

**Declaration by Spain pursuant to Article 9 of Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, for the reference year ending 31 December 2021**

**I. DECLARATIONS REFERRED TO IN ARTICLE 1(L) OF REGULATION (EC) NO 883/2004 AND THE DATE FROM WHICH THE REGULATION WILL APPLY**

The date of application of Regulation (EC) No 883/2004 to the listed national legislation, insofar as it is covered by the scope of the Regulation, is 1 May 2010, except where otherwise stated. This is also the date from which the Regulation applies in this Member State.

**II. LEGISLATION AND SCHEMES REFERRED TO IN ARTICLE 3 OF REGULATION (EC) NO 883/2004 AND THE DATE FROM WHICH THE REGULATION WILL APPLY**

- Order of 3 April 1973 for the implementation and development of Decree 298/1973 of 8 February 1973 updating the Special Social Security Regime for Coal Mining.
- Royal Legislative Decree 670/1987 of 30 April 1987 approving the recast Law on State Pensioners [*Ley de Clases Pasivas del Estado*].
- Law 47/2015 of 21 October 2015 on the social protection of workers in the maritime fisheries sector.
- Royal Legislative Decree 8/2015 of 30 October 2015 approving the recast General Law on Social Security. It incorporates the recast General Law on Social Security, approved by Royal Legislative Decree No 1/1994 of 20 June 1994 and any legislation amending it in a form that is duly regulated, clarified and harmonised. In force since 2 January 2016.
- Law 11/2020 of 22 December 2020 on the 2021 General State Budget.
- Royal Decree 46/2021 of 26 January 2021 on the adjustment of social security pensions, *Clases Pasivas* pensions and other public social benefits for 2021. It establishes the adjustment of pensions and other benefits received from the social security system, under the contributory and non-contributory scheme, and also of *Clases Pasivas del Estado* (state pensions), of 0.9%, with economic effect from 1 January 2021 [plus the 1.6% deviation from the consumer price index in 2021]. In addition, it suspends the application for the year 2021 of the adjustment indices set out in Article 58 of the recast text of the General Law on Social Security, approved by Royal Legislative Decree 8/2015 of 30 October 2015, and Article 27 of the recast Law on State Pensioners, approved by Royal Legislative Decree 670/1987 of 30 April 1987.
  
- STC (Constitutional Court Judgment) 111/2021 declared unconstitutional the transfer of management of the *Clases Pasivas* regime to the INSS set out in the second transitional provision of Royal Decree-Law 15/2020 of 21 April 2020 on urgent supplementary measures to support the economy and employment, because the extraordinary and urgent need required by Article 86(1) of the Spanish Constitution with regard to royal decree-laws did not exist. However, it established an exception to immediate invalidity in order to properly address the rights of beneficiaries under the *clases pasivas* regime, deferring invalidity until 1 January 2022 so that it would be possible before expiry of this

deadline to replace the regulatory provision declared unconstitutional and invalid with the appropriate legal provision.

## 1. **Sickness benefits**

### i) Benefits in kind

- Decree 2065/1974 of 30 May 1974, Title II, Chapter IV, Articles 98 to 125.
- Law 14/1986 of 25 April 1986, the General Health Act.
- Royal Decree 83/1993 of 22 January 1993 regulating the selection of medicinal products for the purposes of financing by the National Health System.
- Royal Decree 1993/1995 of 7 December 1995 approving the Regulation on the collaboration of the social security mutual associations for accidents at work and occupational diseases.
- Royal Decree 1575/1993 of 10 September 1993 regulating the free choice of doctors in the primary health care services of the National Institute of Health.
- Royal Decree 8/1996 of 15 January 1996 regulating the free choice of doctors in the specialised health care services of the National Institute of Health.
- Law 15/1997 of 25 April 1997 on the authorisation of new ways of managing the National Health System.
- Royal Decree 1663/1998 of 24 July 1998 extending the list of medicinal products for the purposes of financing from social security funds or from the national health budget.
- Royal Decree 29/2000 of 14 January 2000 on new ways of managing the National Institute of Health.
- Royal Legislative Decree 1/2000 of 9 June 2000 approving the recast Armed Forces Social Security Act, Section 1 of Chapter V, Articles 10 to 16.
- Royal Legislative Decree 3/2000 of 23 June 2000 approving the recast version of the legal provisions in force on the special social security scheme of judicial staff, Section 1 of Chapter V, Articles 13 to 17.
- Royal Legislative Decree 4/2000 of 23 June 2000 approving the recast Social Security Act for State Civil Servants, Chapter V, Section 1, Articles 13 to 17. Applicable solely to Articles 19, 27(1) and 35 of Regulation (EC) No 883/2004.
- Law 41/2002 of 14 November 2002 setting out basic rules on patient autonomy and on rights and obligations regarding medical information and documentation.
- Royal Decree 375/2003 of 28 March 2003 approving the General Regulation governing the mutual insurance scheme of administrative officials, Chapter V, Articles 65 to 87. Applicable solely to Articles 19, 27(1) and 35 of Regulation (EC) No 883/2004.
- Royal Decree 605/2003 of 23 May 2003 laying down measures for the uniform handling of information on waiting lists in the National Health System.
- Law 16/2003 of 28 May 2003 on the cohesion and quality of the National Health System. Amended as regards the right to health protection and health care by Royal Decree-Law 7/2018 of 27 July 2018 on universal access to the National Health System. It provides that the following are entitled to the right to health protection and health care: persons holding Spanish nationality and foreign nationals who have established their residence on Spanish territory and who are not obliged to demonstrate that they hold health care

insurance from any other source, including persons who, by virtue of EU regulations or bilateral conventions, have access to the same as specified by those provisions. Foreign nationals present in Spain who have not established their legal residence on Spanish territory will also be entitled to health protection and health care, provided that certain requirements are met.

- Law 44/2003 of 21 November 2003 regulating the health professions.
- Law 55/2003 of 16 December 2003 on the framework statute for statutory health service personnel.
- Royal Decree 1746/2003 of 19 December 2003 regulating the organisation of the peripheral services of the National Health Management Institute and the composition of the bodies participating in the monitoring and supervision of the management.
- Royal Decree 183/2004 of 30 January 2004 governing the individual health card.
- Royal Decree 1030/2006 of 15 September 2006 establishing the portfolio of common services of the National Health System and the procedure for its revision.
- Royal Decree 1207/2006 of 20 October 2006 governing the management of the Health Cohesion Fund.
- Law 39/2006 of 14 December 2006 on the Promotion of the Personal Autonomy of, and Care for, People in a Situation of Dependency.
- Royal Decree 1726/2007 of 21 December 2007 approving the General Regulation on the Social Security of the Armed Forces.
- Royal Decree 823/2008 of 16 May 2008 setting the margins, deductions and discounts corresponding to the distribution and dispensation of medicinal products for human use.
- Order TIN/971/2009 of 16 April 2009 setting up compensation for transport costs in cases of health care following on from occupational risks and attendance at medical examinations or assessments.
- Royal Decree 1015/2009 of 19 June 2009 governing the availability of medicinal products in special situations.
- Royal Decree 1430/2009 of 11 September 2009 implementing Law 40/2007 of 4 December 2007 on measures in matters of social security in relation to the provision of temporary incapacity benefit.
- Royal Decree 1718/2010 of 17 December 2010 on medical prescriptions and dispensing orders.
- Royal Decree 1026/2011 of 15 July 2011 approving the regulation governing the mutual insurance of judicial staff.
- Royal Decree 1039/2011 of 15 July 2011 laying down the framework criteria to guarantee a maximum period for access to National Health System health care.
- Law 33/2011 of 4 October 2011, the General Health Act.
- Royal Decree 1630/2011 of 14 November 2011 regulating the provision of health and recovery services by the social security mutual associations for accidents at work and occupational diseases.
- Royal Decree-Law 16/2012 of 20 April 2012 on urgent measures to guarantee the sustainability of the National Health System and to improve the quality and safety of its

services. Article 1 was tacitly repealed in part by Royal Decree-Law 7/2018 of 27 July 2018 on universal access to the National Health System.

- Order ESS/1452/2012 of 29 June 2012 creating a personal data file for the application by the National Social Security Institute of the provisions of Royal Decree-Law 16/2012 of 20 April 2012 on urgent measures to guarantee the sustainability of the National Health System and to improve the quality and safety of its services.
- Royal Decree 1192/2012 of 3 August 2012 regulating the status of insured persons and beneficiaries for the purpose of receiving publicly funded health care under the National Health System. Articles 2 to 8, regulating the status of insured persons and beneficiaries of insured persons, were repealed by Royal Decree-Law 7/2018 of 27 July 2018 on universal access to the National Health System.
- Royal Decree 1506/2012 of 2 November 2012 regulating the additional common basket of orthoprosthesis of the National Health Service and laying down the bases for setting the maximum amounts of funding for orthoprosthesis.
- Royal Decree 576/2013 of 26 July 2013 establishing the basic requirements of the special agreement on the provision of health care to persons who are not deemed to be insured or entitled to receive health care under the National Health System and amending Royal Decree 1192/2012 of 3 August 2012 regulating the status of insured persons and beneficiaries for the purpose of receiving publicly funded health care under the National Health System.
- Royal Decree 702/2013 of 20 September 2013 amending Royal Decree 183/2004 of 30 January 2004 regulating the individual health card.
- Royal Legislative Decree 1/2013 of 29 November 2013 approving the recast General Law on the Rights of Persons with Disabilities and their Social Inclusion.
- Order SSI/2371/2013 of 17 December 2013 governing the information system of the System for Autonomy of, and Care for, People in a Situation of Dependency.
- Royal Decree 1050/2013 of 27 December 2013 regulating the minimum level of protection set out in Law 39/2006 of 14 December 2006 on the promotion of the personal autonomy of, and care for, people in a situation of dependency.
- Royal Decree 1051/2013 of 27 December 2013 governing the provisions of the system for the autonomy of, and care for, people in a situation of dependency set out in Law 39/2006 of 14 December 2006 on the promotion of personal autonomy and care for people in a situation of dependency.
- Royal Decree 81/2014 of 7 February 2014 laying down rules to guarantee cross-border health care and amending Royal Decree 1718/2010 of 17 December 2010 on medical prescriptions and dispensing orders.
- Royal Legislative Decree 1/2015 of 24 July 2015 approving the recast Law on guarantees and rational use of medicines and health products. Amended by Royal Decree-Law 7/2018 of 27 July 2018 on universal access to the National Health System, as regards the patient contribution for medicines (set at 40% of the retail price for foreign nationals who are not registered or authorised residents of Spain) and by Law 11/2020 of 30 December 2020 on the General State Budget for 2021 (incorporating new categories of exemption from the patient contribution for medicines for users and their beneficiaries); and by Law 19/2021 of 20 December 2021 establishing the minimum vital income (to extend the exemption from this contribution to persons receiving this

benefit). (Law 19/2021 of 20 December 2021 enters into force on 1 January 2022.) Law 47/2015 of 21 October 2015 on the social protection of workers in the maritime fisheries sector. Article 21 focuses on health care; firstly, it equates the right to health care under the Special Social Security Scheme for Seafarers with the ~~RSS~~ General Social Security Scheme and, secondly, it points out the cases where health care is provided by the ~~ISM~~ Instituto Social de la Marina [Social Institute for Mariners].

- Royal Legislative Decree 8/2015 of 30 October 2015 approving the recast General Law on Social Security. Article 42.
- Royal Decree-Law 7/2018 of 27 July 2018 on universal access to the National Health System. In addition to the amendments made in different instruments, its sole additional provision defines the concepts of insured person and beneficiary for the purposes of the provisions of international legislation and the patient contribution for medicines.
- Royal Decree-Law 38/2020 of 29 December 2020 adopting measures to adapt to the status of non-Member State of the United Kingdom of Great Britain and Northern Ireland following the end of the transitional period provided for in the Agreement of 31 January 2020 on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community. Article 11 sets out the rules on access to health care, to be applied by Spain until 30 June 2021.

On 31 December 2020, a Trade and Cooperation Agreement was reached between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, setting out a Protocol on Social Security Coordination, covering health care. It is therefore this Protocol which has governed our relations with the United Kingdom since 1 January 2021. However, the Trade and Cooperation Agreement does not apply to Gibraltar.

