable paid leave for non-essential service employees in a bid to reduce personal mobility in the fight against COVID-19.

Notwithstanding the questionable deadline granted to the rights of access and connection obtained prior to the entry into force of the Electricity Sector Act, it is certain that the **new terms could afford a wider margin to facilities yet to have obtained an operations permit by 31 March 2020**, albeit such deadline should have been considered postponed under the suspension of time frames due to the state of emergency. The benefit or detriment of this measure can only be assessed once the state of emergency has been lifted, although in principle it should be seen as positive for energy-generating facilities.

## Measures relating to energy supply

### Right to receive discounted rates afforded to workers affected by the COVID-19 crisis (Article 28)

RDL 11/2020 has widened the group of potential recipients of discounted electricity rates to include – on a temporary and exceptional basis – natural persons at their habitual residence when meeting the following criteria:

- a) Evidence must be provided to show that **the point of delivery account holder or any member of their household, being freelancers or self-employed, are entitled to benefits for the complete discontinuance of their professional activity or because their turnover for the previous month dropped by at least 75% against their average turnover for the previous six-month period** (pursuant to Royal Decree-law 8/2020 of 17 March on urgent and extraordinary measures to address the economic and social impact of COVID-19, or "RDL 8/2020"). Such circumstance must have occurred after the entry into force of Royal Decree 463/2020 of 14 March declaring a state of emergency.
- b) RDL 11/2020 outlines a series of **income requirements which must be equal to or lower than certain thresholds pegged to the Multiplier for the Public Income Index (IPREM)** in order to benefit from discounted rates.
- c) The right to receive discounted rates will expire when the above scenarios no longer exist. **Under no circumstances may such right stretch beyond six months from being triggered** (notwithstanding the right to be recognised as a vulnerable consumer under the common situations prescribed by law).

In order to **evidence the vulnerable consumer status** defined under RDL 11/2010 and to apply for discounted rates, consumers must send the **application form provided in Annex IV of the RDL and the documents required under the Decree** by email to the address appearing on their supplier's website .

### Guarantee of the supply of electricity, petroleum-based products, natural gas and water (Article 29)

Lockdown measures and mobility restrictions mean that the majority of household members continually remain within the confines of their home, which also includes the remote performance of professional activity.

Against this backdrop, RDL 11/2020 stipulates that **on an exceptional basis and while a state of emergency remains in place, the supply of electricity, petroleum-based products –**



**including manufactured gases and liquified petroleum gases –, natural gas and water to natural person consumers at their habitual residence cannot be suspended for reasons other than the security of supply, citizens and facilities.**

What's more, the RDL states that the **duration of the state of emergency will not count as part of the period** between the formal payment request and the cut-off of supply due to a failure to pay bills as established under current legislation or in each utility contract.

### **Temporary freeze on the payment of electricity and gas bills and the amendment of utilities contracts (Articles 42, 43 and 44)**

Regarding **electricity points of delivery, contracts (or their extensions) may be temporarily suspended or amended** in order to **take out an alternative offer with the supplier with which the contract is held, without penalty.**

**Distributors will deal with all requests for changes in capacity or feed-in tariffs, even in cases where a request for prior amendment** of the agreement for third party access to the network had already been submitted the year before **or in cases with two tapping points** granted authorisation for the joint application of a single access tariff. In these cases, only notification to the consumer is required as opposed to a specific resolution from the Directorate General of Energy Policy and Mines.

**Consumers of gas may ask their suppliers to modify the contracted daily flow, change it to a tariff level corresponding to a lower annual consumption rate or to temporarily suspend the contract free of charge.**

**Gas suppliers may ask distributors or transporters to carry out the following at no extra cost and on an unrestricted basis:** (i) **amend the tariff levels** relating to the transportation component of the transport and distribution tariff, (ii) **a reduction of the contracted flow** of exit capacity products regardless of duration and (iii) **the removal of exit capacity products** undertaken and the temporary suspension of permanent access agreements.

