



Spain Extends Its ERTE Furlough Scheme until September 30, 2020

Insights

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In March 2020, Spain implemented an *expediente de regulación temporal de empleo* (ERTE) in Royal Decree-Law 8/2020 as a response to the COVID-19 pandemic. The ERTE is a scheme that allows companies to temporarily lay off staff or cut hours, while allowing these workers to obtain compensation. Under the scheme, employment contracts are not terminated but merely “suspended” on the grounds of force majeure.

Under the ERTE, employers have the unilateral right to suspend contracts or reduce the working time of their employees between 10% to 70%, with a proportional reduction of salary, and the state pays about 70% of the salaries of furloughed staff. Additionally, the scheme allows employees to receive unemployment benefits, even if they would not qualify otherwise. Further, the unemployment benefits period for these employees is not computed for future unemployment benefits.

For cases that cannot be considered force majeure, the Royal Decree-Law 8/2020 introduced the possibility of temporarily suspending contracts or reducing working time if an employer can prove an economic, technical, production-related or organizational reason to suspend employment contracts. Examples include a decrease in work due to lack of demand, decrease in the company's net turnover, or forecasted losses due to the COVID-19 pandemic. In addition to proving the existence of one of the above causes, employers must consult with the labor union for a maximum of seven days. At the end of this period, the employer must communicate to its employees, the labor unions and the labor authorities the effects of the measures decided. The scheme also allows for measures that may be demanded by the employee, for example having to adapt their working time if they prove they are responsible for caring for dependent relatives.

Originally set to end on June 30, 2020, the scheme has been extended until September 30, 2020. Under this extension, businesses will continue to be able to keep employment contracts suspended and most of the conditions of the current scheme will remain in place, such as the ban on hiring new workers. Businesses applying to take part in the ERTes must also agree not to dismiss affected employees for six months after business operations resume. Further, the government will continue to pay 70% of the salaries for the furloughed staff.

Employers with employees in Spain should be aware of their continued obligations under this extension.

If you have any questions or would like assistance in understanding the ERTE scheme, please contact a member of Fisher Phillips' International Employment Practice Group.

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