After 30 June 2021, given the need to maintain the appropriate legal framework for reciprocal reimbursements for health care, it became necessary to extend the measure set out in Article 11 of Royal Decree-Law 38/2020 of 29 December 2020; this was done through the following Ministerial Orders: Order PCM/648/2021 of 23 June 2021, Order PCM/1161/2021 of 29 October 2021 and Order PCM/1482/2021 of 28 December 2021, the latter being valid until 30 June 2022.

- Law 10/2021 of 9 July 2021 on remote working. The fourth additional provision states that, from the declaration of the international pandemic by the World Health Organization and until the health authorities lift all the preventive measures adopted to deal with the health crisis caused by COVID-19, social security benefits shall be considered as arising from accidents at work when they are received by staff providing services in health or social health centres entered in the relevant registers, and who in the exercise of their profession have contracted the SARS-CoV2 virus because they were exposed to this specific risk during the provision of health and social health services, where this is certified by the Occupational Risk Prevention and Occupational Health services. Pursuant to Royal Decree-Law 3/2021 of 2 February 2021 adopting measures to reduce the gender gap and other matters in the field of social security and the economy, any benefits to which these professionals might be entitled will be the same

as those granted under the social security system to those who have contracted an occupational illness.

ii) Cash benefits

- Article 13 of Decree 1646/1972 of 23 June 1972 lays down the regulatory basis used to calculate the amount of temporary incapacity allowance.
- Royal Legislative Decree 4/2000 of 23 June 2000 approving the recast Social Security Act for State Civil Servants.
- Royal Decree 375/2003 of 28 March 2003 approving the General Regulation governing the mutual insurance scheme of administrative officials.
- Law 39/2006 of 14 December 2006 on the Promotion of the Personal Autonomy of, and Care for, People in a Situation of Dependency.
- Order SSI/2371/2013 of 17 December 2013 governing the information system of the System for Autonomy of, and Care for, People in a Situation of Dependency.
- Royal Decree 1050/2013 of 27 December 2013 regulating the minimum level of protection set out in Law 39/2006 of 14 December 2006 on the promotion of the personal autonomy of, and care for, people in a situation of dependency.
- Royal Decree 1051/2013 of 27 December 2013 governing the provisions of the system for the autonomy of, and care for, people in a situation of dependency set out in Law 39/2006 of 14 December 2006 on the promotion of personal autonomy and care for people in a situation of dependency.
- Royal Decree 625/2014 of 18 July 2014 regulating certain aspects of the management and control of temporary incapacity cases in the first 365 days of their duration.
- Order ESS/1187/2015 of 15 June 2015 implementing Royal Decree 625/2014 of 18 July 2014 regulating certain aspects of the management and process control of temporary incapacity in the first 365 days of its duration. In force since 1 December.
- Law 47/2015 of 21 October 2015 on the social protection of workers in the maritime fisheries sector. Article 23 regulates the right to health care of persons working in the maritime and fisheries sector.
- Royal Legislative Decree 8/2015 of 30 October 2015 approving the recast General Law on Social Security. Chapter V of Title II, Articles 169 to 176, regarding the General Scheme, and Chapter III of Title IV regarding the Special Social Security Scheme for Self-Employed Persons.
- Law 6/2018 of 3 July 2018 on the General State Budget for 2018 - 54th additional provision, which regulates economic benefits in the event of temporary incapacity of staff employed by the public administrations and bodies and public entities dependent on the same. In force since 5 July 2018.
- Law 6/2018 of 3 July 2018 on the General State Budget for 2018 - seventh transitional provision, which regulates economic benefits in the event of temporary incapacity of staff employed by the public administrations and bodies and public entities dependent on the same until such time as the different public administrations determine the remuneration to be received by their employees in the event of temporary incapacity.
- Royal Decree-Law 6/2020 of 10 March 2020 adopting certain urgent measures in the economic sphere and for the protection of public health. With a view to protecting



public health, and exclusively for the temporary incapacity allowance of the social security system, Article 5 considers as a situation equivalent to an accident at work periods of isolation or contagion of workers as a consequence of the COVID-19 virus. In force since 12 March 2020, the day following its publication in the BOE (Spanish Official Gazette).

- Royal Decree-Law 7/2020 of 12 March 2020 adopting urgent measures to respond to the economic impact of COVID-19. Article 11 establishes also for staff covered by the mutual insurance scheme that periods of isolation or contagion as a consequence of COVID-19 will be considered as situations equivalent to accidents at work for the purposes of the temporary incapacity allowance under the appropriate Special Social Security Scheme. In force since 13 March 2020, the date on which it was published in the BOE.
- Law 10/2021 of 9 July 2021 on remote working. This provision repeals Royal Decree-Law 28/2020 of 22 September 2020 on remote working which, after being validated by the Congress of Deputies, has been processed as a draft law. The Law, which entered into force on the day following its publication, also provides in its fourth additional provision that social security benefits shall be considered as arising from accidents at work when they are received by staff providing services in health or social health centres, entered in the corresponding registers, and who in the exercise of their profession have contracted the SARS-CoV2 virus because they were exposed to this specific risk during the provision of health and social health services.
- Article 6 of Royal Decree-Law 3/2021 of 2 February 2021 adopting measures to reduce the gender gap and other matters in the fields of social security extends the protection against accidents at work provided for in Royal Decree-Law 28/2020 of 22 September 2020 and subsequently in Law 10/2021 of 9 July 2021 to staff providing services in health and social health centres entered in the corresponding registers who, in the exercise of their profession, during the provision of health or social health services, have contracted the SARS-CoV-2 virus, within the period from the declaration of the internal pandemic by the World Health Organization until the lifting by the health authorities of all the preventive measures adopted to deal with the health crisis caused by the SARS-CoV-2 virus; and, in its third additional provision, to the medical staff involved in the medical inspection of the public health services and the medical inspectorate of the National Social Security Institute and the maritime health staff providing services at the Social Institute for Mariners.

## **2. Maternity and equivalent paternity benefits**

In accordance with the sole additional provision of Royal Decree-Law 6/2019 of 1 March 2019 on urgent measures to guarantee equal treatment and opportunities for women and men in employment and occupation, all the references made in regulatory texts to maternity and paternity benefits and leave must be understood (from 1 April 2019) as applying to new benefits, suspensions of employment contract and leave for birth, adoption, and guardianship for the purposes of adoption and foster care.

### **i) Benefits in kind**

- Royal Decree-Law 11/1998 of 4 September 1998 regulating the reductions in social security payments corresponding to temporary contracts concluded with unemployed people to replace workers during periods of leave for maternity, adoption and foster care [meaning birth, adoption, and guardianship for the purposes of adoption and foster care].
- Royal Legislative Decree 1/2000 of 9 June 2000 approving the recast Armed Forces Social Security Act.
- Royal Legislative Decree 3/2000 of 23 June 2000 approving the recast version of the legal provisions in force on the special social security scheme of judicial staff.
- Law 39/2007 of 19 November 2007 on military careers.
- Royal Decree 1726/2007 of 21 December 2007 approving the General Regulation on the Social Security of the Armed Forces.
- Royal Decree 1026/2011 of 15 July 2011 approving the regulation governing the mutual insurance of judicial staff.
- Royal Legislative Decree No 5/2015 of 30 October 2015 approving the recast text of the Law on the Basic Regulations for Public Officials. Article 89.
- Royal Legislative Decree 8/2015 of 30 October 2015 approving the recast General Law on Social Security. Article 237.

#### ii) Cash benefits

- Royal Legislative Decree 1/2000 of 9 June 2000 approving the recast Armed Forces Social Security Act.
- Royal Legislative Decree 3/2000 of 23 June 2000 approving the recast version of the legal provisions in force on the special social security scheme of judicial staff.
- Royal Legislative Decree 4/2000 of 23 June 2000 approving the recast Social Security Act for State Civil Servants.
- Royal Decree 375/2003 of 28 March 2003 approving the General Regulation governing the mutual insurance scheme of administrative officials.
- Royal Decree 1726/2007 of 21 December 2007 approving the General Regulation on the Social Security of the Armed Forces.
- Royal Decree 295/2009 of 6 March 2009 regulating the cash benefits of the Social security system for maternity and paternity leave [meaning birth and care of a minor], and risk during pregnancy and natural breastfeeding.
- Order PRE/1744/2010 of 30 June 2010 regulating the procedure for recognition, control and monitoring of temporary incapacity for work, risk during pregnancy and natural breastfeeding in the Special Social Security Scheme for State Civil Servants.
- Royal Decree 1026/2011 of 15 July 2011 approving the regulation governing the mutual insurance of judicial staff.
- Royal Decree 1148/2011 of 29 July 2011 for the application and development in the social security system of the allowance for the care of minors suffering from cancer or another serious illness. (Annex amended by Order TMS/103/2019 of 6 February 2019, which also approves the template medical declaration on the need for ongoing care of a minor).



- Royal Decree-Law 11/2013 of 2 August 2013 for the protection of part-time workers and other urgent measures in the economic and social order.
- Royal Legislative Decree 8/2015 of 30 October 2015 approving the recast General Law on Social Security, Chapter VI of Title II, Articles 177 to 192, regarding the General Scheme and Chapter III of Title IV regarding the Special Social Security Scheme for Self-Employed Persons.
- Law 47/2015 of 21 October 2015 on the social protection of workers in the maritime fisheries sector. Articles 24 to 28 govern benefits for seafarers for the birth and care of a minor, joint responsibility for the care of infants, risk during pregnancy, and breastfeeding and care for minors affected by cancer or another serious illness.
- By virtue of judgments Nos 881/2016 and 953/2016 of the Supreme Court of 25 October and 16 November 2016 respectively, harmonising the law, the parents of children born by surrogacy pursuant to the laws in force in a foreign country may receive the allowance for birth and care of a minor provided for in Article 177 of the recast General Law on Social Security approved by Royal Legislative Decree 8/2015 of 30 October 2015 (TRLGSS) provided that the requirements of that Article by which the right in question may be exercised are met.
- Royal Decree-Law 26/2018 of 28 December 2018 approving emergency measures on artistic creation and cinematography. The posts of pregnant workers or those who are breastfeeding until the child reaches the age of 9 months and who, because of their condition, cannot continue exercising the activity based on which they were included in the General Scheme as a performing artist will be protected during the period of inactivity. The workers' condition must be certified by the National Social Security Institute's medical inspectorate. Workers in this situation will be granted an allowance equivalent to 100% of the contribution basis provided for in the previous paragraph. The benefit will be paid out directly by the National Social Security Institute.
- Royal Decree-Law 26/2018 adds a Section 4 in Chapter XVII of Title II of the recast text of the General Law on Social Security, approved by Royal Legislative Decree 8/2015 of 30 October 2015, entitled 'Artists in public entertainment', including Article 249 ter on the inactivity of artists in public entertainment covered by the General Social Security Scheme.
- Royal Decree-Law 6/2019 of 1 March 2019 on urgent measures to guarantee equal treatment and opportunities for women and men in employment and occupation. It reforms the suspension of the employment contract and leave in the event of maternity, adoption and guardianship for the purpose of adoption or foster care provided for, respectively, in Articles 45 and 48 of the recast text of the Law on the Statute of Workers' Rights, approved by Royal Legislative Decree 2/2015 of 23 October 2015 (TRET), and in Article 49 of the recast text of the Law setting out the Basic Statute applicable to Public Employees, approved by Royal Legislative Decree 5/2015 of 30 October 2015 (TREBEP). These suspensions and types of leave now constitute individual rights of workers which may be exercised without distinction by either of the parents, adoptive parents, guardians for the purpose of adoption or foster parents, for the same duration and without the possibility of transfer.  
Suspension of the employment contract due to birth will result in a duration of 16 weeks for both parents; the 6 uninterrupted weeks immediately after birth are obligatory and

the 10 remaining weeks may be distributed as chosen in weekly periods to be taken cumulatively or intermittently, on a full-time or part-time basis.

In the case of adoption, guardianship for the purpose of adoption and foster care, each adoptive parent, guardian or foster parent will benefit from 16 weeks: 6 uninterrupted weeks immediately after the judicial decision authorising the adoption or the administrative decision on guardianship for the purpose of adoption or foster care, which are obligatory and must be taken on a full-time basis; and the 10 remaining weeks, which may be distributed as chosen in weekly periods to be taken cumulatively or intermittently, on a full-time or part-time basis.