**Suppliers will pass on any savings** from these measures to the point of delivery account holder.

Under all of the above scenarios, **consumers will have three months from the lifting of the state of emergency to request the reinstatement of the contract**, which will be granted within five days **free of charge.**

**Both the electricity and gas systems will be compensated for any losses suffered due to these measures through the creation of a specific line item in the Spanish General State Budgets Act.**

Moreover, **suppliers or, as the case may be, distributors, may be asked to freeze the payment of bills corresponding to billing periods which fall within the state of emergency term**, including all invoicing concepts. **Meanwhile, suppliers will be exempt from the obligation to pay distributors the tariff for access to the transport and distribution networks or the transportation component** corresponding to the deferred bills, as well as the settlement of VAT, the Special Hydrocarbons Tax (IEH) and the Special Electricity Tax (IEE). These payments will then be settled throughout the six months following the lifting of the state of emergency. Changes of supplier will not be permitted during this time.

**Suppliers and distributors may benefit from the lines of credit granted under Royal Decree-law 8/2020** or any other form of credit created specifically for this purpose equivalent to the reduction in their income, albeit with some exceptions.

### Exception to the suspension of regulated gas price reviews (first final provision)

The suspension of reviews on the maximum sale price for liquified gas and the terms of the tariff of last resort for three bi-monthly and two quarterly periods respectively as agreed under Article 4.3 of Royal Decree-law 8/2020 of 17 March **will not apply in cases whereby the formula results in a price drop.**

This exception has been included on the back of the **fall in the price of a barrel of Brent oil during March**, which represents a key parameter in determining the above-mentioned regulated rates. In essence, the choice has been made to greater protect electricity and gas consumers, allowing both regulated prices to be revised if the new resulting price is lower than the current one, and suspending it if it is not.

### Flexibility of the limits to the composition or specifications of fuel (Article 45)

**Between 1 May and 30 June, such limits are deemed to comply with the specifications provided that they observe the minimum limit for summer and the maximum limit for winter.** Moreover, the Secretary of State for Energy will be able to (i) amend the end date of this period based on the demand for fuel and the duration of the state of emergency and (ii) request information from wholesalers and the owners of facilities for the transport or storage of petroleum-based products.

## Measures affecting investments by foreign investors in Spanish companies operating in strategic sectors (second transitional provision and third final provision)

The fourth final provision of Royal Decree 8/2020 amended the regulations on the movement of capital and financial transactions with foreign investors in a bid to introduce pre-authorisation mechanisms for certain foreign investments (for stakes equal to or exceeding 10% of the company's capital or which enables the effective involvement in the management or control of the Spanish entity), aimed at **avoiding the threat of Spanish companies being acquired by overseas backers.**

Said provision has been amended significantly to stretch far beyond the direct acquisition of Spanish companies (as foreseen under RDL 8/2020) by investors residing in non-EU countries and from outside of the EFTA. In fact, **the new regulation extends this arrangement to indirect investments** by EU and EFTA-based investors whose beneficial owner resides in a non-EU or non-EFTA country.

The term "**beneficial owner**" in this sense relates to **non-EU and non-EFTA residents** who **directly or indirectly hold or control more than 25% of the domestic investor's share capital or voting rights** or exercise other means of direct or indirect control over the investor. There are

doubts as to whether under European law this could be applied to a company with a registered office in the EU or EFTA whose majority shareholder is an EU or EFTA resident, acquiring through a shareholder with a "foreign" shareholder who owns more than 25% of its share capital or voting rights.

In addition, **the Government's authorisation to determine the amount below which foreign direct investment transactions will be exempt from pre-authorisation has been revoked.**

**On a purely transitional basis, a simplified arrangement has been created for the authorisation of the following types of foreign direct investment:**

- a) Where the **existence of an agreement between the parties or binding offer in which the price was set, determined or ascertainable prior to the entry into force of RDL 8/2020** can be proven via any legal means.
- b) Investments **equal to or exceeding EUR 1 million and less than EUR 5 million** up to the entry into force of the regulation developing the obligation analysed in this section.

