

## Employment Update

DGOSS (Directorate-General for Social Security Organisation) criterion of 25 February 2019 on the requirements set out in Royal Decree-Law 20/2018, of 7th December, to continue to apply partial retirement in its regulation prior to the entry into force of Law 27/2011, of 1st August, to pensions caused before 1st January 2023.

4th March 2019

On 8th December 2018, the Royal Decree-Law 20/2018, of 7th December, on urgent measures to boost economic competitiveness in the industry and commerce sector in Spain, published in the Official State Gazette on 7 December, entered into force.

This Royal Decree, among other matters, regulates the possibility of continuing to apply the regulations in force prior to the entry into force of Law 27/2011 of 1 August (in the cases and under the conditions that allowed such continuity as regards its application), establishing a series of additional requirements contained in Article 1; regulations and the possibility of which an Alert was already drawn up on the occasion of the publication of the aforementioned regulation (sent on 14 December 2018).

Given the wording of the aforementioned article and the interpretative doubts that arose on 25th February 2019, the Directorate General for Social Security Organisation ("DGOSS") has issued its Criterion, in order to avoid possible divergent interpretative solutions.

The most common questions are:

- 1.- The partial retirement to which reference is made is that which necessarily requires the **simultaneous conclusion of a replacement contract**.
- 2.- The aforementioned possibility is limited to companies classified as manufacturing industry, understanding for these purposes those whose codes correspond **to group C of the CNAE (national classification of economic Activity) 2009 "Manufacturing industry"**.
- 3.- Workers who can access partial retirement under such conditions must be those whose job requires a **"relevant" physical effort**, or a **high degree of attention**, and must perform the following functions:
  - a.- Manufacturing, working or transformation tasks even if these tasks do not apply to industrial machinery and equipment.
  - b.- Specialized assembly, commissioning, maintenance and repair of industrial machinery and equipment.
- 4.- It must be the **habitual profession**, equating habituality with the performance of some function(s) described in Point 3 above during at least the **12 months prior** to the event causing the partial retirement. In order to accredit this circumstance, the worker who intends to retire partially must provide, together with the application for partial retirement, a certificate from the company, endorsed by the corresponding occupational risk prevention service, according to the annex to the Criterion that is the object of this Update.



5.- Regarding the requirement that the **percentage of workers in the company with a permanent contract exceeds 70 of the total number of workers in its workforce**, it is indicated that:

a.- Under no circumstances will the contracts entered into with those workers who have access to partial retirement be computed.

b.- Exceedance of this threshold must be proven on the date of the event giving rise to the pension and not for the entire duration of the pension.

6.- The contribution base **may not be less than 65 per cent** of the average of the contribution bases corresponding to the last six months of the period of the partial retirement pension regulatory base.

For your information, you can download in [PDF](#) the questions commented.

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