The duration of the suspension of the employment contract will be extended by a further 2 weeks in the case of a disabled child at birth, adoption, or in situations of guardianship for the purpose of adoption or foster care: 1 week for each of the parents, adoptive parents, guardians or foster parents. The same applies for the case of multiple birth, adoption, guardianship for the purpose of adoption or foster care, for each child other than the first.

The Basic Statute applicable to Public Employees regulates leave for birth for the biological mother, adoption, guardianship for the purpose of adoption or foster care and leave for the parent other than the biological mother for birth, guardianship for the purpose of adoption, foster care or adoption of a child for the same duration.

- Royal Legislative Decree 2/2015 of 23 October 2015 approving the recast text of the Law on the Statute of Workers' Rights. Article 37. It establishes the half-hour reduction in working hours to care for an infant as an individual and non-transferable right for workers. Furthermore, when both parents, adoptive parents, guardians or foster parents exercise the right for the same duration and under the same regime, the period of entitlement may be extended until the infant reaches the age of 12 months, with a proportional reduction in salary from the age of 9 months, protected with the benefit for care of an infant, provided for in Articles 183 to 185 of the recast text of the General Law on Social Security.

Benefit included in the protective action of the Special Social Security Scheme for Seafarers (Article 4 of Law 47/2015 of 21 October 2015 governing the social protection of workers in the maritime fisheries sector).

### **3. Invalidation benefits**

#### **i) Benefits in kind**

NONE

#### **ii) Cash benefits**

- Decree of 22 June 1956 approving the recast text of the legislation on accidents at work and its implementing regulation. It provides for a pension in the event of permanent partial invalidity which may be replaced by a lump sum. This minimum pension for permanent partial invalidity is updated each year in the general budget.

- Royal Decree 1646/1972 of 23 June 1972 implementing Law 24/1972 of 21 June 1972 on benefits under the General Social Security Scheme lays down the regulatory basis for calculating the amount of the permanent incapacity pensions arising from non-work-related accidents.
- Articles 17 et seq. of the Order of 3 April 1973 implementing and developing Decree 298/1973 of 8 February 1973 on the updating of the Special Social Security Scheme for Coal Mining lay down a number of special provisions concerning permanent incapacity benefits for workers covered by this special scheme.
- Royal Decree 1451/1983 of 11 May 1983 regulating selective employment and measures to promote the employment of disabled workers, in compliance with Law 13/1982 of 7 April 1982. Articles 1 and 2 cover aspects relating to the right to return to work of workers declared to be partially permanently incapacitated and to the preference of reinstating workers who, after having been declared totally or absolutely permanently incapacitated, have regained their full capacity for work.
- Royal Legislative Decree 670/1987 of 30 April 1987 approving the recast Law on State Pensioners. Chapter II and Chapter IV of Subtitle II of Title I.
- Royal Decree 71/2019 of 15 February 2019 regulating the pensions and allowances due under the Civil Service, Armed Forces and Judiciary [*Clases Pasivas*] scheme to supplementary armed forces and professional Army and Navy personnel on temporary employment contracts.
- Royal Decree 1300/1995 of 21 July 1995 implementing, in respect of incapacity for work under the social security system, Law 42/1994 of 30 December 1994 on fiscal, administrative and social measures.
- Royal Legislative Decree 1/2000 of 9 June 2000 approving the recast Armed Forces Social Security Act.
- Royal Legislative Decree 3/2000 of 23 June 2000 approving the recast version of the legal provisions in force on the special social security scheme of judicial staff.
- Royal Legislative Decree 4/2000 of 23 June 2000 approving the recast Social Security Act for State Civil Servants.
- Royal Decree 375/2003 of 28 March 2003 approving the General Regulation governing the mutual insurance scheme of administrative officials.
- Order APU/3554/2005 of 7 November 2005 regulating the procedure for the recognition of rights deriving from occupational disease and accidents at work within the scope of the mutual insurance scheme of administrative officials.
- Royal Decree 1726/2007 of 21 December 2007 approving the General Regulation on the Social Security of the Armed Forces.
- Order PRE/1744/2010 of 30 June 2010 regulating the procedure for recognition, control and monitoring of temporary incapacity for work, risk during pregnancy and natural breastfeeding in the Special Social Security Scheme for State Civil Servants.
- Royal Decree 1026/2011 of 15 July 2011 approving the regulation governing the mutual insurance of judicial staff.
- Royal Legislative Decree 8/2015 of 30 October 2015 approving the recast General Law on Social Security. Within the scope of the protection afforded by Social Security, Article 60 thereof provides for a maternity supplement for retirement pensions, from 1 January

2016, under the contributory scheme, for women who have had two or more children. Since 4 February 2021, this supplement has been replaced by the supplement to contributory pensions to reduce the gender gap, which is granted from the first child, including to men who meet certain requirements (pursuant to Royal Decree-Law 3/2021 of 2 February 2021 adopting measures to reduce the gender gap and other matters in the fields of social security and the economy, which reworded Article 60 of the recast text). In 2021, it amounts to EUR 27 per month for each child, with an upper limit of four times that amount.

- Link: [www.seg-social.es](http://www.seg-social.es) (*Normativa / Normas de pensiones / Otras normas de interés sobre prestaciones / Revalorización de pensiones – Legislation / Pension legislation / Other legislation relevant to benefits / Adjustment of pensions*).
- Law 47/2015 of 21 October 2015 on the social protection of workers in the maritime fisheries sector. Article 29 governs the financial benefit for permanent incapacity granted under the Special Social Security Scheme for Seafarers.
- Royal Decree-Law 15/2020 of 21 April 2020 on additional urgent measures to support the economy and employment. The necessary legal amendments are made through this Royal Decree-Law for the effective integration of the State Pensioner Scheme [*Clases Pasivas*] in the Ministry of Inclusion, Social Security and Migration. The first final provision amends the recast Law on State Pensioners, approved by Royal Legislative Decree 670/1987 of 30 April 1987, and appoints the INSS as the competent body for the recognition of pension rights and the granting of benefits to pensioners. However, the second transitional provision establishes transitional arrangements for the management of the State Pensioner Scheme, to be organised by the DGOSS until the INSS assumes the management of the benefits under the State Pensioner Scheme. The amendment has been in force since 23 April 2020. However, this transitional provision has been declared unconstitutional by STC (Plenary) 111/2021 of 13 May 2021.
- Law 11/2020 of 30 December 2020 on the 2021 General State Budget. Additional provision 48 suspends for 2021 the application of Article 58 of the recast General Social Security Law, approved by Royal Legislative Decree 8/2015 of 30 October 2015. (Revaluation).
- Royal Decree-Law 3/2021 of 2 February 2021 adopting measures to reduce the gender gap and other matters in the fields of social security and the economy. Replaces the maternity supplement, amending Article 60 of the recast text of the General Law on Social Security and the 18th additional provision of the recast Law on State Pensioners, with a supplement to reduce the gender gap; it does so in a balanced and effective way, while respecting the case-law of the Court of Justice of the European Union, through a design intended to shape the supplement as a lever for reducing the gender gap, reflecting the situation of subordination of women in the labour market, since they have historically assumed a leading role in childcare. However, it leaves the door open for parents to have access to the supplement if they prove a disadvantage during their contributory years on the occasion of the birth or adoption of a child, due to the performance of childcare duties. In other words, it combines a positive action in favour of women (where neither parent proves a disadvantage during their contributory years, the woman receives the supplement) with the prospect of an ‘open door’ for men who

might find themselves in a comparable situation. The new supplement entered into force on 4 February 2021, 1 day after the legislation creating it was published in the BOE.

- STC 155/2021 declared unconstitutional Article 248(3) of the recast text of the General Law on Social Security, approved by Royal Legislative Decree 8/2015 of 30 October 2015 with regard to the application of the ‘partiality coefficient’ to determine the amount of retirement and permanent incapacity pensions arising from common illness payable to part-time workers. The amount must therefore be determined without applying the partiality coefficient and, consequently, without the reduction which would have resulted from it.
- Royal Decree 46/2021 of 26 January 2021 on the adjustment of social security pensions, *Clases Pasivas* pensions and other public social benefits for 2021. It establishes the adjustment of pensions and other benefits received from the social security system, under the contributory and non-contributory scheme, and also of *Clases Pasivas del Estado* (State pensions), of 0.9%, with economic effect from 1 January 2021 [plus the 1.6% deviation from the consumer price index in 2021]. In addition, it suspends the application for the year 2021 of the adjustment indices set out in Article 58 of the recast text of the General Law on Social Security, approved by Royal Legislative Decree 8/2015 of 30 October 2015 and Article 27 of the recast Law on State Pensioners, approved by Royal Legislative Decree 670/1987 of 30 April 1987.
- Link: [www.seg-social.es](http://www.seg-social.es) (*Normativa / Normas de pensiones / Otras normas de interés sobre prestaciones / Revalorización de pensiones – Legislation / Pension legislation / Other legislation relevant to benefits / Adjustment of pensions*).
- Regional Law 10/2003 of 5 March 2003 on the transitional arrangements for the pension fund entitlements of civil servants of the assistance funds of the Public Administrations of Navarre (Articles 41 to 64).

#### **4. Old-age benefits**

##### i) Benefits in kind

NONE

##### ii) Cash benefits

- Order of 18 January 1967 laying down rules for the application and payment of old-age benefit in the General Social Security Scheme.
- Order of 3 April 1973 for the application and development of Decree 298/1973 of 8 February 1973 updating the Special Social Security Regime for Coal Mining.
- Royal Legislative Decree 670/1987 of 30 April 1987 approving the recast Law on State Pensioners. Chapter II and Chapter IV of Subtitle II of Title 1. The 18th additional provision establishes a maternity supplement from 1 January 2016 for women who have had two or more children and who receive a pension for forced retirement under the Civil Service, Armed Forces and Judiciary scheme; since 4 February 2021, this supplement has been replaced by the supplement to contributory pensions to reduce

the gender gap, which is granted from the first child, including to men who meet certain requirements (pursuant to Royal Decree-Law 3/2021 of 2 February 2021 adopting measures to reduce the gender gap and other matters in the fields of social security and the economy, which has redrafted the 18th additional provision of the recast text). In 2021, it amounts to EUR 27 per month for each child, with an upper limit of four times that amount.

- Royal Legislative Decree 4/2000 of 23 June 2000 approving the recast Social Security Act for State Civil Servants.
- Royal Decree 1131/2002 of 31 October 2002 governing social security for part-time workers and partial retirement.
- Royal Decree 375/2003 of 28 March 2003 approving the General Regulation governing the mutual insurance scheme of administrative officials.
- Royal Decree 1851/2009 of 4 December 2009 implementing Article 161 bis of the General Law on Social Security regarding the early retirement of workers with a degree of disability of 45 per cent or more. (The reference to Article 161 bis of the General Law on Social Security should now be considered as a reference to Article 206 bis of Royal Legislative Decree 8/2015 of 30 October 2015 approving the recast General Law on Social Security).
- Law 27/2011 of 1 August 2011 on the updating, adaptation and modernisation of the social security system.
- Royal Decree 1698/2011 of 18 November 2011 regulating the legal arrangements and general procedure for setting reduction coefficients and lowering the retirement age in the social security system.
- Royal Decree 1716/2012 of 28 December 2012 implementing the provisions on benefits laid down by Law 27/2011 of 1 August 2011 on the updating, adaptation and modernisation of the social security system.
- Law 47/2015 of 21 October 2015 on the social protection of workers in the maritime fisheries sector.
- Royal Legislative Decree 8/2015 of 30 October 2015 approving the recast General Law on Social Security. With regard to the scope of the protection afforded by the Social Security, it provides for a maternity supplement for retirement pensions, from 1 January 2016, under the contributory scheme, for women who have had two or more children. Governed by Article 60. Since 4 February 2021, this supplement has been replaced by the supplement to contributory pensions to reduce the gender gap, which is granted from the first child, including to men who meet certain requirements (pursuant to Royal Decree-Law 3/2021 of 2 February 2021 adopting measures to reduce the gender gap and other matters in the fields of social security and the economy, which rewrote Article 60 of the recast text). In 2021, it amounts to EUR 27 per month for each child, with an upper limit of four times that amount.
- Royal Decree-Law 20/2018 of 7 December 2018 introducing urgent measures to foster economic competitiveness in Spanish industry and trade. It adds a Section 6 to the fourth transitional provision of the recast text of the General Law on Social Security to establish that partial retirement with simultaneous conclusion of a relief contract, valid before the entry into force of Law 27/2011 of 1 August 2011, will continue to apply to pensions maturing before 1 January 2023, provided that certain requirements are met.