**Lastly**, on a transitional basis and until the minimum amount referred to in the final paragraph of Article 7 bis.1 of Act 19/2003 of 4 July is established by law, **investments amounting to less than EUR 1 million will be understood as exempt from the pre-authorisation obligation.**

## **Suspension of electronic communication portability** (first final provision. nine)

The suspension of portability in the electronic communications sector has been agreed in a bid to avoid home-based intervention. **While the state of emergency remains in force:**

- a) Electronic communications service providers **shall not launch any extraordinary commercial campaigns** for any services **which require phone number portability.**
- b) **All landline and mobile number portability operations yet to begin** and which require the presence of the operators involved, their engineers or the user – **except in exceptional cases of force majeure** – are suspended.

Where a portability operation has begun and been subsequently forced to be put on hold, the operator in question shall guarantee that the user's service will not be affected at any time.

- c) **Operators are prohibited from increasing the prices of services under existing subscription or pre-paid contracts** provided that such services could lead to landline and mobile number portability operations after the state of emergency is lifted, but cannot currently do so because they are subject to the agreed suspension.

## **Measures relating to public sector contracts** (first final provision. ten and seventh final provision)

Firstly, RDL 11/2020 outlines certain **amendments to the public procurement measures to alleviate the consequences of COVID-19** prescribed under Article 34 of RDL 8/2020.

- a) The regulations provided in relation to **public contracts for the consecutive provision of services and supplies** referred to in RDL 8/2020, the performance of which has been rendered impossible due to COVID-19 or the measures adopted by the State, regional governments or local authorities to combat the virus, have been amended, **albeit the full or partial suspension from the time at which the event hindering service provision occurred until it can be resumed remains in place.**

Compensation for damages is maintained when full suspension has been imposed by the authorities and upon request and reliable evidence of its existence, effectiveness and amount by the contractor. The compensable concepts are those featured under RDL 8/2020.

**In the event of partial suspension**, such compensation will relate to the damages stemming from the suspended portion of the contract.

Where those assigned to the contract include **employees affected by the recoverable paid leave arrangement** under Royal Decree-Law 10/2020 of 29 March, **payment by the contracting authority of the related salary-based costs shall not be considered compensation, rather a down payment for the portion corresponding to the hours subject to recovery**, to be taken into account upon the final settlement of the contract.

The rest of the RDL 8/2020 provisions remain in place.

- b) Regarding **public works contracts**, RDL 11/2020 is confined to highlighting that regarding contracts due to be terminated between 14 March and the period during which the state of emergency is in force, and under which the works cannot be completed as a consequence of the crisis generated by COVID-19 or the measures adopted by the State, **contractors may request an extension to the final handover date provided that they offer to fulfil their pending commitments where an extension of the initial term is granted by completing the corresponding application form.**
- c) None of the provisions relating to other types of public sector contracts have been amended.
- d) Regarding cases in which the measures outlined under RDL 8/2020 do not apply, the terms relating to **security, cleaning or IT system maintenance service contracts** have been amended.

Essentially, **these contracts may be fully or partially suspended** at the contractor's request or on the authorities' initiative if, on the back of the measures adopted by the State, regional governments or local authorities in a bid to combat COVID-19, any or some of their **public offices or facilities have been fully or partially closed**, rendering it impossible for the contractor to fully or partially provide the services undertaken.



