

Special Information Briefing
COVID-19 (No. 12):

Measures relating to employment included in Royal Decree-law 11/2020, of 31 March 2020, adopting additional urgent social and economic measures to deal with COVID-19

On 1 April 2020, Royal Decree-law 11/2020 of 31 March, adopting additional urgent social and economic measures to deal with COVID-19 (“RDL 11/2020”) was published in the Official State Bulletin (“BOE”). The RDL establishes a new range of measures, mainly of a social and economic nature, which expand upon and enhance those already adopted through the Royal Decree-laws approved in recent days, as well as Royal Decree 463/2020, of 14 March, which declared the state of alarm for the management of the health crisis caused by COVID-19, and its subsequent extension, approved by Royal Decree 476/2020, of 27 March.

TOPIC	ROYAL DECREE-LAW 11/2020
<p>Self-employed workers are entitled to receive the discount rate (<i>bono social</i>) for utilities if they have ceased their activity or their turnover has reduced as a result of COVID-19 (Art. 28)</p>	<p>Self-employed workers will be considered “vulnerable consumers” and will be entitled to receive the discount rate for utilities if:</p> <ul style="list-style-type: none"> i) They are entitled to the benefit due to a total cessation of professional activity or because their turnover has reduced in the terms provided in RDL 8/2020; ii) The point of supply contract is in their name (or in the name of one of the members of their family unit); and iii) Their income (or annual joint income, if a part of a family unit) is less than that provided in RDL 11/2020. <p>Their status as vulnerable consumers may not be extended for more than 6 months from being given such status.</p>
<p>Beneficiaries of the special non-activity benefit for persons registered in the Special System of Domestic Workers of the General Social Security Regime (Art. 30-32)</p>	<ol style="list-style-type: none"> 1. Beneficiaries. Those persons who were registered in the Special System of Domestic Workers of the General Social Security Regime prior to the entry into force of RD 463/2020, if they are in any of the following situations: <ul style="list-style-type: none"> i) If they have temporarily ceased to provide services at one or more homes, either totally or partially, for reasons that are beyond their control and as a result of the health crisis caused by COVID-19; or ii) If their employment contract has been terminated or withdrawn by their employer due to COVID-19. 2. Benefit amount. The amount of the benefit will be 70% of the calculation basis in question, and may not exceed the Minimum Interprofessional Salary, excluding the proportional share of the extraordinary payments.

<p>Exceptional unemployment benefit due to a temporary contract ending (Art. 33)</p>	<p>Those persons with temporary contracts (including provisional, training and relief contracts) with a minimum duration of two months, and whose termination date is after the entry into force of RD 463/2020, will be entitled to an exceptional unemployment benefit provided that:</p> <ul style="list-style-type: none"> i) They have not made the necessary contributions to be eligible for another benefit or subsidy; and ii) They have no income according to the provisions of article 275 of Royal Legislative Decree 8/2015 of 30 October, approving the consolidated text of the General Social Security Law (“LGSS”). <p>Characteristics of the exceptional unemployment benefit:</p> <ul style="list-style-type: none"> i) It consists of a monthly allowance of 80% of the current monthly Public Index of Multiple Purpose Income (“IPREM”), an index used in Spain as a reference for the granting of aid, subsidies and unemployment benefit. ii) The duration will be 1 month (with the possibility of extension).
<p>Moratorium on social security contributions (Art. 34)</p>	<ul style="list-style-type: none"> 1. Beneficiaries. Companies and self-employed workers (who meet the requirements that will be established by Ministerial Order) may be granted 6-month interest-free moratoriums. 2. Moratorium. It affects the social security contributions and combined collective contributions of the beneficiaries (provided that the activities carried out have not been suspended) corresponding to: <ul style="list-style-type: none"> i) The period of April, May and June 2020 for companies; or ii) The period of May, June and July 2020 for self-employed workers. <p>It will not apply to the contribution codes for which the companies have obtained exemptions as a result of the implementation of ERTes due to force majeure.</p>
<p>Deferral of the payment of social security debts (Art. 35)</p>	<ul style="list-style-type: none"> 1. Beneficiaries. Both companies and self-employed workers (who have not been granted any other deferrals) can apply for a deferral of the payment of the social security debts due between April and June 2020. 2. Applicable interest. 0.5%. 3. Timing. The deferral request must be made within the first 10 calendar days of the period given for payment.
<p>Employment commitment for companies in the performing arts, music and film and audiovisual sectors (fourteenth additional provision)</p>	<p>A company’s commitment to maintain employment for 6 months from the date of resumption of the activity established by RDL 8/2020 will be assessed on the basis of the specific characteristics of these sectors and the applicable labour regulations. This commitment to maintaining employment will NOT apply in the case of temporary contracts where: (i) the contract is terminated due to the expiry of the agreed time or the completion of the work or service, or (ii) where the contracted activity cannot be carried out immediately.</p>

<p>Availability of pension schemes in the event of unemployment or cessation of activity arising from the health crisis caused by COVID-19 (twentieth additional provision)</p>	<p>For 6 months from the entry into force of RD 463/2020 (this period may be extended), members of pension schemes can exercise their vested rights in cases such as the following:</p> <ul style="list-style-type: none"> i) If they are in a legal situation of unemployment as a result of an ERTE derived from COVID-19, in which case the amount to be received cannot be more than the wages they stopped receiving. ii) If they are a business owner with premises whose opening to the public has been suspended, in which case the available amount cannot exceed the estimated net income which has been lost. iii) For self-employed workers who had previously been registered in a social security regime and who have ceased their activity, the amount to be received will not exceed the estimated net income that has been lost.
<p>Temporary incapacity in the exceptional situation of total confinement (twenty-first additional provision)</p>	<p>With effect from the beginning of the confinement situation, and on an exceptional basis, Temporary Incapacity protection will be extended to those workers who are forced to leave their area and who have an obligation to provide essential services, provided that:</p> <ul style="list-style-type: none"> i) The confinement of the population in their home area has been agreed and the possibility of travelling has been expressly denied; ii) They are unable to work remotely for reasons not attributable to the company or the worker; and iii) They are not entitled to receive any other public benefit.
<p>Compatibility of the child care allowance and the unemployment or cessation of activity benefit for the duration of the state of alarm (twenty-second additional provision)</p>	<p>During the state of alarm, the allowance for caring for children affected by cancer or other serious illnesses, which employed or self-employed workers were receiving as of 14 March 2020, will not be affected by ERTes implemented on the basis of articles 22 and 23 of RD 8/2020.</p>
<p>The specific case of companies undergoing insolvency proceedings (first final provision: sixteen)</p>	<p>ERTes can be implemented in companies undergoing insolvency proceedings, due to force majeure and for economic, technical, organisational and productive reasons, provided that the conditions of articles 22 and 23 of RDL 8/2020 are met.</p>
<p>Extension of the validity of the measures of RDL 8/2020 (first final provision: seventeen)</p>	<p>The general extension of the validity of all measures adopted in RDL 8/2020 for 1 month following the end of the state of alarm is established, except as regards measures which have a specific period of validity. It also provides for the possibility of the Government extending the validity of the measures foreseen.</p>

The information contained in this Information Briefing is of a general nature and does not constitute legal advice. This document was prepared on 2 April 2020 and Pérez-Llorca does not undertake any commitment whatsoever to update or review its content.