- Royal Decree 302/2019 of 26 April 2019 governing the compatibility of the contributory retirement pension and the activity of artistic creation, implementing the second final provision of Royal Decree-Law 26/2018 of 28 December 2018 approving emergency measures on artistic creation and cinematography. Link: [www.seg-social.es](http://www.seg-social.es) (*Normativa / Normas de pensiones / Otras normas de interés sobre prestaciones / Revalorización de pensiones – Legislation / Pension legislation / Other legislation relevant to benefits / Adjustment of pensions*).
- Royal Decree-Law 11/2020 of 31 March 2020 adopting urgent additional social and economic measures to face COVID-19. The 15th additional provision establishes the right of retired medical health professionals, nursing staff and emeritus staff who have been returned to active service by the competent authority of the autonomous community or by the National Health Management Institute (INGESA, Instituto Nacional de Gestión Sanitaria) in the autonomous cities of Ceuta and Melilla, by appropriate statutory appointment (under Order SND/232/2020 of 15 March 2020 adopting measures for human resources and measures for the management of the health crisis caused by COVID-19) to receive the retirement pension amount which they were receiving when they returned to work, in any form, including where applicable the supplement to guarantee a minimum pension. Entered into force on 2 April 2020.
- Royal Decree-Law 13/2020 of 7 April 2020 adopting certain urgent measures in the field of employment in agriculture. Article 3 allows the remuneration received for the agricultural work carried out under the extraordinary flexibility measures established in this Royal Decree-Law to be compatible not only with unemployment benefits, but also with any other benefit of an economic nature or any other social benefit or aid, granted by any Administration which is incompatible with employment, or which, although not incompatible, as a consequence of receiving income from the work carried out, would exceed the income limits indicated in the legislation corresponding to the type of benefit. Entered into force on 9 April 2020.  
 This Royal Decree-Law also amends Section 4 of the 15th additional provision of Royal Decree-Law 11/2020 of 31 March 2020, indicating the requirement of affiliation, registration, deregistration and variation in data and the obligation to pay contributions when retired health professionals return to active service under Order SND/232/2020 of 15 March 2020 adopting measures for human resources and measures for the management of the health crisis caused by COVID-19, without the special solidarity contribution provided for in Article 153 of the recast text of the General Law on Social Security being applicable, and introducing a Section 5 in the same provision, which now covers the protective action of these workers, on the occasion or as a consequence of the work carried out.
- Royal Decree-Law 15/2020 of 21 April 2020 on additional urgent measures to support the economy and employment. The necessary legal amendments are made through this Royal Decree-Law for the effective integration of the State Pensioner Scheme [*Clases Pasivas*] in the Ministry of Inclusion, Social Security and Migration. The first final provision amends the recast Law on State Pensioners, approved by Royal Legislative Decree 670/1987 of 30 April 1987, and appoints the INSS as the competent body for the recognition of pension rights and the granting of benefits to pensioners. However, the second transitional provision establishes transitional arrangements for the



management of the State Pensioner Scheme, to be organised by the DGOSS until the INSS assumes the management of the benefits under the State Pensioner Scheme. The amendment has been in force since 23 April 2020, the day following its publication in the BOE. However, this transitional provision has been declared unconstitutional by STC (Plenary) 111/2021 of 13 May 2021.

- Law 11/2020 of 30 December 2020 on the General State Budget for 2021, in its final provision 6(1) amends Article 33(2) 'Incompatibilities' of the recast text of the Law on State Pensioners approved by Royal Legislative Decree 670/1987 of 30 April 1987, to establish that, in the event of 'active' retirement, where the activity is pursued on a self-employed basis and it is proven that at least one worker has the status of employee, 100 per cent of the pension will be compatible. Entered into force on 1 January 2021.
- Articles 153 and 309 of the recast text of the General Law on Social Security were also amended by final provision 38<sup>a</sup> to increase the special solidarity contribution from 8% to 9% in cases where retirement is compatible with employment and self-employment in the manner known as 'active retirement', and governed by Articles 214 and 309 of the recast text of the General Law on Social Security.
- Royal Decree-Law 2/2021 of 26 January 2021 strengthening and consolidating social measures to protect employment. The fifth final provision amends Section 5 of the fourth transitional provision of the recast text of the General Law on Social Security, approved by Royal Legislative Decree 8/2015 of 30 October 2015, to extend until 1 January 2022 the requirements and conditions laid down prior to the entry into force of Law 27/2011 of 1 August 2011 on access to certain retirement pensions. The rules governing the retirement pension, with its various forms, eligibility requirements, conditions and rules for determining benefits, applicable prior to the entry into force of Law 27/2011, shall continue to apply to retirement pensions payable before 1 January 2022, in the following cases: a) persons whose employment relationship ended before 1 April 2013, provided that, after that date, they are not again included in one of the schemes of the social security system; b) persons whose employment relationship was suspended or ended as a consequence of employment adjustment decisions, or through collective agreements in any area, corporate collective agreements and decisions adopted in insolvency proceedings, approved, signed or declared before 1 April 2013, provided that the employment relationship is terminated or suspended before 1 January 2022.
- Royal Decree 46/2021 of 26 January 2021 on the adjustment of social security pensions, *Clases Pasivas* pensions and other public social benefits for 2021. It establishes the adjustment of pensions and other benefits received from the social security system, under the contributory and non-contributory scheme, and also of *Clases Pasivas del Estado* (State pensions), of 0.9%, with economic effect from 1 January 2021 [plus the 1.6% deviation from the consumer price index in 2021]. In addition, it suspends the application for the year 2021 of the adjustment indices set out in Article 58 of the recast text of the General Law on Social Security, approved by Royal Legislative Decree 8/2015 of 30 October 2015 and Article 27 of the recast Law on State Pensioners, approved by Royal Legislative Decree 670/1987 of 30 April 1987.
-

- Royal Decree-Law 3/2021 of 2 February 2021 adopting measures to reduce the gender gap and other matters in the fields of social security and the economy. -
- Replaces the maternity supplement, amending Article 60 of the recast text of the General Law on Social Security and the 18th additional provision of the recast Law on State Pensioners with a supplement to reduce the gender gap; it does so in a balanced and effective way, while respecting the case-law of the Court of Justice of the European Union, through a design intended to shape the supplement as a lever for reducing the gender gap, reflecting this situation of subordination of women in the labour market, since they have historically assumed a leading role in childcare. However, it leaves the door open for parents to have access to the supplement if they prove a disadvantage during their contributory years on the occasion of the birth or adoption of a child, due to the performance of childcare duties. In other words, it combines a positive action in favour of women (where neither parent proves a disadvantage during their contributory years, the woman receives the supplement) with the prospect of an 'open door' for men who might find themselves in a comparable situation. The new supplement entered into force on 4 February 2021, 1 day after the legislation creating it was published in the Official Gazette.
- . - Article 5 extends the compatibility of the retirement pension with the appointment of health professionals as statutory staff, pursuant to Royal Decree 926/2020 of 25 October 2020 declaring a state of emergency in order to contain the spread of infections caused by SARS-CoV-2.
- Royal Decree-Law 8/2021 of 4 May 2021 adopting urgent measures in the health, social and judicial systems, to be applied after expiry of the state of emergency declared by Royal Decree 926/2020 of 25 October 2020 declaring the state of emergency to contain the spread of infections caused by SARS-CoV-2. Article 13 establishes that the legal rules governing compatibility of the retirement pension with the appointment as statutory staff provided for in the 15th additional provision of Royal Decree-Law 11/2020 of 31 March 2020, and in Article 5 of Royal Decree-Law 3/2021, will also apply to health professionals who provide or have provided services in line with labour law at the request of the competent authority of the autonomous community, by the National Institute for Health Management in Ceuta and Melilla, or by the Ministry of Defence in the Defence Hospital Network, where appropriate, either directly in the autonomous communities and indicated bodies, or through private centres. This compatibility will be maintained for as long as the employment contract or, where applicable, the statutory appointment continues, and at the latest until 31 December 2021.
- Law 21/2021 of 28 December 2021 on guaranteeing the purchasing power of pensions and on other measures to strengthen the financial and social sustainability of the public pensions system. It amends Articles 206 et seq. of the recast text of the General Law on Social Security, approved by Royal Legislative Decree 8/2015 of 30 October 2015 on early retirement, retirement and active ageing; the application of the pension sustainability factor planned for 2023 has also been abolished. This law entered into force on 1 January 2022.
- STC 155/2021 declared unconstitutional Article 248(3) of the recast text of the General Law on Social Security, namely the section concerning the application of the 'partiality coefficient' to determine the amount of the retirement and permanent incapacity

pensions arising from common illness, payable to part-time workers. The amount must therefore be determined without applying the partiality coefficient and, consequently, without the reduction which would have resulted from it.

- Regional Law 10/2003 of 5 March 2003 on the transitional arrangements for the pension fund entitlements of civil servants of the assistance funds of the Public Administrations of Navarre (Articles 26 to 40).

## **5. Survivors' benefits**

### i) Benefits in kind

NONE

### ii) Cash benefits

- Statute of State Pensioners, approved by Royal Decree of 22 October 1926.
- Decree 3158/1966 of 23 December 1996 approving the General Regulation which determines the amount of financial benefits under the General Social Security Scheme and the conditions of entitlement thereto. Chapter V of this Decree establishes the percentages to be applied to the calculation basis for survivors' and orphans' pensions.
- Decree 1211/1972 of 13 April 1972 approving the recast Law on the pension fund entitlements of the Military and Equivalent Staff of the Armed Forces, Civil Guard and Armed Police.
- Royal Legislative Decree 670/1987 of 30 April 1987 approving the recast Law on State Pensioners. Chapter III and Chapter IV of Subtitle II of Title I.
- Royal Legislative Decree 1/2000 of 9 June 2000 approving the recast Armed Forces Social Security Act.
- Royal Legislative Decree 3/2000 of 23 June 2000 approving the recast version of the legal provisions in force on the special social security scheme of judicial staff.
- Royal Legislative Decree 4/2000 of 23 June 2000 approving the recast Social Security Act for State Civil Servants.
- Royal Decree 375/2003 of 28 March 2003 approving the General Regulation governing the mutual insurance scheme of administrative officials.
- Order APU/95/2004 of 12 January 2004 laying down rules for the application of the death grant in the Special Social Security Scheme for State Civil Servants.
- Royal Decree 1726/2007 of 21 December 2007 approving the General Regulation on the Social Security of the Armed Forces.
- Royal Decree 296/2009 of 6 March 2009 amending certain aspects of the regulation of death grants and survivors' benefits.
- Royal Decree 1026/2011 of 15 July 2011 approving the regulation governing the mutual insurance of judicial staff.
- Law 27/2011 of 1 August 2011 on the updating, adaptation and modernisation of the social security system. 30th additional provision:
- Law 47/2015 of 21 October 2015 on the social protection of workers in the maritime fisheries sector.