- e) A new section has been added to Article 34 stating that **only contracts subject to the following legal provisions will be considered public contracts**: (i) the **Spanish Public Sector Contract Act 9/2017** of 8 November (*Ley de Contratos del Sector Público*, or the "**LCSP**") transposing Directives 2014/23/EU and 2014/24/EU of the European Council and of the Parliament of 26 February 2014 into the Spanish legal system; (ii) **Royal Legislative Decree 3/2011** of 14 November approving the consolidated text of the Public Sector Contracts Act; (iii) **Act 31/2007** of 30 October on contracting procedures in the water, energy, transport and postal services sectors; (iv) **Book I of Royal Decree-law 3/2020** of 4 February on urgent measures to incorporate several EU directives on public procurement in certain sectors, private insurance, pension plans and funds, tax and tax-related litigation into Spanish law; and (v) **Act 24/2011** of 1 August on public sector contracts relating to defence and security.
- f) Lastly, **the salary-related costs** to be paid as part of any of the contracts affected by RDL 8/2020 **will include those concerning the relevant Social Security contributions**.

The provision on the term of service and supply contracts established under the LCSP (paragraph two of Article 29.4) has also been amended. On an exceptional basis, a lengthier term than the legally-prescribed duration may be established where required by the period for the return on investments directly related to the contract and where said investments are not set to be used for the contractor's other productive activity or would be unprofitable to use, provided that amortisation of the investments represents a significant cost. The concept of significant cost in supply or service provision will be subject to further regulatory development.

A 55th additional provision has been added to the LCSP on a permanent basis, regulating the legal arrangement of «Hulleras del Norte S.A., S.M.E.» (**HUNOSA**) and its subsidiaries and the Royal Mint of Spain (*Fábrica Nacional de Moneda y Timbre*, or the "**FNMT-RCM**") as national resources and technical services.

Moreover, **HUNOSA and its subsidiaries' share capital will be publicly owned in its entirety**.

## Measures relating to public subsidies and aid (Article 54)

The public subsidies and aid already granted upon the entry into force of Royal Decree 463/2020 in accordance with the ordinary procedure or even directly **may be amended to extend the term for the performance of the subsidised activity and, as the case may be, for the justification and verification of such performance**.

The relevant authority **will only be obliged to justify the inability to perform the subsidised activity** during the state of emergency, as well as the shortfall in the period remaining after it is lifted for the performance of the subsidised activity or its justification/verification.

Nevertheless, if the subsidies were awarded directly and aimed at financing the operating costs of an entity, the initially-established performance term cannot be modified.

RDL 11/2020 states that **the aforementioned amendments are not affected by the suspension of time frames agreed under Royal Decree 463/2020**.

## Measures affecting the time frames of administrative procedures

### Interruption of the period to contest unfavourable administrative or freedom-restricting rulings (eighth and ninth additional provisions)

Regarding the **administrative periods to appeal**, the provision under Royal Decree 463/2020 of 14 March declaring a state of emergency to manage the health-related crisis triggered by COVID-19 in relation to the suspension of time frames has been developed further.

**The period for filing appeals before the administrative courts or any other challenge/claim-based procedures and alternative dispute resolution means in any proceedings which may have an unfavourable impact or restrict the freedom of the interested party is interrupted insofar as the legally-established term will be calculated from the next working day after the state of emergency is lifted.** However, such interruption will not affect the effective nature and enforceability of the administrative ruling subject to appeal or challenge.

In the case of **appeals for reversal and monetary claims relating to tax, the period to contest will begin on 30 April 2020**, provided that the corresponding term had not already ended by 13 March 2020.

In addition, **the period from the state of emergency declaration on 14 March 2020 until 30 April 2020 will not be counted as part of the maximum term** for the enforcement of resolutions issued by the economic-administrative bodies. **During such time, the statute of limitations and expiry of rights and actions set out under tax legislation will also be frozen**, as well as all proceedings, actions and procedural steps carried out by the tax authorities.

## Measures affecting civil servants (18th additional provision)

**Civil servants may render their services either present at their corresponding office or remotely** following authorisation from their superior and notification to the relevant human resources body.

Any **active civil servants who decide to work** either in their original authority or any other in areas related to health, welfare, employment, the protection of vulnerable groups or others requiring greater numbers of staff on the back of the **crisis caused by COVID-19 will continue to be remunerated by their original authority** and retain their status and employment contract while a state of emergency remains in place.

