



## REPORT FOR THE PREPARATION OF THE 28TH ANNUAL REPORT ON THE EUROPEAN SOCIAL SECURITY CODE COVERING THE PERIOD FROM 1 JULY 2022 TO 30 JUNE 2023 IN ACCORDANCE WITH ARTICLE 74 OF THE EUROPEAN SOCIAL SECURITY CODE

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Article 74 of the European Convention on Social Security requires Member States of the Council of Europe that have ratified the European Convention on Social Security to submit to the Secretary-General of the Council of Europe an annual report on the implementation of the European Social Security Code.

This year's report is of a general nature and contains the most important changes affecting the European Social Security Code during the reference period, between 1 July 2022 and 30 June 2023.

### I. GENERAL

#### A. Administration/Organisation.

The Spanish Social Security system has just undergone a transformative process supported by the consensus reached in the social dialogue, as well as in the commission of the "Pacto de Toledo" and in accordance with the provisions of the Recovery, Transformation and Resilience Plan that the Kingdom of Spain presented to the European Commission in 2021, which includes a series of investments and reforms to be deployed by Spain between 2021 and 2023.

To carry out these investments and reforms, Spain has defined 10 lever policies that determine the future evolution of the country. Within the lever policy X "Modernisation of the tax system for inclusive and sustainable growth", component 30 "Long-term sustainability of the public pension system under the Toledo Pact", includes 5 reforms to be carried out by Spain before 2023 aimed at ensuring the financial sustainability of the system in the short, medium and long term, maintaining purchasing power, preserving its role in protecting against poverty and ensuring intergenerational equity:

- Completion of the process of separating sources of funding from contributory and non-contributory social security protection.
- Maintenance of the purchasing power of pensions.
- A new system of social security contributions for self-employed workers based on income from economic activity.
- Advance the design of the complement aimed at reducing the gender gap in pensions.
- Reform and boost supplementary pension systems.



- Adequacy of the maximum quotation base of the system.

Chronologically, the first part of this package of reforms corresponds to 2021. On the basis of the consensus reached within the framework of the Toledo Pact and social dialogue, Law 21/2021 of 28 December 2021 on the guarantee of the purchasing power of pensions and other measures to strengthen the financial and social sustainability of the public pension system regained the right to the revaluation of pensions in order to ensure the maintenance of purchasing power, while establishing incentives and measures to promote the extension of working life.

The last block of reforms, which are mainly contained in Royal Decree-Law 2/2023 of 16 March, on urgent measures for the extension of pensioners' rights, the reduction of the gender gap and the establishment of a new framework for the sustainability of the public pension system, have as fundamental objective an important strengthening of the financial capacity of the system in order to establish the basis for ensuring the sustainability of the system in the next 30 years. Without forgetting the commitment to the fairness and sufficiency of pensions, so that measures such as the strengthening of the institution of minimum pensions are also included, setting an objective benchmark to mark the future evolution of the amounts of the various modalities with minimums in order to preserve the objective of sufficiency and poverty reduction. For this purpose, the revised text of the General Law on Social Security (hereinafter TRLGSS) introduces a new additional provision fifty-third that progressively increases since 2024 the minimum contributory retirement pension whose holder is over 65 years old and has a dependent spouse, with the aim that in 2027 it cannot be lower than the poverty threshold calculated for a household composed of two adults. In addition, the minimum widow's pensions are to be brought into line from 2024 with family charges, pensions with dependent spouses, except total permanent incapacity whose holders are under 60 years old, to the amount of the aforementioned retirement pension. The remaining minimum pensions shall be increased annually by a percentage equivalent to 50 % of the percentages applied to the pensions mentioned above.

Between these two blocks of reforms included in Law 21/2021 of 28 December and Royal Decree-Law 2/2023 of 16 March, two other rules have been approved with a strong reformist character:

- law 12/2022 of 30 June on regulation for the promotion of occupational pension schemes,
- and Royal Decree-Law 13/2022, of 26 July, establishing a new contribution system for self-employed or self-employed workers and improving the protection against cessation of activity.

Law 8/2021 of 2 June 2021 amending civil and procedural legislation for the support of persons with disabilities in the exercise of their legal capacity has abolished judicial incapacitation from the TRLGSS and replaced it with various measures to support legal capacity. In this way, some articles such as the one on orphans' pensions are amended to replace the references to "persons with modified judicial capacity" with "persons of legal



age with measures to support their legal capacity". Other references to the legal capacity to be a beneficiary of an economic benefit have also been amended.

## II. HEALTHCARE

### A. Changes made.

#### 1) Health coverage

No changes have been made.