- Royal Legislative Decree 8/2015 of 30 October 2015 approving the recast General Law on Social Security, Chapter XIV of Title II, Articles 216 to 234, regarding workers under the General Scheme, and Chapter III of Title IV regarding the Special Social Security Scheme for Self-Employed Persons. Within the scope of the protection afforded by the Social Security, as governed under Article 60, it also provides for a maternity supplement, from 1 January 2016, to the survivors' pensions for women who have had two or more children. Since 4 February 2021, this supplement has been replaced by the supplement to contributory pensions to reduce the gender gap, which is granted from the first child, including to men who meet certain requirements (pursuant to Royal Decree-Law 3/2021 of 2 February 2021 adopting measures to reduce the gender gap and other matters in the fields of social security and the economy, which reworded Article 60 of the recast text). In 2021, it amounts to EUR 27 per month for each child, with an upper limit of four times that amount.
- Law 6/2018 of 3 July 2018 of the General State Budget for 2018 introduces an improvement in survivors' pensions under the Civil Service, Armed Forces and Judiciary Pensioners Act for persons over 65 years of age whose main source of income is the retirement pension, consisting of an increase by 4 percentage points, 2 percentage points in the case of extraordinary pensions, to be applied to the pension calculation basis.
- Royal Decree 1413/2018 of 2 December 2018 implementing the provisions of Law 6/2018 of 3 July 2018 on the General State Budget for 2018, for survivors' pensions under the Civil Service, Armed Forces and Judiciary scheme. It implements the increase introduced by the Law on the General State Budget for 2018, increasing to 8%, 4% in the case of extraordinary benefits, the increase to be applied to the calculation basis for the survivors' pension, where the eligibility conditions have been met. This Royal Decree entered into force on 4 December, 1 day after its publication in the BOE.
- Royal Decree 900/2018 of 20 July 2018 implementing the 30th additional provision of Law 27/2011 of 1 August 2011 on the updating, adaptation and modernisation of the social security system as regards survivors' pensions. The percentage applicable to the calculation basis of survivors' pensions when the beneficiaries are over the age of 65 and are not entitled to any other public pension is set at 60% from 1 January 2019.
- Law 3/2019 of 1 March 2019 improving the situation of orphans who are the children of victims of gender-based violence and other forms of violence against women. This law introduces to the scope of protective action under the social security system a new benefit for orphans who are the children of victims of violence against women, in circumstances comparable to both parents being deceased, where the recipient does not meet the requirements to receive an orphan's pension. It introduces a new Section 9 to Article 42 of the recast text of the Law on State Pensioners, relating to the calculation of an orphan's pension payable in the event of the death of a victim of violence against women. The Law in question introduces amendments to the orphan's pension for the children of victims of violence against women (Articles 216(3), 224, 225(1), 228 and 233 of the recast text of the General Social Security Law, approved by Royal Legislative Decree 8/2015 of 30 October 2015).

Link: [www.seg-social.es](http://www.seg-social.es) (*Normativa / Normas de pensiones / Otras normas de interés sobre prestaciones / Revalorización de pensiones – Legislation / Pension legislation / Other legislation relevant to benefits / Adjustment of pensions*)

- Royal Decree-Law 13/2020 of 7 April 2020 adopting certain urgent measures in the field of employment in agriculture. Article 3 allows the remuneration received for the agricultural work carried out under the extraordinary flexibility measures established in this Royal Decree-Law to be compatible not only with unemployment benefits, but also with any other benefit of an economic nature or any other social benefit or aid, granted by any Administration which is incompatible with employment, or which, although not incompatible, as a consequence of receiving income from the work carried out, would exceed the income limits indicated in the legislation corresponding to the type of benefit. Entered into force on 9 April 2020.
- Royal Decree 551/2020 of 2 June 2020 amending the General Regulation on the Social Security of the Armed Forces, approved by Royal Decree 1726/2007 of 21 December 2007. Section 2 of the sole article is a technical amendment with the aim of standardising the requirements applicable to the widows, widowers and orphans of members of the Special Social Security Regime for the Armed Forces in order to be incorporated or continue to be included in its scope, under the same conditions as those set out in other cases of mutual insurance for administrative officials. This amendment aims to achieve treatment consistent with that set out for the same group in the applicable legislation governing state civil servants which, in accordance with Article 16 of the General Regulation governing the mutual insurance scheme of administrative officials, approved by Royal Decree 375/2003 of 28 March 2003, is limited to requiring them, in order to be included in the field of its protective action, to prove that they are not protected under another status by any of the schemes which are part of the Spanish Social Security System.  
The purpose is ultimately to prevent persons belonging to two social security schemes of an identical nature from having differing access in terms of coverage, removing the conditions which may impose a burden on one group in relation to the other, thus creating a uniform legal regime. This has been in force since 23 June 2020, 20 days after its publication in the BOE.
- The sixth final provision of Law 11/2020 of 30 December 2020 on the General State Budget for 2021 amends Article 39(3) of the recast Law on State Pensioners to increase the percentage to be applied to the calculation basis for the survivors' pension} and ~~section three~~ paragraph 2 of Article 41 raises the age limit for entitlement to the orphans' pension to 25 years.
- Royal Decree 46/2021 of 26 January 2021 on the adjustment of social security pensions, *Clases Pasivas* pensions and other public social benefits for 2021. It establishes the adjustment of pensions and other benefits received from the social security system, under the contributory and non-contributory scheme, and also of *Clases Pasivas del Estado* (State pensions), of 0.9%, with economic effect from 1 January 2021 [plus the 1.6% deviation from the consumer price index in 2021]. In addition, it suspends the application for the year 2021 of the adjustment indices set out in Article 58 of the recast text of the General Law on Social Security, approved by Royal Legislative Decree 8/2015

of 30 October 2015 and Article 27 of the recast Law on State Pensioners, approved by Royal Legislative Decree 670/1987 of 30 April 1987.

- Law 21/2021 of 28 December 2021 on guaranteeing the purchasing power of pensions and on other measures to strengthen the financial and social sustainability of the public pensions system. It amends survivors' pensions and benefits for unmarried couples, laid down in Article 221 et seq of the recast General Law on Social Security, approved by Royal Legislative Decree 8/2015 of 30 October, bringing them into line with the arrangements for married couples; the requirements linked to the income of the surviving partner for eligibility to the survivors' pension have been abolished.
- Regional Law 10/2003 of 5 March 2003 on the transitional arrangements for the pension fund entitlements of civil servants of the assistance funds of the public administrations of Navarre (Articles 69 to 87).
- Royal Decree-Law 3/2021 of 2 February 2021 adopting measures to reduce the gender gap and other matters in the fields of social security and the economy. It replaces the maternity supplement, amending Article 60 of the recast General Law on Social Security and the 18th additional provision of the recast Law on State Pensioners, with a supplement to reduce the gender gap

## **6. Benefits in respect of accidents at work and occupational diseases**

### i) Benefits in kind

NONE

### ii) Cash benefits

- Royal Legislative Decree 670/1987 of 30 April 1987 approving the recast Law on State Pensioners. A chapter in Title I of the recast Law on State Pensioners is dedicated to extraordinary pensions arising from an accident or illness in an act of service or as a consequence thereof.
- Royal Legislative Decree 1/2000 of 9 June 2000 approving the recast Armed Forces Social Security Act.
- Royal Legislative Decree 3/2000 of 23 June 2000 approving the recast version of the legal provisions in force on the special social security scheme of judicial staff.
- Royal Legislative Decree 4/2000 of 23 June 2000 approving the recast Social Security Act for State Civil Servants.
- Royal Decree 375/2003 of 28 March 2003 approving the General Regulation governing the mutual insurance scheme of administrative officials.
- Order APU/3554/2005 of 7 November 2005 regulating the procedure for the recognition of rights deriving from occupational disease and accidents at work within the scope of the mutual insurance scheme of administrative officials.
- Royal Decree 1299/2006 of 10 November 2006 approving the schedule of occupational diseases in the social security system and laying down criteria for the notification and registration thereof. Amended by Royal Decree 257/2018 of 4 May 2018.

- Law 42/2006 of 28 December 2006 on the 2007 General State Budget. Its fourth additional provision establishes the rate of contribution for workplace accidents and occupational diseases (amended in later budget acts).
- Royal Decree 1726/2007 of 21 December 2007 approving the General Regulation on the Social Security of the Armed Forces.
- Royal Decree 1026/2011 of 15 July 2011 approving the regulation governing the mutual insurance of judicial staff.
- Order ESS/66/2013 of 28 January 2013 updating the lump-sum compensations for injury, mutilation and deformities that are permanent but non-disabling.
- Royal Legislative Decree 8/2015 of 30 October 2015 approving the recast General Law on Social Security.
- Royal Decree-Law 6/2020 of 10 March 2020 adopting certain urgent measures in the economic sphere and for the protection of public health. With a view to protecting public health, and exclusively for the temporary incapacity allowance under the social security system, Article 5 considers as a situation equivalent to an accident at work periods of isolation or contagion of workers as a consequence of the COVID-19 virus. In force since 12 March 2020, the day following its publication in the BOE.
- Royal Decree-Law 7/2020 of 12 March 2020 adopting urgent measures to respond to the economic impact of COVID-19. Article 11 establishes also for staff covered by the mutual insurance scheme that periods of isolation or contagion as a consequence of COVID-19 will be considered as situations equivalent to accidents at work for the purposes of the temporary incapacity allowance under the appropriate Special Social Security Scheme. In force since 13 March 2020, the date on which it was published in the BOE.
- Royal Decree-Law 3/2021 of 2 February 2021 adopting measures to reduce the gender gap and other matters in the fields of social security. Article 6 extends the protection against accidents at work provided for in Royal Decree-Law 28/2020 of 22 September 2020 and subsequently in Law 10/2021 of 9 July 2021 to staff providing services in health services and social health services entered in the corresponding registers who, in the exercise of their profession, during the provision of health or social health services, have contracted the SARS-CoV-2 virus, within the period from the declaration of the internal pandemic by the World Health Organization until the lifting by the health authorities of all the preventive measures adopted to deal with the health crisis caused by the SARS-CoV-2 virus; and, in its third additional provision, to the medical staff involved in the medical inspection of the public health services and the medical inspectorate of the National Social Security Institute and the maritime health staff providing services at the Instituto Social de la Marina.

**7. Death grants:**

i) Benefits in kind

NONE

ii) Cash benefits



- Royal Legislative Decree 4/2000 of 23 June 2000 approving the recast Social Security Act for State Civil Servants.
- Royal Decree 375/2003 of 28 March 2003 approving the General Regulation governing the mutual insurance scheme of administrative officials.
- Order APU/95/2004 of 12 January 2004 laying down rules for the application of the death grant in the Special Social Security Scheme for State Civil Servants.
- Royal Legislative Decree 8/2015 of 30 October 2015 approving the recast General Law on Social Security, Chapter XIV of Title II, regarding workers under the General Scheme and Chapter III of Title IV regarding the Special Social Security Scheme for Self-Employed Persons.

## **8. Unemployment benefits**

### i) Benefits in kind

NONE

### ii) Cash benefits

- Royal Decree 625/1985 of 2 April 1985 implementing Law 31/1984 of 2 August 1984 on unemployment protection (now: Title III of Royal Legislative Decree 8/2015 of 30 October 2015 approving the recast General Law on Social Security).
- Royal Decree 1369/2006 of 24 November 2006 regulating the active integration benefits (RAI) programme for unemployed people with special economic needs and difficulties in finding work.
- Royal Decree 1541/2011 of 31 October 2011 implementing Law 32/2010 of 5 August 2010. (Now Title V of Royal Legislative Decree 8/2015 of 30 October 2015 approving the recast General Law on Social Security.)
- Law 47/2015 of 21 October 2015 on the social protection of workers in the maritime fisheries sector.
- Royal Legislative Decree 8/2015 of 30 October 2015 approving the recast General Law on Social Security.
- Law 6/2018 of 3 July 2018 on the General State Budget for 2018, of which the 40th final provision, paragraph 5, incorporates into the recast General Law on Social Security a new 27th additional provision creating and regulating the extraordinary unemployment benefit, valid for 6 months from 5 July 2018 and automatically extended for 6-month periods until the unemployment rate is below 15% according to the most recent active population study published ahead of the date of the extension. Royal Decree-Law 28/2018 of 28 December 2018 adjusting state pensions and laying down other urgent social, employment and labour-market measures does away with the temporary nature of the extraordinary unemployment benefit-
- Royal Decree-Law 8/2019 of 8 March 2019 on urgent social protection measures and measures to combat insecurity in relation to working hours, Article 1 of which rewords certain articles of the recast General Law on Social Security in order to revert the regulations governing the unemployment benefit provided for in Article 274(4) of that legal text to the version preceding the entry into force of Royal Decree-Law 20/2012 of

13 July 2012 on measures to guarantee budgetary stability and stimulate competition, which raised the age of access to the same from 52 to 55 years, limited the situations from which access was possible, reduced its duration from ordinary retirement age to the time at which it is possible to have access to a contributory retirement pension – even an advance one – and lowered the contribution basis for retirement from 125% to 100% of the minimum contribution ceiling in force at any time. Furthermore, the requirement – declared null and void by Constitutional Court Judgment 61/2018 of 7 June 2018 – to take account of the income of the family unit of the applicant for or recipient of the allowance was removed from the recast text, and the amount of the allowance for workers over the age of 52 was set in all cases at 80% of the monthly *Indicador Público de Renta de Efectos Múltiples* (Public Index of Income from Multiple Sources) in force at any given time, regardless of whether the unemployment was the result of the loss of full-time or part-time employment.