## **Holding of local supervisory authority meetings online** (second final provision)

Local supervisory authorities **may hold their meetings using any valid electronic means**, provided that the attendees are in Spain and can be identified using such means.

For greater assurance, **these exceptional circumstances must be justified by the convening party** (mayor, chairman or those acting as such) and are of course subject to possible legal control.

Since this possibility should not be limited to the current state of emergency, Act 7/1985 regulating the basis of local laws is also being amended.

## Corporate law

### Amendments to corporate laws and foreign investments approved in a bid to combat COVID-19

Royal Decree-law 8/2020 had set out key measures in the fight against the crisis driven by COVID-19 as regards the functioning of companies, associations and other legal persons' management bodies. Other measures referring to listed companies were also adopted. The urgency at which steps are being taken to confront the serious health crisis in Spain perhaps explains the taking of decisions which are now requiring certain amendments and tweaks. That is why Royal Decree-law 11/2020 has sought to amend regulations passed just over two weeks ago.

### Reforms relating to the functioning of companies, associations and other legal persons' management bodies

The new Decree amends the regulation on the management and governing bodies of corporate enterprises and other legal persons under private law in a bid to **increase the means by which meetings can be held** and to remove some of the more restrictive provisions established in previous drafts. In particular, the new Decree clarifies that **such meetings may be held via videoconference or conference call**, as opposed to only videoconference in which the "authenticity" and "two-way or multiple real-time connections with image and sound are guaranteed". The **requirements are for the members to possess the necessary means to access the meeting, for the secretary to be able to identify the attendees and for the foregoing to be recorded in the meeting minutes**. The meeting secretary shall promptly send the minutes to each attendee's email address. The same rule will apply to all delegate and other committees. For all intents and purposes, the meeting will be understood to have been held at the entity's registered office.

In addition, RDL 11/2020 includes a very important amendment by allowing the **possibility for general shareholder meetings and assemblies to go ahead using these means** even where not provided for in the companies' articles of association, something which did not appear feasible under the Decree enacted a little over two weeks ago. Once again, the requirements are for all persons entitled to attend or their representatives to possess the necessary means to do so, for the secretary to be able to identify them and for the foregoing to be recorded in the meeting minutes, which are to be promptly sent out to each attendee's email address.

Regarding the management body's **duty to draw up annual accounts** within the first three months of the year, **the suspension of such obligation remains until the state of emergency is lifted**, with a further three months granted from such time. However, **this does not stop the company drawing up its accounts during the state of emergency, while audits may also be performed** within the ordinary period stipulated under corporate legislation. **In particular relation to audits, companies may also choose to make use of the two-month extension from the lifting of the state of emergency** granted to companies that have already drawn up their accounts and are waiting for them to be audited.

The course of the extension to the period during which annual accounts are to be drawn up, i.e. **three months following the lifting of the state of emergency** (and not the end of the state of emergency period indicated in RDL 8/2020), **is also relevant** in determining the beginning of the three-month period in which **the obligation to hold an ordinary general meeting** must be fulfilled.

A key amendment lies within the **possibility for companies which have already drawn up their accounts and arrange a general meeting after the entry into force of RDL 11/2020 to modify their proposed appropriation of earnings**. However, in this case it is necessary for the management or governing body to justify the amendment based on the crisis triggered by COVID-19 **and to attach a document from the auditor** stating that **they would not have changed their opinion** as regards the audit outcome. The same rule will apply to companies whose ordinary general meetings had already been arranged, in which case the management body may withdraw the proposal and issue a new one. Management body certificates for the purpose of filing accounts will be limited to the approval of the annual accounts, with supplementary certificates relating to the approval of the proposal for the appropriation of earnings to be submitted to the Companies Register at a later date.

