Labour Alert

# Latest amendments to the Self-Employment Act

31st October 2017

Act 6/2017, of 24 October, on Urgent Self-Employment Reforms

Act 6/2017, of 24 October, on Urgent Self-Employment Reforms was published in the Official State Gazette (**BOE**) on Wednesday, 25 October 2017.

This article aims to provide a brief overview of the self-employment reform measures that have been passed, and which cover the following areas: improvements to Social Security rates and categories, a reduction of the administrative burdens, measures to encourage and promote self-employment (flat rate), measures to promote the reconciliation of working and family life, improved collective rights, clarification of self-employed tax obligations, improvements to their contribution conditions and professional training, and the classification of accidents that occur while travelling to or from work as work accidents.

**a. Extension of the flat rate period and eligibility criteria.**

The period during which newly self-employed workers are entitled to pay a 50-euro flat rate contribution for common contingencies has been extended from 6 to 12 months. The criteria have also changed. Previously only self-employed workers who had not contributed to the Special Tax Regime for Self-Employed Workers (RETA) for a minimum period of 5 years could sign up for this rate. However, this non-contribution period has now been reduced to 2 years (three years in the case of self-employed workers who have previously benefited from the flat rate scheme).

This flat rate can be enjoyed by newly self-employed workers and those who have not been self-employed during the 2 years immediately prior to the date on which they register as self-employed (3 years if they have previously benefited from the flat rate). It is a reduced social security rate for contributions for common contingencies, including temporary disability, which means that those eligible pay a fixed rate of 50 euros per month during the 12 months immediately following the date on which they register as self-employed, provided that they select the minimum contribution base.

The Act also widens the definition of who is eligible to include self-employed female workers who have stopped being self-employed for reasons of maternity, adoption, custody for the purpose of adoption, foster care or guardianship, and return to self-employment within the following two years.

These workers will be entitled to pay the 50-euro flat rate during the 12 months following their reincorporation into the workforce, provided that they select the minimum contribution base. If they choose a higher contribution base, they will be entitled to an 80% rebate on their common contingencies contributions for a period of 12 months, calculated using the minimum contribution base, including temporary disability.

This measure will come into force on **1 January 2018**.

**b. Option to register and deregister as self-employed with the Social Security up to a maximum of three times a year, during which time contributions will be paid according to the days worked.**

Workers will be able to register and deregister as self-employed with the Social Security up to three times in the same calendar year, and during the time they are registered they will only pay contributions for the days worked. Thus, they will only pay from the day on which they register as self-employed to the day when they stop self-employment, which means they will not have to pay the whole month.

The deregistration will come into effect on the day that the worker deregisters as self-employed, and the fixed monthly contribution will be divided by 30.

This measure will come into force on **1 January 2018.**

**c. Option of changing the contribution base up to 4 times a year.**

Under these new measures self-employed workers will be able to change their contribution base 4 times a year, whereas previously they could only change it twice. Specifically, they will be able to change it on 1 April, 1 July, 1 October, and 1 January of the following year, provided they present an application to this effect in the preceding quarter, and the changes comply with the limits established by the General State Budgets Act in force.

This measure will come into force on **1 January 2018**.

**d. Option of drawing a full pension and working at the same time.**

Self-employed workers will be entitled to receive 100% of their retirement pension and keep on working, provided that they can show that they have at least one employee.

Until now self-employed workers only received 50% of their pension if they continued working, and this will continue to apply if they do not have any employees.

**e. Accidents on the way to or from work to be classed as work accidents.**

Accidents that occur on the way to or from work are now classed as occupational contingencies, provided that the worker´s contributions include occupational risks. Therefore, if an accident happens on the way to or from the place where the economic or professional activity is performed it is now considered to be a work accident.

In this regard the place of work is defined as the establishment where the self-employed worker habitually carries out their activity, has been declared as such for tax purposes, and is not their home.

**f. The penalty for the late payment of social security contributions reduced for the first month.**

Article 30 of the General Social Security Act has been amended to reduce the penalty for the late payment of social security contributions from 20% to 10%, provided that the contribution is paid in the month following the one in which it should have been paid.

This measure will come into force on **1 January, 2018**.

**g. Half of the excess of contributions to be returned in the case of pluri-employment.**

When self-employed workers also contribute as an employee under the pluri-employment regime, the General Treasury of Social Security (TGSS) will automatically return half of the excess of the contributions paid before 1 May.

Specifically, when a self-employed worker also works as an employee and contributes for common contingencies under a pluri-employment regime, and their total contributions exceed the limits established by the General State Budgets Act in force each year, they will be entitled to a rebate of 50% of the excess. The maximum rebate will be 50% of the common contingencies contributions paid under the Special Tax Regime for Self-Employed Workers.

**Improved measures to promote the reconciliation of working and family life.**

The 12-month 100% rebate on common contingencies contributions for self-employed workers who have children under 7 years old has been extended to include those with **children under the age of 12.**

The 100% rebate on common contingencies contributions for self-employed workers when they are on maternity, paternity, adoption, foster care, high-risk pregnancy, and risk during breastfeeding **leave,** has been extended to include leave for custody for the purpose of adoption.

The rebate is now 100% of the contributions, calculated according to the average contribution base of the self-employed worker over the previous 12 months (up until now it was calculated using the minimum or fixed base). In the case of workers who have been self-employed for less than a year it is calculated from the date on when they register as self-employed.

**h. Rebates on permanent contracts for family members.**

A new 12-month 100% rebate on employer contributions for common contingencies has been introduced for self-employed workers who hire their spouse, ascendants, descendants, or other first-or-second-degree relatives by affinity or consanguinity as employees with a permanent contract.

In order to be eligible for the rebate the following criteria must be complied with: i) the self-employed worker should not have terminated any employment contracts for economic, technical or organisational reasons, should not have dismissed any staff for serious misconduct in a way that has been declared legally inadmissible, and should not have carried out collective redundancies in a way that did not comply with the law during the 12 months before entering into the contract, and; ii) they must maintain the number of employees during the 6 months following the signing of the contract/s. Valid and lawful employment terminations will not be taken into account when applying these criteria.

Improved reductions and rebates for self-employed people with disabilities, and victims of gender violence and terrorism.

The contribution reductions and rebates that people with disabilities, and victims of gender violence or terrorism, are eligible for when registering as self-employed have been improved. The measures in include the following benefits.

The period of time during which self-employed workers in this category must have been deregistered from the Special Tax Regime for Self-Employed Workers, in order to be eligible for these reductions and rebates, will be 3 years when they have previously benefited from them.

When the effective registration date in the Special Regime is not the first day of the calendar month the reductions and rebates will be applied proportionally, according to the days that the person has been registered.

This measure will come into force on **1 January 2018**.

You can find the full text of Act 6/2017, of 24 October, on Urgent Self-Employment Reforms at the following link.

If you would like more information, please contact:

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