- Royal Decree-Law 950/2018, of 27 July 2018. It amends Royal Decree 625/1985 of 2 April 1985 implementing Law 31/1984 of 2 August 1984 on unemployment protection in accordance with the European Court of Justice judgment of 9 November 2017 (Case C-98/15), in relation to the duration of contributory unemployment benefit triggered by the loss of part-time employment where the services are provided only on certain days each week ('vertical' part-time working).
- Royal Decree-Law 25/2018 of 21 December 2018 on emergency measures for a just transition from coal mining and the sustainable development of the coal-mining regions, Article 3 of which amends certain articles of Royal Decree 676/2014 of 1 August 2014, with effect from 24 October 2018. Beneficiaries shall be entitled, on a one-off basis, to the contributory unemployment benefit for the maximum legally allowable period, irrespective of the previous contributions they have paid and of the period of benefits which they may have received until the date of the period of statutory unemployment in question.
- Royal Decree-Law 28/2018 of 28 December 2018 adjusting state pensions and laying down other urgent social, employment and labour-market measures, some articles of which affect [...]. In particular, Article 11 reduces the minimum number of actual days for which contributions were paid in order to be eligible for the unemployment benefit or farm income for any agricultural workers affected by the heavy rainfall in October 2018 in certain areas of the Autonomous Community of Andalusia. Section 7 of this first final provision redrafts Article 249 of the TRLGSS, establishing that the protective action of the social security system for the workers contracted for training and lifelong learning shall without exception cover all contingencies, including unemployment. Its sixth transitional provision provides that, under contracts for training and lifelong learning concluded on or after 1 January 2019, the date of entry into force of Royal Decree-Law 28/2018, involving student workers in public employment and training programmes, including educational workshop and trade school programmes and employment workshops, unemployment contributions will be paid.
- Royal Decree-Law No 8/2020 of 17 March 2020 on extraordinary urgent measures to tackle the economic and social impact of Covid-19. This Royal Decree-Law adopts measures to make the temporary adjustment of companies more flexible, with the aim of facilitating the maintenance of employment and reinforcing protection for workers

directly affected. Article 17 thereby creates the extraordinary benefit for cessation of activity; Article 25 allows eligibility without the contribution period required by the law on contributory employment benefit. Furthermore, the unemployment benefits received by discontinuous permanent workers and by those in permanent and periodical employment recurring on certain dates, whose employment contracts have been suspended as a consequence of COVID-19 over periods when they would have been in employment if this extraordinary circumstance had not occurred may be received again for a maximum period of 90 days, when they again become legally unemployed; Article 27 suspends the application of the provisions in the second subparagraph of Article 276(2) of the recast text of the General Law on Social Security authorising the managing body to extend, on its own initiative, the entitlement to receive unemployment benefit in the circumstances subject to the 6-monthly extension of the entitlement, and the provisions in the third subparagraph of Article 276(3), so that, in the case of beneficiaries of the subsidy over the age of 52 years, payment of the allowance and of the social security contribution will not be interrupted even when the mandatory annual income declaration is submitted outside the legally established deadline. In principle, these measures were in force for up to 1 month after the end of the validity of the declaration of the state of emergency.

- Royal Decree-Law 11/2020 of 31 March 2020 adopting urgent additional social and economic measures to face COVID-19. This deals with the issue of domestic employees, who are particularly vulnerable in the circumstances caused by the COVID-19 health crisis, since they are not entitled to the unemployment benefit. It creates a temporary extraordinary allowance for this group when faced with a lack of employment, a reduction in working hours or the termination of a contract as a consequence of COVID-19, in principle for up to 1 month after the end of the validity of the declaration of the state of emergency.

It also creates an exceptional unemployment allowance for the end of a temporary contract for workers whose fixed-term contract of at least 2 months' duration has been terminated after the entry into force of Royal Decree 463/2020 of 14 March 2020 declaring the state of emergency for the management of the health crisis caused by COVID-19. Entered into force on 2 April 2020.

The additional provision 1<sup>a</sup>.8 amends the extraordinary allowance for cessation of activity created by Royal Decree-Law 8/2020 of 17 March 2020, to make explicit reference to the decrease in turnover in certain areas of work.

- Royal Decree-Law 13/2020 of 7 April 2020 adopting certain urgent measures in the field of employment in agriculture. Article 3 allows the remuneration received for the work carried out under the extraordinary flexibility measures in this Royal Decree-Law to be compatible with unemployment benefits for cessation of activity. In force since 9 April 2020.

In its second additional provision, it establishes that, during the period from the entry into force of this Royal Decree-Law until 30 June 2020, neither Article 15 of Royal Decree 625/1985 of 2 April 1985 implementing Law 31/1984 of 2 August 1984 on unemployment protection nor the incompatibility rules laid down in Article 342 of the

recast text of the General Social Security Law, approved by Royal Legislative Decree 8/2015 of 30 October 2015, will apply to workers hired under the scope of this Royal Decree-Law.

The second additional provision rewords the article governing the extraordinary benefit for cessation of activity introduced by Article 17 of Royal Decree-Law 8/2020 of 17 March 2020.

The rules on incompatibilities of the benefit for unemployment and for cessation of activity for certain activities listed in the CNAE (National Classification of Economic Activities) are suspended, according to the second additional provision of Royal Decree-Law 13/2020 of 7 April 2020, which states that 'In the period from the entry into force of this Royal Decree-Law until 30 June 2020, neither Article 15 (on compatibility and incompatibility of the unemployment benefit and allowance) of Royal Decree 625/1985 of 2 April 1985 implementing Law 31/1984 of 2 August 1984 on unemployment protection nor the incompatibility rules laid down in Article 342 of the General Social Security Law will apply to workers hired under the scope of this Royal Decree-Law.'

According to Article 1 of Royal Decree-Law 13/2020 of 7 April 2020, 'The employment contracts affected by this measure will be all those of a temporary nature for the performance of activities in the employ and under the direction of another, on farms listed under any of the CNAE codes specific to agricultural activity, irrespective of the professional category or the particular occupation of the employee, with signature and end dates included in the period indicated in the previous paragraph.'

Article 1 of Royal Decree 19/2020 of 26 May 2020 extends this extraordinary measure to make employment more flexible until 30 September 2020.

- Royal Decree-Law 15/2020 of 21 April 2020 on additional urgent measures to support the economy and employment. Point 3 of the eighth final provision amends Article 25 of Royal Decree-Law 8/2020 of 17 March 2020 to reinforce the protection of discontinuous permanent workers, extending the coverage provided for in Royal Decree-Law 8/2020 of 17 March 2020 to workers who could not return to their activity on the intended dates as a consequence of COVID-19 and who either did not have the required legal status of unemployment, despite having sufficient periods of employment in respect of which contributions have been paid, or were not entitled to the unemployment benefit because they had not fulfilled the necessary contribution period. Entered into force on 23 April 2020.

This Royal Decree-Law therefore adopts new protection measures with the aim of giving coverage to all persons who in the current context do not have access to the unemployment benefit. In particular, Article 22 attributes the legal status of unemployment to the termination of the employment relationship – irrespective of the cause – during the probationary period, at the request of the company, as of 9 March 2020. People who have voluntarily terminated their last employment relationship since 1 March 2020 in order to accept a firm job offer from another company which has not materialised as a result of the COVID-19 crisis are also considered to be legally unemployed. Entered into force on 23 April 2020.

- Royal Decree-Law 17/2020 of 5 May 2020 approving tax-related support measures for the cultural sector in order to address the economic and social impact of COVID-19. It establishes extraordinary access to the unemployment benefit for artists in public shows

who are not affected by the procedures to suspend contracts and reduce daily working time set out in Royal Decree-Law 8/2020 of 17 March 2020. Therefore, on an exceptional and transitional basis for the 2020 financial year, during the periods of inactivity referred to in Article 249 ter of the recast text of the General Social Security Law, approved by Royal Legislative Decree 8/2015 of 30 October 2015, the protective action set out therein will also include financial unemployment benefits.

- Royal Decree-Law 18/2020 of 12 May 2020 on social measures to protect employment establishes that the measures in paragraphs 1 to 5 of Article 25 of Royal Decree-Law 8/2020 will be applicable until 30 June 2020. It also provides that the extraordinary measures for discontinuous permanent workers, in paragraph 6 of that article, will apply until 31 December 2020.
- Royal Decree-Law 24/2020 of 26 June 2020 on the social measures to boost employment and protect self-employment and competitiveness of the industrial sector. Article 3 extends the protection measures for unemployment provided for in paragraphs 1 to 5 of Article 25 of Royal Decree-Law 8/2020 of 17 March 2020 to 30 September 2020.

Article 9 allows self-employed workers, who had until 30 June been receiving the extraordinary benefit for cessation of activity provided for in Article 17 of Royal Decree-Law 8/2020 of 17 March 2020, to request the benefit for cessation of activity provided for in Article 327 of the recast text of the General Social Security Law, approved by Royal Legislative Decree 8/2015 of 30 October 2015, subject to fulfilment of the requirements set out in points a), b), d) and e) of Article 330(1) of the Law.

Article 10 creates an extraordinary benefit for cessation of activity for seasonal workers who were employed in the course of March to October 2020, payable with effect from 1 June 2020 and with a maximum duration of 4 months, provided that the application is made within the first 15 calendar days of July 2020.

- Royal Decree-Law 30/2020 of 29 September 2020 on social measures to protect employment. This Royal Decree-Law extends until 31 January 2021 the exceptional measures relating to temporary employment schemes set out in Royal Decree-Law 8/2020 of 17 May 2020, which were in force until the last day of the month in which the state of emergency came to an end.

Article 13 sets out a new extraordinary benefit for cessation of activity for self-employed workers who, as of 1 October 2020, have been obliged to totally suspend their activities as a consequence of a decision by the competent authority as a measure to contain the spread of the COVID-19 virus and for self-employed workers who are not entitled to the ordinary benefit for cessation of activity provided for in the fourth additional provision of this Royal Decree-Law or to the benefit for cessation of activity provided for in Articles 327 et seq. of the recast text of the General Social Security Law, approved by Royal Legislative Decree 8/2015 of 30 October 2015.

Article 14 sets out the extraordinary benefit for cessation of activity for seasonal workers who carried out an activity between the months of June and December 2020 and who were registered and paid contributions to the Special Scheme for Self-Employed Workers or the Special Scheme for Seafarers as self-employed workers for at least 4 months in the period from June to December of both 2018 and 2019.

- Royal Decree-Law 2/2021 of 26 January 2021 reinforcing and consolidating social measures to protect employment, which extends until 31 May 2021 the extraordinary measures of Royal Decree-Law 8/2020 for the recognition of unemployment benefits, under the terms in which they were extended in Royal Decree 30/2020, and the measures on unemployment protection established for discontinuous permanent workers until 31 May 2021.
- Royal Decree-Law 32/2020 of 3 November 2020 approving supplementary social measures for unemployment protection and support for the cultural sector. Article 1 sets out a special unemployment allowance of an extraordinary nature for a period of 90 days for persons who, during the state of emergency declared by Royal Decree 463/2020 of 14 March 2020, exhausted the benefit, allowance or aid from which they had benefited under the protective action for unemployment, without needing to complete the waiting period or prove a lack of income or the existence of family responsibilities generally governed by the recast text of the General Law on Social Security, approved by Royal Legislative Decree 8/2015 of 30 October 2015.

Article 2 extends the duration of the financial unemployment benefit for artists in public shows provided for in Article 2 of Royal Decree-Law 17/2020 of 5 May 2020. Those entitled to it, in accordance with the Royal Decree-Law, may thus continue to receive it until 31 January 2021. For the remainder, the rules laid down in that legislation shall apply.

Article 3 establishes an exceptional unemployment allowance for technical and auxiliary staff in the culture sector, which can be paid to this group of employees. For this allowance to be granted, account is taken among other requirements of the sectors of activity in which services were provided, in accordance with the CNAE code, and of the period of employment during which contributions were made since 1 August 2019, with a required minimum of 35 days in the General Social Security Scheme. In this case, the duration is 3 months.

Article 4 thus authorises, also on an extraordinary basis, access to the contributory unemployment benefit until 31 January 2021 for bullfighting professionals who apply for it and who, on 31 December 2019, are included in the assets census referred to in Article 13(2)(a) of Royal Decree 2621/1986 of 24 December 1986. With a view to meeting the requirements of Article 266 of the recast text of the General Social Security Law, they are recognised as being legally unemployed, and as having fulfilled the minimum period of contribution.

