

## Spain Imposes Royal Decree 463/2020 to Manage COVID-19 Health Crisis

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***The state of alarm is declared in order to deal with the health emergency caused by COVID-19.***

On 14 March 2020, the Spanish Official Gazette (*BOE*) published Royal Decree 463/2020, declaring a state of alarm for the management of the health crisis caused by COVID-19 (the Royal Decree). The Royal Decree introduces, effective immediately, a series of measures throughout the country. The President of the Spanish Government has announced that additional measures will be approved regarding labour and tax areas tomorrow, 17 March.

### **Duration, geographical scope, and effective date**

The state of alarm declared by the Royal Decree extends for 15 calendar days and affected the entire national territory from the moment of publication in the *BOE*. Therefore, the duration of the state of alarm and the measures approved by the Royal Decree extend from 14 March to 28 March 2020. Any extension of the state of alarm and the measures approved by the Royal Decree will require the express authorisation of Congress.

### **Suspension of legal, administrative, and statutory limitation and expiry deadlines**

The Royal Decree suspends legal deadlines in all jurisdictions (with certain exceptions), as well as administrative deadlines and those of expiry and statutory limitation for the exercise of rights and the imposition of obligations. All of these deadlines will resume when the approved Royal Decree ceases to be in force, in principle after 15 calendar days if Congress does not authorise an extension.

The legal deadlines will not be suspended, among other procedures, for the procedures of collective dispute (*conflicto colectivo*) and the protection of fundamental rights and basic freedoms regulated by Law 36/2011 of 10 October, which regulates the labour jurisdiction.

The Royal Decree does not specifically suspend or postpone the payment obligations or the tax declarations' submission, although it cannot be ruled out that additional tax measures will be approved between today and tomorrow, following the public announcement made by the President of Spain on 14

March. However, notably, on 13 March, Royal Decree Law 7/2020 was published in the *BOE* which, in Article 14, regulated the automatic six months deferral (with the accrual of interest for late payment as from the third month) of tax debts payments of less than €30,000 (without the need to file any type of guarantee or security) but only benefiting companies whose turnover in 2019 did not exceed €6,010,121.04. Thus, it will be necessary to pay special attention to the publication, in the short term, of additional measures in case, as taxpayers are demanding, a possible temporary delay in the compliance of tax obligations by taxpayers is finally confirmed and goes beyond the measures approved by such Royal Decree.

## **Restriction of the freedom of movement of persons**

In accordance with health authorities' recommendations and obligations, during the duration of the state of alarm, **people and private vehicles** will only be able to use public roads to perform the following activities:

- 1) Purchase food, pharmaceuticals, and basic necessities
- 2) Visit health centres, services, and establishments
- 3) Travel to workplaces in order to carry out professional or business activity
- 4) Return to normal residence
- 5) Assist and care for the elderly, minors, dependants, people with disabilities, or especially vulnerable people
- 6) Travel to financial and insurance institutions
- 7) Due to force majeure or necessity
- 8) Any other activity of a similar nature to be carried out individually, unless accompanied by a person with a disability or for another justified reason
- 9) Additionally, private vehicles are allowed to circulate for refuelling at gas stations or service stations

However, the Minister of Internal Affairs may decide to close down roads or restrict access for certain vehicles, in which case, the disclosure of such measures by the state, regional, and local authorities responsible for traffic, vehicle traffic, and road safety is guaranteed.

## **Containment measures in the scope of commercial activity**

The opening of public of retail stores and premises is suspended, **with the following exceptions:**

- Retail stores selling food, beverages, products, and basic necessities
- Pharmaceutical, medical, optical, and orthopaedic establishments
- Retail stores selling hygiene products
- Hairdressers

- Retail stores selling press and stationery
- Retail stores selling motor fuel
- Retail stores selling tobacco and cigarettes
- Retail stores selling technological and telecommunications equipment
- Retail stores selling pet food
- Retail stores for internet, telephone, or correspondence
- Dry cleaners and laundries

In addition, any other activity or establishment which, in the opinion of the competent authority, may pose a risk of contagion, is suspended.

Consumption of products in the establishment itself is suspended, therefore, commercial establishments that are permitted to open must be used strictly for the purchase of products.

In any case, public gathering will be avoided, and consumers and employees will be controlled to maintain a safe distance of **at least one metre** in order to avoid possible contagion.