There are very few amendments regarding **listed** companies. The only real point to be highlighted is that **if the management bodies of such companies exercise their right to amend the proposal for the appropriation of earnings, certain information-related obligations must be fulfilled**. Essentially, the new proposal, the justification underpinning it and the auditor's note must all be made public as soon as they are approved, representing supplementary information to the annual accounts posted on the company's website and that of the Spanish Stock Market Regulator (CNMV) as relevant information or, where considered mandatory, as privileged information.



# Annex

## RDL 11/2020 measures in other areas

### Measures aimed at supporting vulnerable tenants

- **Suspension of evictions from vulnerable households without alternative accommodation and the extraordinary extension of rental agreements for habitual residences.**

Measures aimed at upholding the moratorium relating to rental default for habitual residence tenants facing financial difficulties.

New rental aid programme in addition to Royal Decree 106/2018 of 9 March: support programme to minimise the social and economic impact of COVID-19 on habitual residence rentals.

Creation of specific State lines of credit agreed by the Ministry of Transport, Mobility and Urban Agenda and Spain's Official Credit Institute (ICO) available to all households facing potential difficulties as a result of the spread of COVID-19, which will not involve any charges or interest for applicants.

- **Extension of the suspension period to three months and technical adjustments to facilitate the application of the mortgage moratorium** for the purchase of habitual residences introduced under Royal Decree-law 8/2020 of 17 March.

Suspended payments do not have to be settled once the suspension is lifted, rather all future payments should be deferred for the duration of the suspension.

The concept of "basic costs and supplies" has also been clarified.

The level of information required from financial institutions by the Bank of Spain has been increased in a bid to make it easier to monitor the impact of this measure, as well as the supervisory and sanctioning arrangements.

- **The mortgage moratorium initially implemented for the habitual residence of natural persons under Royal Decree-law of 17 March has also been extended to two new groups:**
  - the self-employed, employers and professionals with respect to the properties used to perform their economic activity, and
  - natural persons who rent out properties but are not receiving income from them due to the tenant-related measures under the state of emergency.

The amount of the surplus that may be allocated by local authorities to benefits and investments related to social expenditure has been individualised in consideration of financially sustainable investments.

- **The scope of the credits and loans moratorium for people facing financial difficulties – including consumer loans – has been broadened.**

In order to ensure compatibility of this new moratorium with the mortgage-related one under Royal Decree-law 8/2020 and the rent-based moratorium under this RDL, **the evidence required is amended** based on two objectives.

- **The contingencies upon which the rights consolidated in pension plans can be made effective have been extended**

On an exceptional basis, unemployment due to a temporary collective redundancy and the ceasing of activities performed by freelancers or the self-employed as a result of COVID-19 are listed as cases in which accumulated pension plan savings will be made available.

- **Domestic workers:** a temporary, extraordinary subsidy has been created to compensate the loss of activity, reduction of hours worked and the termination of contracts on the back of COVID-19.

### Support measures for the self-employed and companies

- The Social Security authority has been authorised **to grant exceptional moratoria for the payment of contributions** based on extraordinary circumstances in the cases and under the conditions to be determined by ministerial order.
- The **accrual period in the case of companies** will be between April and June 2020, while for the self-employed it will be May to July.
- Companies and management companies are permitted to use the Electronic Data Issue System (**RED**) to submit applications and follow other procedures corresponding to debt payment deferrals, contributions moratoria and the reimbursement of undue income.
- Any self-employed workers who have **suspended their activity, are receiving the benefit for the cessation of activity** regulated under Royal Decree-law 8/2020 and who have not paid their contributions for the days worked in March by the deadline will be able to make such payments after the deadline without being charged.
- For those **receiving the extraordinary benefit for cessation of activity** set out in Article 17 of Royal Decree-law 8/2020, in the event of **suspension of activity, the contribution corresponding to the days of activity in the month of March 2020** not covered by the benefit regulated in this article and which was not paid within the regulatory payment period will not be subject to a surcharge.
- Ways in which a drop in turnover can be evidenced are listed.