The first additional provision removes the need to prove that they are actively seeking employment while the stagnation in some sectors of economic and business activity continues, and while the temporary employment schemes due to *force majeure* arising from COVID-19 continue to apply, given the enormous difficulty experienced by companies in recruiting new staff. This requirement for entitlement to the active integration benefit or to the extraordinary unemployment allowance is therefore temporarily suspended.

For the extraordinary unemployment allowance governed by the 27th additional provision of the LGSS for those who have exhausted the unemployment allowances and for the long-term unemployed, the requirement to sign the *Compromiso de actividad*



(jobseeker's agreement) in order to gain entitlement to this allowance has been suspended until 31 January 2021 by the first additional provision of Royal Decree-Law 32/2020 of 3 November 2020.

Royal Decree-Law 2/2021 of 26 January 2021 strengthening and consolidating social measures to protect employment. On 8 January 2021, the most representative trade unions and employers' organisations met with the Ministry of Labour and Social Economy and the Ministry of Inclusion, Social Security and Migration, around the social dialogue table, with the aim of assessing the need for further measures to protect employment, workers and businesses in order to continue to address the crisis situation resulting from the impact of COVID-19. On 19 January 2021, the Fourth Social Agreement on the Defence of Employment (IV ASDE) was reached, set out in Royal Decree-Law 2/2021 of 26 January 2021. The IV ASDE extends the measures included in the III ASDE, set out in Royal Decree-Law 30/2020 of 29 September 2020.

Law 3/2021 of 12 April 2021 adopting supplementary measures in the field of employment to mitigate the effects of COVID-19. It replaces Royal Decree-Law 9/2020 of 27 March 2020 adopting supplementary measures in the field of employment to palliate the effects of COVID-19. In force from the day of its publication on 12 April 2021.

- Royal Decree-Law 21/2021 of 26 October 2021 extending the social protection measures to address situations of social and economic vulnerability.

It introduces two amendments to the recast LGSS in relation to the protection of self-employed workers in the event of cessation of activity, namely in Articles 332(1) on proof of legal unemployment and 337(1) on the application for and acquisition of the right to protection on cessation of activity. It incorporates the method of proving legal unemployment in cases of *force majeure* decisive for the temporary or permanent cessation of economic or professional activity. It also establishes that in the event of suspension of activity as a consequence of *force majeure*, entitlement to the benefit for cessation of activity for self-employed workers shall be acquired on the day on which *force majeure* is proven by means of the corresponding documents referred to in Article 332(1)(d). It entered into force on 28 October 2021, 1 day after its publication in the BOE.

## **9. Pre-retirement benefits**

i) Benefits in kind

NONE

ii) Cash benefits

## **10. Family benefits**

i) Benefits in kind

- Royal Legislative Decree 8/2015 of 30 October 2015 approving the recast General Law on Social Security. Chapter XV of Title II regarding workers under the General Scheme



and Chapter III of Title IV regarding the Special Social Security Scheme for Self-Employed Persons.

ii) Cash benefits

- Royal Legislative Decree 4/2000 of 23 June 2000 approving the recast Social Security Act for State Civil Servants.
- Royal Decree 375/2003 of 28 March 2003 approving the General Regulation governing the mutual insurance scheme of administrative officials.
- Royal Decree 1335/2005 of 11 November 2005 regulating family benefits under the social security system.
- Royal Legislative Decree 8/2015 of 30 October 2015 approving the recast General Law on Social Security. Chapter I of Title VI, Articles 351 to 362. Royal Decree-Law 20/2020 of 29 May 2020 establishing the minimum subsistence income [currently Law 19/2021 of 20 December 2021] and Royal Decree-Law 30/2020 of 29 September 2020 on social measures to protect employment have reworded Articles 351, 352, 353, 354, 355(1), 357, 358(2), 359 and 361(3) of the recast text.
- The financial allocation for each minor child under the age of 18 years or dependent minor without a disability or with a disability of less than 33% has been abolished as of 1 June 2020 (to be replaced by the minimum subsistence income when the relevant requirements have been met; in other cases, entitlement to the allocation is maintained). The financial allocation is granted for each child under the age of 18 years with a degree of disability equal to or greater than 33%, or older than 18 years where the degree of disability is equal to or greater than 65%, dependent on the beneficiary, irrespective of the legal nature of filiation, and also for dependent minors in permanent foster care or guardianship for the purposes of adoption arrangements, where the required conditions are met (no income limit is required in any case). Similarly, the status of person entitled to the single lump-sum cash benefit is extended to fathers with a disability (previously granted only to mothers).
- Royal Decree 46/2021 of 26 January 2021 on the adjustment of social security pensions, *Clases Pasivas* pensions and other public social benefits for 2021. It establishes the adjustment of pensions and other benefits received from the social security system, under the contributory and non-contributory scheme, and also of state pensions, of 0.9% with economic effect from 1 January 2021 (plus the 1.6% deviation from the consumer price index in 2021). It sets out the consolidated amounts of family benefits and income limits applicable in 2021 for some cases.  
Amounts: Financial allocation for child or dependent minor with a disability of 33% or more: EUR 1 000/year. With a degree of disability of 65% or more: EUR 4 866.00/year. With a degree of disability of 75% or more and with the need for the support of another person to perform basic day-to-day tasks: EUR 7 299.60/year.

**Link:** [www.seg-social.es](http://www.seg-social.es) (*Normativa/Normas de pensiones / Otras normas de interés sobre prestaciones / Revalorización de pensiones*)

Income limits: for a child or dependent minor without disability: EUR 12 536.00/year.  
large family: EUR 18 867.00/year, increasing by EUR 3 056.00 for each dependent child as of the fourth child.

The financial benefit for the birth or adoption of a child in the case of large or single-parent families, or of mothers or fathers with a disability, amounts to EUR 1 000. Entitlement to this benefit is subject to an upper annual income limit. In 2021: EUR 12 536.00 per year or, in the case of large families, EUR 18 867.00 per year, rising by EUR 3 056.00 per year for each dependent child as of the fourth child. Law 19/2021 of 20 December 2021 establishing the minimum subsistence income. It provides for a supplement to child support which may be paid to recipients of the allowance for children or dependent minors who are not disabled or have a disability of less than 33% (to expire) if they meet certain requirements.

## **11. Special non-contributory cash benefits**

### **Special non-contributory cash benefits intended to provide a minimum subsistence income pursuant to Article 70(2)(a)(i) of Regulation (EC) No 883/2004.**

#### i) Benefits in kind

NONE

#### ii) Cash benefits

- Royal Decree 2620/1981 of 24 July 1981 regulating cash benefits for elderly and disabled persons who are unable to work. This was repealed by Law 28/1992 of 24 November 1992 but, pursuant to Article 7(2) thereof, rights recognised before 23 July 1992 are retained.
- Royal Decree 383/1984 of 1 February 1984 governing the special system of social and financial benefits for persons with disabilities (regulates the minimum income guarantee). Law 26/1990 of 20 December 1990 establishing non-contributory benefits has removed the minimum income guarantee, while the rights recognised prior to 9 January 1991 are maintained.
- Royal Decree 357/1991 of 15 March 1991 (BOE of 21 March 1991) implementing, in respect of non-contributory pensions, Law 26/1990 of 20 December 1990 establishing non-contributory social security benefits (incorporated into the recast General Law on Social Security, approved by Royal Legislative Decree 8/2015 of 30 October 2015).
- Order PRE/3113/2009 of 13 November 2009 (BOE of 20 November 2009) laying down rules of implementation and application of Royal Decree 357/1991 of 15 March 1991 implementing, in respect of non-contributory pensions, Law 26/1990 of 20 December 1990 establishing non-contributory social security benefits, on computable income and its allocation.
- Royal Legislative Decree 1/2013 of 29 November 2013 approving the recast General Law on the Rights of Persons with Disabilities. (Regulates the minimum income guarantee.) Repeals Law 13/1982 of 7 April 1982. Entered into force on 4 December 2013. This benefit was withdrawn by Law 26/1990 of 20 December 1990 establishing non-

contributory social security benefits, but, in accordance with the 25th transitional provision of the recast General Law on Social Security, approved by Royal Legislative Decree 8/2015 of 30 October 2015, the recognised rights are maintained provided that the requirements laid down in specific legislation are met.

- Royal Legislative Decree 8/2015 of 30 October 2015 approving the recast General Law on Social Security, regulating non-contributory invalidity pensions and non-contributory retirement pensions (Articles 363 to 372). Entered into force on 2 January 2016.
- Royal Decree 46/2021 of 26 January 2021 on the adjustment of social security pensions, *Clases Pasivas* pensions and other public social benefits for 2021. For 2021, the amount of the non-contributory retirement and invalidity pension is set at EUR 5 727.40/year; a pension supplement for housing rental of EUR 525 per year is also established for the beneficiaries of non-contributory pensions.

**Link:** [www.seg-social.es](http://www.seg-social.es) (*Normativa / Normas de pensiones / Otras normas de interés sobre prestaciones / Revalorización de pensiones*)

- Corresponding legislation adopted by the Autonomous Communities. Jointly managed by the State and the Autonomous Communities. The Autonomous Communities do not have any specific regulations; state regulations apply.

**Special non-contributory cash benefits intended to guarantee the specific protection for the disabled linked to their social environment, pursuant to Article 70(2)(a)(ii) of Regulation (EC) No 883/2004.**

i) Benefits in kind

NONE

ii) Cash benefits

- Royal Decree 383/1984 of 1 February 1984 governing the special system of social and financial benefits for persons with a disability (regulating the allowance for caring for a third person, the mobility allowance and compensation for transport costs). Law 26/1990 of 20 December 1990 establishing non-contributory benefits has removed the allowance for caring for a third person, but rights recognised prior to 9 January 1991 have been maintained.
- Royal Legislative Decree 1/2013 of 29 November 2013 approving the recast General Law on the rights of persons with disabilities. {It governs the allowance for third-party assistance and the mobility allowance and compensation for transport costs}. In force since 4 December 2013.
- Royal Decree 46/2021 of 26 January 2021 on the adjustment of social security pensions, *Clases Pasivas* pensions and other public social benefits for 2021. It establishes the

amount of the benefits under the recast General Law on the rights of persons with disabilities and their social inclusion, approved by Royal Legislative Decree 1/2013, setting the mobility allowance and compensation for transport costs at EUR 68.80/year. (The amount of the allowance for third-person assistance is fixed in Law 11/2020 of 30 December 2020 of 30 December 2020 at EUR 58.45/month).

Link: [www.seg-social.es](http://www.seg-social.es) (*Normativa / Normas **de pensiones** / Otras normas de interés sobre prestaciones / Revalorización de pensiones*)

**III. CONVENTIONS REFERRED TO IN ARTICLE 8(2) OF REGULATION (EC) NO 883/2004 AND THE DATE FROM WHICH THE REGULATION WILL APPLY**

The date of application of Regulation (EC) No 883/2004 to the listed conventions, insofar as it is covered by the scope of the Regulation, is [**1 May 2010**], except where otherwise stated. This is also the date from which the Regulation applies in this Member State.

**IV. MINIMUM BENEFITS PROVIDED FOR IN ARTICLE 58 OF REGULATION (EC) NO 883/2004 AND THE DATE FROM WHICH THE REGULATION WILL APPLY**

The date of application of Regulation (EC) No 883/2004 to the listed minimum benefits, insofar as it is covered by the scope of the Regulation, is [**1 May 2010**], except where otherwise stated. This is also the date from which the Regulation applies in this Member State.

Royal Decree 46/2021 of 26 January 2021 on the adjustment of social security pensions, *Clases Pasivas* pensions and other public social benefits for 2021. It establishes the adjustment of pensions and other benefits received from the social security system, under the contributory and non-contributory scheme, and also of state pensions, of 0.9% with economic effect from 1 January 2021 (the amounts subsequently increased by 1.6% of the deviation from the 2021 consumer price index are set out).

Minimum amounts of state pensions for 2021

	Minimum monthly pension — — EUR
Retirement pension when recipient has a dependent spouse.	864.50
	700.60

	Minimum monthly pension — — EUR
Retirement pension without spouse: one-person economic unit.	
Retirement pension when recipient has a non-dependent spouse.	665.00
Survivors' pension	700.60
Pension or pensions payable to other family members where 'n' is the number of beneficiaries of the pension or pensions.	<u>683.00/n</u>

Minimum income limit EUR 7 707.00/year.