#### 2) Concretion and updating of the service portfolio

Although no legislative amendments have been made in this area during this period, if the following draft Update Orders have been initiated:

- Work has been done on updating the common portfolio of services of the National Health System (SNS) based on criteria of effectiveness and efficiency and through the evaluation of techniques, technologies and procedures carried out by the Spanish Network of Agencies for the Evaluation of Health Technologies and Provisions of the SNS and the criteria of experts in the corresponding areas.
- A draft Order updating the common portfolio of services of the SNS is in the final stages of the processing process, which aims to:
  - a) Update the pathologies included in the program of neonatal screening of endocrine-metabolic diseases with the inclusion of biotinidase deficiency, urine disease smelling maple syrup, homocystinuria and congenital adrenal hyperplasia.
  - b) Specify neonatal screening of hearing loss, prenatal screening of chromosomal abnormalities and infectious diseases
  - c) Specify and expand the common portfolio of oral health care services.
  - d) Update the common portfolio of services in the area of genetics.
  - e) Include funding for home enteral nutrition for patients with advanced chronic kidney disease on haemodialysis.
  - f) Clarify the criteria collected for the financing of the eye reader or other communication system for patients with severe neuromotor disorders.
  - g) Harmonise in accordance with public funding within the pharmaceutical provision the indications of radiopharmaceuticals used in PET and PET-TC, included in the section on nuclear diagnostic and therapeutic medicine in the common portfolio of services.
  - h) Update the conditions of use of the endobronchial valve for patients with persistent aerial leakage and the percutaneous repair system of the mitral valve by clip in the common catalog of surgical implants after the completion of the corresponding monitoring studies.
- Likewise, and in compliance with the objectives of the Primary and Community Care Plan, approved by the Interterritorial Council of the SNS at the plenary session of 15



December 2021, a new draft update order has been initiated with the following objectives:

- a) Updating the common portfolio of primary care services, in particular with regard to the indication and implementation of diagnostic procedures in this area, in line with the reorientation necessary to increase its resolution capacity.
- b) Expansion and development of the community care service of the common basic primary care portfolio.
- c) Express incorporation into the portfolio of services of the new modalities of non-face-to-face care.

B. Changes decided, planned or proposed in the reference period.

**Health coverage**

Following the experience accumulated in the application of *Royal Decree-Law 7/2018, of 27 July, regarding universal access to the National Health System*, the Council of Ministers approved on 14 June 2022 the draft law amending various rules to consolidate the equity, universality and cohesion of the National Health System, and which is currently in the process of tabling amendments by the different parliamentary groups in the Health and Consumer Affairs Commission of the Congress of Deputies.

The draft law amends *Law 16/2003 of 28 May 2003 on cohesion and quality of the SNS* with the following objectives in relation to the protection of the right to health and health care.

- The rights to health protection and health care of persons with Spanish nationality residing abroad, temporarily displaced to Spanish territory and accompanying relatives, are extended when they do not have such coverage in accordance with the provisions of the Community regulations on the coordination of social security systems or bilateral agreements covering the provision of health care.
- The rights to health protection and health care are extended to ascendants regrouped by their daughter/son who holds the right to health care in the National Health System, when they are in their care and provided that there is no third party obliged to pay for such care.
- In addition, they shall have the right to health protection and health care under the same conditions as persons entitled to the right during their stay in Spain:
  - ✓ persons seeking international protection,
  - ✓ applicants and beneficiaries of temporary protection,
  - ✓ victims of trafficking in human beings or sexual exploitation, in accordance with the provisions of the Organic Law on Aliens and Royal Decree 6/2022 of 29 March adopting urgent measures within the framework of the National Plan for Response to the Economic and Social Consequences of the War in Ukraine; and



- ✓ persons not registered or authorised as residents of Spain.

### **Concretion and updating of the portfolio of services.**

#### *Common core portfolio of care services.*

The draft law amending various rules to strengthen the equity, universality and cohesion of the National Health System amends Law 16/2003 of 28 May 2003 on cohesion and quality of the National Health System with the following objectives in relation to the common basic portfolio of care services:

- The single common portfolio of services is recovered, consolidating the common core portfolio of care services, the supplementary common portfolio and the common portfolio of ancillary services.
- It clarifies the inclusion and belonging to the common portfolio of SNS services of health-enhancing benefits from a population perspective, i.e. public health benefits.
- Within the provision of specialised care, precision, personalised, predictive and participatory medicine is concrete, which is focused on the characteristics of each patient to adopt a more effective and personalised way the diagnosis and therapeutic or preventive measures.
- It is guaranteed that no new sanitary co-payments can be introduced.
- It is specified, in terms of the provision of specialised and socio-health care, that rehabilitation in patients with functional deficits is aimed at facilitating, maintaining or returning to the patient the highest degree of functional capacity and independence, with the aim of reintegrating him into his usual environment.