### Consumer protection measures

- Measures applicable to **agreements for the sale and purchase of goods and provision of services**, whether of consecutive provision or not and **which cannot possibly be performed** due to the measures adopted under the state of emergency declaration.

In these cases, consumers and users may exercise their right to terminate such agreements within 14 days.

Under contracts of consecutive performance, the payment of new instalments will be frozen until the service can be ordinarily resumed once again. However, these contracts will not be terminated.

In the case of **services involving several providers** such as combined travel, the consumer or user may choose to **request a refund or credit note** from the organiser or retailer, as the case may be. Said credit note may be activated within one year from the state of emergency being lifted. Where not activated during such time, the consumer will be able to exercise the right to a refund.

- Limitations within the framework of the **powers concerning gaming regulations**. Advertisements by State-wide gaming operators, including the entities designated to market lottery-type games, have been restricted.

### Support to industry

- **Loans granted by the Secretariat General of Industry and SMEs may be refinanced** for up to a year and a half, extendable by way of Council of Ministers resolution.
- **Regarding projects current underway, the criteria to assess performance will be made more flexible**, albeit ensuring that the project goals are achieved at all times.
- Increase in the contribution from the CERSA [State-owned refinancing entity] Technical Provisions Fund with an extra EUR 60 million for the purpose of providing extra coverage of the credit risks in the financing of SMEs whose activities have been affected by COVID-19.
- Where international events have been cancelled, ICEX [State-owned export and investment entity] will grant additional aid to companies based on any non-recoverable expenses incurred.
- **Tourism sector:** the payment of interest and repayments corresponding to loans granted by the Secretariat of State for Tourism within the framework of the EMPRENDETUR R+D+I Programme, EMPRENDETUR Young Entrepreneurs programme and EMPRENDETUR Internationalisation Programme are suspended for one year without penalty.

### Insolvent companies

- It is essential for these companies to be able to **implement a temporary collective redundancy (ERTE) under the current circumstances** where affected by the COVID-19 crisis when their viability is not undermined by benefiting from the advantages that the ERTES under Royal Decree-law 8/2020 bring: the possibility of access to the measure if affected by the crisis; swifter processing, more or less immediate in cases of force majeure; realignment of unemployment benefit; and exemption (full or partial according to the number of employees) for ERTES based on force majeure.
- The sixth additional provision **on safeguarding employment specifically applies here, conditioning access to the measure on the commitment to maintain employment for six months from the time at which activity resumes.**

### Flexibility in terms of supplies for SMEs and the self-employed

- The undertaking enshrined in the sixth additional provision of Royal Decree-law 8/2020 is to be understood as the company's willingness to retain employees for six months after the contract suspension or working hours reduction measures have been lifted.

- This undertaking is not to be considered breached when the employment contract is terminated on disciplinary grounds declared fair, resignation, retirement or total permanent, absolute or severe disability of the employee.
- In the case of temporary contracts, the undertaking is also not to be considered breached when terminated due to completion of the agreed term, works or service representing their purpose or when the activity subject to the contract cannot be performed immediately.

### **Public sector measures to facilitate and streamline procedures to combat the health crisis and its consequences**

- Measures aimed at suspending the time frames for drawing up and submitting the annual accounts for the 2019 fiscal year of State-owned entities and the issue of the General State Account to the Court of Auditors on the back of the state of emergency declaration.
- Liquidity and public sector donations measures
- Measures for loans granted by local authorities.

### **Amendment of Act 35/2003 of 4 November on collective investment institutions**

- The Stock Market Regulator is afforded the possibility to force the management companies of collective investment institutions to take measures to reinforce liquidity aimed at establishing notice periods enabling them in extreme cases to manage in an orderly and equitable manner possible scenarios in which numerous requests for reimbursement accumulate, potentially affecting stability and confidence in the financial system.

*This report is for information purposes only and does not represent legal advice.*

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