**V. POSSIBILITY FOR ANY CATEGORY OF SELF-EMPLOYED WORKER TO BE COVERED BY AN UNEMPLOYMENT BENEFITS SYSTEM (ARTICLE 65A(1) OF REGULATION (EC) NO 883/2004) AND LEGISLATIVE REFERENCE, WHERE APPROPRIATE**

Royal Decree 1541/2011 of 31 October 2011 implementing Law 32/2010 of 5 August 2010 (Law 32/2010 has now been repealed, which means that the reference to it must be understood as a reference to Royal Legislative Decree 8/2015 of 30 October 2015 approving the recast General Law on Social Security).

Royal Legislative Decree 8/2015 of 30 October 2015 approving the recast General Law on Social Security. It governs protection in the event of cessation of activity, with regard to self-employed workers, in Title V, Articles 327 to 350.

**Amount** (Article 339 of the TRLGSS): the calculation basis for the economic benefit in the event of the cessation of activity is the average of the contribution bases over the last 12 continuous months immediately prior to the legal cessation of activity. The amount is determined by applying 70% to the calculation basis.

- Royal Decree-Law 28/2018 of 28 December 2018 adjusting state pensions and laying down other urgent social, employment and labour-market measures. Sections 16 to 23 of the second final provision amend certain articles of the recast text of the General Law on Social Security, approved by Royal Legislative Decree 8/2015 of 30 October 2015 (TRLGSS), which govern protection in the event of cessation of activity:
  - establishing the obligation of protection in the event of cessation of activity,
  - extending on the one hand the protection offered by paying social security contributions as of the 61st day of leave of absence of the person who is receiving the benefit due to cessation of activity and initiates a temporary incapacity

- procedure, and reducing protective action by removing measures for training, vocational guidance and promotion of entrepreneurial activity,
- bringing the start of entitlement and the contribution into line with the amendment to Royal Decree 84/1996 of 26 January 1996, which was amended by the final provision 1(2) of Law 6/2017 of 24 October 2017 which allowed self-employed workers to take leave of absence with effect from the day on which they ceased to work up to three times in each calendar year,
  - doubling the period of payment compared with the provisions to date,
  - discontinuation of the interruption of payment of the benefit and of the contribution being in full monthly instalments,
  - defining a new procedure for administrative challenges prior to initiating court proceedings, for decisions taken by the mutual insurance associations collaborating with the social security system, in the exercise of its competence as managing body of the benefits for cessation of activity,
  - and specifying that, as of 1 January 2019, workers included in the Special Social Security Scheme for Self-Employed Persons must formalise their coverage with a mutual insurance association collaborating with the social security system, and must opt for the same mutual insurance association for insurance coverage for professional contingencies and temporary incapacity.
- Article 17 of Royal Decree-Law 8/2020 of 17 March 2020 on extraordinary urgent measures to address the economic and social impact of COVID-19 creates an extraordinary benefit for cessation of activity which covers activity being ended as a result of a situation which is in any case involuntary and has arisen due to COVID-19, in force until 30 June 2020.
  - Article 9 of Royal Decree-Law 24/2020 of 26 June 2020 on social measures to boost employment and protect self-employment and competitiveness in the industrial sector provides for the possibility of making the benefit for cessation of activity provided for in the recast General Law on Social Security compatible with self-employment, subject to compliance with a number of requirements regarding the reduction of activity and with the requirements set out in the legislation. Furthermore, it creates an extraordinary benefit for cessation of activity intended for seasonal workers who, as a consequence of the special circumstances caused by the pandemic, have been unable to start or continue their activity under normal circumstances. These measures shall remain in force until 30 September 2020.
  - Article 13(1) of Royal Decree-Law 30/2020 of 29 September 2020 on social measures to protect employment regulates a new extraordinary benefit for cessation of activity in favour of self-employed workers who are obliged to totally suspend their activities as a consequence of a decision which may be adopted in that regard. Article 13(2) creates an extraordinary benefit for cessation of activity where there is no entitlement to the benefit for cessation of activity set out in the fourth additional provision of this law or to the benefit for cessation of activity under the recast General Law on Social Security, when income has been reduced. Article 14 establishes an extraordinary benefit for cessation of activity for seasonal workers and the fourth additional provision regulates the extension of the benefits payable under Article 9 of Royal

Decree-Law 24/2020 of 26 June 2020, and extends entitlement to this benefit until 31 January 2021 when the established requirements have been met. These measures shall remain in force until 31 January 2021 at the latest.

- Article 5 of Royal Decree-Law 2/2021 of 26 January 2021 reinforcing and consolidating social measures to protect employment provides for a new extraordinary benefit for cessation of activity similar to that introduced by Article 13 of Royal Decree-Law 30/2020 of 29 September 2020, for suspension of activity as a result of a decision by the competent authority as a COVID-19 containment measure. Article 6 establishes an extraordinary benefit for cessation of activity for those self-employed workers who are not entitled to the ordinary benefit for cessation of activity provided for in Article 7 of this Royal Decree-Law or to the benefit for cessation of activity under the recast General Law on Social Security, when their income is reduced. Article 7 regulates a benefit for cessation of activity which is compatible with self-employment and is similar to the benefit under Article 9 of Royal Decree-Law 24/2020 of 26 June 2020, when a reduction in income is proven. Article 8 establishes an extraordinary benefit for cessation of activity for seasonal workers. And the second transitional provision regulates the extension of the benefits payable under Article 13(1) of Royal Decree-Law 30/2020 of 29 September 2020, when on 31 January 2021 the benefit provided for in that article was being received. These measures shall remain in force until 31 May 2021 at the latest.
- Royal Decree-Law 3/2021 of 2 February 2021 adopting measures to reduce the gender gap and other matters in the fields of social security and the economy amends Articles 5 and 7 and the second transitional provision of Royal Decree-Law 2/2021 of 26 January 2021.
- **Royal Decree-Law 11/2021 of 27 May 2021 on urgent measures to protect employment, reactivate the economy and protect self-employed workers.**
  - It extends the financial assistance while on furlough due to *force majeure* set out in Article 22 of Royal Decree-Law 8/2020, due to current restrictions and limitations, on the basis of Royal Decree-Laws 24/2020, 30/2020 and 2/2021. **From 1 June 2021 and until 30 September 2021**, companies affected by restrictions and sanitary containment measures may apply for an employment regulation order due to the restriction or limitation of activity under the terms set out in Article 2 of Royal Decree-Law 30/2020.  
ERTEs (Expediente de Regulación Temporal de Empleo / Temporary labour force adjustment plan) due to ETOP (Causas Económicas, Técnicas, Organizativas o de Producción / Economic, technical, organisational or production grounds)  
This may begin while furlough due to *force majeure* is in force and, if starting after the latter ends, the effective date shall be brought back to the end date of furlough due to *force majeure*.  
ERTEs ETOP in force on 28 May 2021 will continue to apply under the terms provided for in the company's final communication and until the end date referred to therein, but a dossier ending during this period may be extended until 30 September, provided that an agreement is reached to this end during the consultation period (extension before the Labour Authority).



- The extraordinary benefit arising from ERTE furlough due to COVID is extended until 30 September 2021.  
The third DA also lays down the obligation to effectively include discontinuous permanent workers during the theoretical period of appeal (or to involve ERTes).
  - **Artists:** New entitlement from 1 June 2021 for those who prove 5 days of activity between 11 June 2020 and 31 May 2021.  
Extension until 30 September 2021 for those who had already gained entitlement.
  - **Technical and support staff for culture:**  
New entitlement for those with a POC (period of employment in respect of which contributions have been made) of 35 days between 1 August 2019 and 31 May 2021.  
*Ex officio* extension until 30 September 2021 for those who had already gained entitlement.
  - **Bullfighters** *Ex officio* extension until 30 September 2021.
  - **Active job search requirement:** this will be applicable again from 1 June 2021.
- **Royal Decree-Law 18/2021 of 28 September 2021 on urgent measures for the protection of employment, economic recovery and the improvement of the labour market.**
- Extension of ERTes due to *force majeure* until 30 September 2021:  
this shall be authorised subject to application to the Labour Authority between 1 and 15 October 2021. In addition to the necessary documentation, it will be accompanied by a report on the works affected, with working hours/days suspended between July and September 2021.  
A certificate of no response will be required for the application for benefits (Article 6(4) of Royal Decree-Law 18/2021).
  - New ERTes impediment or limitation  
Companies affected by these measures adopted between 1 November 2021 and 28 February 2022 may apply for this type of ERTE under Article 2 of Royal Decree-Law 30/2020.  
If the company intends to change from a situation of impediment to one of limitation or vice versa, it will not process a new ERTE, but rather simply notify the labour authority.
  - **Extraordinary benefit arising from an ERTE** due to COVID (Article 6): automatically extended until November under the single transitional provision of Royal Decree-Law 18/2021. In order for workers under ERTE due to COVID to continue to receive extraordinary benefits during periods of inactivity between 1 November 2021 and 28 February 2022, companies will

have to apply to the Labour Authority for the extension and submit the activity files of the workers in question.

The extraordinary benefit is extended until 28 February 2022, maintaining the rate of 70%.

**Receipt of benefits is maintained in the future (DF1<sup>a</sup>), but exceptions and dates have been amended.** Exceptions (until 1 January 2023):

- End of fixed-term contract
- Individual or collective redundancy on ETOP grounds.
- Dismissal for any reason declared to be unfair.
- Termination or interruption of discontinuous permanent activity (or total permanent incapacity).

On the other hand, in the case of persons entitled to the benefits days after the entry into force of Royal Legislative Decree (29/9/2021), these will be received only as of 1 January 2021 (and not 1 October 2020).

- The **extraordinary benefit for discontinuous permanent workers** is extended (Article 7) when workers become inactive (from ERTE or non-ERTE) or when the contributory benefits end. Until 28 February 2022
- The fifth additional provision establishes that companies affected by the volcanic eruption recorded in the Cumbre Vieja area, which have contribution account codes corresponding to the provinces of the Autonomous Community of the Canary Islands and whose regular activity has been or is being impeded or limited in terms of development, may request authorisation for a temporary labour force adjustment plan based on Article 47(3) of the recast Workers' Statute.

They will benefit from the extraordinary measures set out in Article 6 of the same Royal Decree and, therefore, from those set out in paragraphs 1(a) and 2 to 5 of Article 25 of Royal Decree-Law 8/2020 of 17 March 2020. Furthermore, the time during which they receive the benefit will not be taken into account for the purpose of entitlement to the established maximum benefit periods. Therefore, these workers – including members of labour companies and workers' cooperatives who intend to pay unemployment contributions – will be entitled to contributory unemployment benefit, even if they have not fulfilled the minimum contribution period, and the time during which they receive that benefit will not be taken into account for the purpose of completing the established maximum entitlement periods.

- **Royal Decree-Law 32/2021 of 28 December 2021 on urgent measures for the labour reform, the employment stability guarantee and the labour market change.**

- There is a **mandate to improve unemployment protection for discontinuous permanent workers**, allowing them access to the assistance under the same conditions as other workers. This will call for legislative reform.
- **Redrafting of Article 47 of the Workers' Statute 2/2015 concerning the processing of ordinary ETOP and ERTES employment adjustment files** due to *force majeure*, with rules common to both.
- **A new Article 47 bis is added to the Workers' Statute 2/2015, regulating the RED Mechanism for job flexibility and stability.** This mechanism constitutes an instrument which, once activated, will allow companies to apply measures to shorten working time (without the 10% and 70% limits) and/or suspend the contracts of their workers, subject to authorisation from the Labour Authority. There are two types of measures: cyclical and sectoral. Implementation requires prior activation by agreement of the Council of Ministers.

The distinguishing features of this social protection, which does not form part of the unemployment protection system, are as follows:

- There is no requirement for a prior minimum period of employment in respect of which contributions have been made (*POC, período de ocupación cotizada*).
- The amount is determined by applying 70% to the regulatory basis for the entire duration of the measure.
- The maximum amount will be 225% of the IPREM (public basic-level income index), irrespective of whether there are children.

- A new legal situation of unemployment has been introduced in Article 267(1) TRLGSS (recast Law on Social Security) 8/2015: termination of the employment relationship for reasons specific to the worker regulated in the 3rd DA of Law 32/2006 of 18 October 2006 regulating subcontracting in the construction sector.