

LOOK-THROUGH CHART REGARDING TEMPORARY LAYOFF PROCEDURES APPROVED AS A CONSEQUENCE TO THE COVID-19

(“Expediente de Regulación Temporal de Empleo” or “ERTE”)

| TEMPORARY LAYOFF PROCEDURES APPROVED AS A CONSEQUENCE TO THE COVID-19 (ERTE) | | | |
|---|--|---|---|
| According to Spanish Labour Law and to the actual circumstances the company may implement two different procedures: | | | |
| <ul style="list-style-type: none"> • A temporary layoff based on force majeure (“Force Majeure ERTE”). • A temporary layoff based on objective causes linked to the COVID-19 (“ERTE for objective causes”). | | | |
| FORCE MAJEURE ERTE (articles 47.3 and 51.7 ET + articles 31 and following of Royal Decree 1483/2012 + articles 22 and 24 to 28 of Royal Decree Law 8/2020) | | ERTE FOR OBJECTIVE CAUSES (art. 47 ET + arts. 16 and ff. of Royal Decree 1483/2012 + arts.23 and 25 to 28 of Royal Decree-Law 8/2020) | |
| Causes | • suspension or cancellation of activities | that seriously impede the continuation of the ordinary development of the company’s activity + contagion of the workforce + adoption of preventive isolation measures decreed by the Health Authority | Economic, technical, organizational and production causes derived from the COVID-19 |
| | • temporary closure of public premises | | |
| | • public transportation restrictions | | |
| | • restrictions on the mobility of goods | | |

| | | | |
|--------------------------------------|---|--|--|
| | <ul style="list-style-type: none"> • restrictions on the mobility of merchandise. | | |
| | <ul style="list-style-type: none"> • lack of supply | | |
| Legitimated parties | <ul style="list-style-type: none"> • Companies whose activity has been suspended or directly affected by the Government decision (by way of the Royal Decree declaring the state of alarm). | | <ul style="list-style-type: none"> • Companies whose activity, as a consequence of the COVID-19, have indirectly been affected (decrease of income, demand, etc...). |
| Measures which can be adopted | <ul style="list-style-type: none"> • Suspension of employment contracts. • Reduction of the working time. | | <ul style="list-style-type: none"> • Suspension of employment contracts. • Reduction of the working time. |
| Duration of the measures | Until the 30 th June 2020 (unless the Government provides its extension). | | They can be linked to the state of alarm duration but can also be extended for a longer time (2-3 more months). |
| Procedure | <ol style="list-style-type: none"> 1. Communication to the employees concerned or, where they exist, to the employees' representatives. 2. Communication to the Labour Authority. The Labour Authority may request a report from the Labour and Social Security Inspectorate, which must be issued within a non-renewable period of 5 days. 3. If the Labour Authority considers the existence of force majeure, the Company may adopt the corresponding measures. In the event that the Labour Authority does not respond within five days, the ERTE will be deemed authorized. | | <ol style="list-style-type: none"> 1. Communication of the intention to initiate the ERTE to the employees/ employees' representatives. 2. Establishment of the special negotiating body within 7 days, with the exception of the case where there are no employees' representatives. In that case, the negotiating commission shall be composed of the most representative trade unions of the sector to which the company belongs and shall be entitled to be part of the negotiating committee. <p>The commission shall be made up of one person from each of the trade unions that meet these requirements.</p> <p>If this representation is not formed, the committee will be made up of three employees from the company itself.</p> |

| | | |
|------------------------------------|---|---|
| | <p>4. If the Labour Authority considers that the causes do not exist, the ERTE procedure may be resorted to another ERTE for objective causes.</p> | <p>In both cases, the commission must be constituted within a maximum period of 5 days.</p> <p>3. Communication of the opening of the consultation period to the commission and to the Labour Authority. The Labour Authority may request a report from the Labour and Social Security Inspectorate, which must be provided within a period of seven days, which cannot be extended.</p> <p>4. Consultation period: maximum 7 days.</p> <p>5. Communication to the Labour Authority and the employees/representatives of the end of the consultation period and of the result of the same.</p> <p>6. Adoption of the corresponding measures by the company.</p> |
| ERTEs already in force | <ul style="list-style-type: none"> • By virtue of Royal Decree law 18/2020, a differentiation has been created between ERTEs based on total force majeure total and partial force majeure. Companies that already have an ERTE but cannot resume their activity will be considered to be in a situation of total force majeure. Companies which already have an ERTE, but which are able to resume, even partially, their activity shall be deemed to be in a situation of partial force majeure. • In the cases of partial force majeure, companies must reinstate their employees by means of employment regulation measures, giving priority to measures of reduction of the working day (vs. suspension of employment contracts). | <p>They will remain with the same features as agreed in their negotiation period.</p> |
| Advantages regarding Social | <p>In addition to the corresponding salary savings derived from the suspension/reduction of working hours, the approval of the ERTE may also</p> | <p>Although the company also obtains the corresponding salary savings from the suspension/reduction of working hours, it must assume the</p> |