**The following activities are suspended:**

- a) The opening of public of museums, archives, libraries, monuments and premises, and establishments where public performances are held
- b) Sporting and leisure activities listed in the Annex to the Royal Decree
- c) Hotel and restaurant activities, with the exclusive provision of home-delivery services
- d) Festivals, parades, and popular festivities

Article 10.4, of the Royal Decree mandates the suspension of **hotel and restaurant activities** without exception, so, in principle, all hotels, bars, and restaurants must close to the general public. However, the annex, indicating the public entertainment, sports, and leisure establishments whose activity is suspended under Article 10.3, prescribes that hotels, bars, and restaurants serving guests may remain open. This suggests that the government did not intend to close all hotels immediately, but that hotels may continue to serve guests who were staying at the time the Royal Decree came into force, but may not accommodate new guests.

Although the Royal Decree does not prevent **notaries' offices** from remaining open and, therefore, notaries may in theory continue to authorise public deeds (*escrituras*), doubts arise as to whether signatories can go to a notary's office to sign public deeds (*escrituras*), and whether other professionals required for the signing of operations (*e.g.*, processing agencies) can continue doing their work.

The government is expected to soon clarify doubts, such as those indicated, raised by a first reading of the Royal Decree.

With regard to the **provision of labour services remotely**, the Royal Decree does not establish the obligation — as its initial draft did — for employers, both public and private, to facilitate measures that allow labour or civil service services to be provided by remote means whenever possible. Therefore, companies are not obliged to impose or provide means for teleworking, although this measure seems advisable from a health perspective for all those that can implement it.

## Temporary search and personal compulsory services

Temporary searches of all types of goods may be imposed, in particular for the provision of security services or critical and essential operators. Similar personal compulsory services necessary for the fulfilment of the purposes set out in the Royal Decree may be imposed.

In accordance with the applicable law, those who, as a result of the application of the acts and provisions adopted during the state of alarm, suffer, directly or in their person, rights, or property, damages or harm for acts not attributable to them, will be entitled to compensation.

## Containment measures in education and training

Classroom-based educational activity is suspended, although it will be maintained through distance and online learning, whenever possible, in all centres and stages, cycles, grades, courses, and levels, as well as any other educational or training activities given in other public or private centres.

## Measures in the transport area

As regards **domestic transport**, public passenger transport services by road, rail, air, and sea:

- a) Which are not subject to public contracts or public service obligations (PSOs), transport operators shall reduce the total supply of operations by **at least** 50% (with the possibility of modification)
- b) Which are subject to a public contract or PSO shall reduce their total offer of operations by **at least** the following percentages (this may be modified):
  - i. Medium-haul rail services: 50%.
  - ii. Medium-haul rail services-AVANT: 50%.
  - iii. Regular road passenger services: 50%.
  - iv. Air transport services subject to PSOs: 50%.
  - v. Maritime transport services subject to a navigation contract: 50%.

**Commuter rail services** (*cercanías*) will maintain their range of services.

- c) If the services are a matter of regional or local competition and are subject to a public contract or a PSO, or if such services are publicly owned, they will maintain their range of services (a percentage reduction may be set)

Specific criteria for **transport between Peninsular and non-Peninsular territories**, as well as for transport between islands, will be established.

In order to guarantee supply, the necessary conditions to facilitate the transport of goods throughout the national territory will be established.

Additional measures may be taken to limit the movement of public transport.

## Penalty system

Non-compliance or resistance to the orders of the competent authorities will be punished in accordance with the law. Therefore, any failure to comply with the provisions, interpretations, and orders that may be made by the competent authorities will be punished, either administratively or judicially, in accordance with the applicable rules which remain in force, with the particularities indicated.

## Other measures

**Measures to strengthen the health system:** The civil authorities of the Public Administrations throughout the country will report directly to the Health Minister, in particular the health authorities, to ensure their full availability and to guarantee a better territorial distribution of technical and human resources. Therefore, all civil and military health resources, public and private, are made available to the Health Minister. The full disposal of the civilian authorities responsible for the public health field, and of the employees serving in it, will be ensured.

**Measures to ensure supply:** The Health Minister is authorised to give the necessary orders to ensure the market supply and proper operation of manufacturing centres to the extent that is necessary for the protection of public health. The Health Minister is also authorised to intervene and temporarily occupy privately owned industries, factories, health, and pharmaceutical establishments.

**Measures for the supply of electrical energy and petroleum and natural gas derived products:** The guarantee of supply of electrical energy and petroleum- and natural gas-derived products will be maintained, which enables the competent authorities to implement the measures set forth in the sectoral rules for situations of risk to security of supply.

**Measures to ensure necessary goods and services:** In addition, operators of essential services managing critical infrastructure must take the necessary measures to ensure the provision of these essential services. This extends to those companies and suppliers that not being considered critical, must ensure the supply of the population or the provision of such essential services.

Therefore, these companies and their employees, to the extent that they are necessary for the provision of these essential services shall continue to operate without any restriction other than those corresponding to the health measures imposed.

Latham & Watkins will continue to monitor and update on the situation.

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