| | | |
|---|---|---|
| <p>Security contributions</p> | <p>entail an exemption from the payment of social security contributions which must be requested by the Company to the Social Security. Such exemptions will consist of:</p> <ul style="list-style-type: none"> • Total ERTE based on force majeure: on the May and June quotas, there will be a 100% exemption for companies with less than 50 employees, and 75% for those with 50 or more. • Partial ERTE based on force majeure: <ul style="list-style-type: none"> – <i>For the employees who return to their activities:</i> <ul style="list-style-type: none"> ▪ Companies with less than 50 employees: there will be an 85% exemption in May and 70% in June. ▪ Companies with 50 or more employees: there will be a 60% exemption in May and 45% in June. – <i>For the employees who do not return to their activity:</i> <ul style="list-style-type: none"> ▪ Companies with less than 50 employees: there will be an 85% exemption in May and 70% in June. ▪ Companies with 50 or more employees: There will be a 45% exemption in May and 30% in June. | <p>payment of the corresponding social security contributions. In other words, no exemption from social security contributions is provided for in this type of ERTE.</p> |
| <p>Advantages regarding the unemployment benefit</p> | <p>The affected employees will have the right to receive the unemployment benefit during the term of the ERTE (70% of the regulatory base¹, depending on the maximum and minimum amounts according to the IPREM (<i>Spanish Indicator on the Personal Income</i>) and family charges), although no minimum contribution period will be required, nor will the time consumed be taken into account for the purposes of the maximum benefit period.</p> | <p>The affected employees will be entitled to receive the unemployment benefit during the term of the ERTE (70% of the regulatory base, based on maximum and minimum amounts according to the IPREM (<i>Spanish Indicator on the Personal Income</i>) and family charges), although no minimum contribution period will be required, nor will the time consumed be taken into account for the purposes of the maximum benefit period.</p> |

| | | |
|---|--|---|
| | <p>In order for the employees to receive such benefit, the Company must submit a collective request for all employees before de State Employment Service (SEPE) within 5 days from the granting by the Labour Authority of the ERTE.</p> <p>These benefits will be maintained until the 30th June 2020.</p> | <p>In order for the employees to receive such benefit, the Company must submit a collective request for all employees before de State Employment Service (SEPE) within 5 days from the communication of the end of the negotiation period to the Labour Authority.</p> <p>These benefits will be maintained until the 30th June 2020.</p> |
| <p>Potential risks/disadvantages</p> | <ul style="list-style-type: none"> • In the event that after the procedure has been authorised the Labour Authority considers that the company could not carry out this procedure, because it was not necessary or because the cause was not justified, the company will be sanctioned with an economic fine ranging from 6,251 to 187,515 euros and with the refund of the amounts unduly benefited from. Similarly, if the amount defrauded exceeds 50,000 euros, it may constitute a criminal offence punishable by a prison sentence of one to five years and a fine of up to six times the aforementioned amount. • Companies subject to this type of ERTE shall undertake to maintain the level of employment for a period of six months from the date of resumption of activity, either wholly or in part. <p>That commitment shall be deemed not to have been fulfilled if, subject to the exceptions set out below, any of the employees affected by the procedure are dismissed or have their contracts terminated.</p> <p>Exceptions: the termination of the contract due to disciplinary dismissal declared as justified, resignation, death, retirement or total, absolute or severe permanent disability of the employee, or in the case of the end of the calling of the employees with a permanent-discontinuous</p> | <p>In the event that after the procedure has been concluded the Labour Authority considers that the company could not carry out this procedure, because it was not necessary or because the cause was not justified, the company will be sanctioned with an economic fine ranging from 6,251 to 187,515 euros and with the refund of the amounts unduly benefited from. Similarly, if the amount defrauded exceeds 50,000 euros, it may constitute a criminal offence punishable by a prison sentence of one to five years and a fine of up to six times the aforementioned amount.</p> |

| | | |
|---|---|---|
| | <p>contract, when this does not imply a dismissal but an interruption of the contract. Similarly, it is also an exception to this, in the cases of temporary contracts when they are terminated due to the expiry of the agreed duration or to the completion of the work or service, or when the activity which is the object of the contract cannot be carried out immediately.</p> <p>Companies in which there is a risk of insolvency proceedings are also excluded.</p> <p>Companies which fail to comply with this commitment shall be required to reimburse the full amount of the exempted contributions, with a corresponding surcharge and interest for late payment.</p> <ul style="list-style-type: none"> • Except in the case of entities with less than 50 employees as of 29 February 2020, the companies that benefit from the ERTE by force majeure and use the public resources allocated to them may not distribute the dividends corresponding to the tax year in which they apply these ERTE, unless they return the part corresponding to the exemption of Social Security contributions. | |
| Compatibility between both types of ERTE | <ul style="list-style-type: none"> • An ERTE due to objective causes can be initiated simultaneously to an ERTE due to force majeure. In this case, the ERTE for objective reasons will be initiated with retroactive effect to the moment when the ERTE due to force majeure ceases. | N/A |
| Amendments/Waiver of the ERTE | <ul style="list-style-type: none"> • The Labour Authority must be informed of the resignation to the ERTE, after notifying this circumstance to the SEPE, within 15 days from the date of effect of the resignation. | Changes in the ERTE (e.g. from suspension of contracts to reduction of working hours) must be communicated to the SEPE. |

| | | |
|--|---|--|
| | <ul style="list-style-type: none">• Changes in the ERTE (e.g. from suspension of contracts to reduction of working hours) must be communicated to the SEPE. | |
|--|---|--|

ⁱ The regulatory base is the average of the unemployment contribution bases for the last 180 days preceding the legal unemployment situation or the time when the obligation to contribute ended.