This bill also amends Royal Decree 1506/2012 of 2 November 2012 regulating the supplementary common portfolio of orthoprosthesis provision of the SNS and laying down the basis for the establishment of the maximum amounts of financing for orthoprosthesis benefits, in order to establish the necessary guarantees to ensure that the orthoprosthesis contribution of persons who require orthoprosthesis products is not higher than the current one, and determines the persons who are excluded from contribution to the orthoprosthesis and pharmaceutical benefit:

- Persons benefiting from the minimum living income.
- Minors with a recognised degree of disability equal to or greater than 33 %.
- Persons receiving the financial benefit of the SS per child or minor in permanent foster care or foster care for the purpose of adoption.
- Pensioners of the SS, whose annual income is less than EUR 5,635, and those who, if they are not required to file the income tax return, receive an annual income of less than EUR 11,200.

### **Health Cohesion Fund.**



Work is under way on a Ministerial Order updating Annexes I, II and III regulating compensation costs at national level for hospitalisation processes, outpatient procedures and centres, services and reference units (CSURs) of the National Health System (NHS), taking into account the incorporation of new CSURs into the NHS.

#### 4) Centres, Services, NHS Reference Units (CSURs) and European Reference Networks (ERNs).

Since 1 January 2022, Spain has full-fledged centres in all ERNs (110 units-CSUR from 28 health centres, located in 10 different Autonomous Communities). In addition, the ERN for child transplantation (Transplant-Child) is coordinated by a Spanish center (La Paz University Hospital of Madrid).

Currently, work is under way to adapt the care model that the CSURs must provide, integrating with other CSURs, with the centers that usually care for the patient and with those who participate in the European Reference Networks (ERN).

Since 1 January 2022, the procedure for referral of NHS patients to ERNs came into operation, through the tool that was already available at national level for the referral of patients between Autonomous Communities. Likewise, the Ministry of Health is developing the Patient Care Network Platform that aims to improve care and encourage communication and coordination between professionals at the various levels of care of the NHS who care for patients who require health care in the CSURs.

### III. SICKNESS BENEFITS.

#### **Temporary disability control.**

Royal Decree-Law 2/2023, of 16 March, on urgent measures for the extension of pensioners' rights, the reduction of the gender gap and the establishment of a new framework for the sustainability of the public pension system (<https://www.boe.es/eli/es/rdl/2023/03/16/2/con>), introduces amendments to Chapter V of Title II of the consolidated text of the General Law on Social Security, which regulates temporary incapacity in the General Social Security Scheme.

Among the various modifications there is one that can be considered substantial and relates to the powers of control of temporary incapacity processes. With the new amendment, from day 365, the managing body will exercise the aforementioned competence through its



medical inspection in the same way that it exercises it during the first 365 days, without intervention, as before, of the competent bodies to evaluate, qualify and review the situation of permanent incapacity of the worker, the disability assessment teams (EVIS) or equivalent bodies in Catalonia. According to the explanatory memorandum of the rule, the need for health care and impediment to work does not imply for its verification a technical and legal qualification that requires the participation of professionals other than the medical practitioner.

As a result, the initiation of the IP file is articulated through the issuance of a medical discharge with a proposal of permanent disability and not by resolution of the INSS.

It is also pointed out that the exhaustion of the period of 365 days without issuing medical discharge implies the automatic transition to the extension of IT, without the need for an express declaration, thus simplifying and clarifying the management, as the need for an express declaration of the extension, after assessment of the EVI, which to date was articulated through a resolution disappears.

### **New special situations of temporary disability due to common contingencies.**

Organic Law 1/2023, of 28 February, amending Organic Law 2/2010 of 3 March 2010 on sexual and reproductive health and the voluntary termination of pregnancy (<https://www.boe.es/eli/es/lo/2023/02/28/1/con>), which aims to introduce into the legal system the necessary adaptations to ensure the effective enforcement of women's sexual and reproductive rights, expressly recognises 3 new situations that will be considered a special situation of temporary disability due to common contingencies, amending, therefore, the consolidated text of the General Law on Social Security, approved by Royal Legislative Decree 8/2015 of 30 October 2015.

The three new special situations of temporary disability due to common contingencies are:

- The absence of work in which the woman may be in case of secondary incapacitating menstruation or secondary dysmenorrhea associated with pathologies such as endometriosis, myomas, pelvic inflammatory disease, adenomyosis, endometrial polyps, polycystic ovaries, or difficulty in the release of menstrual blood of any type, which may involve symptoms such as dyspareunia, dysuria, infertility, or bleeding more abundant than normal, among others. It is about giving adequate regulation to this pathological situation in order to eliminate any type of negative bias in the workplace.
- Leave of work due to termination of pregnancy, voluntary or not, while receiving health care by the Public Health Service and prevented from work. Without prejudice



to cases where the termination of pregnancy is due to an accident at work or occupational disease, in which case it will be considered a situation of temporary incapacity for occupational contingencies.

- The labor loss produced, from the first day of the thirty-ninth week of gestation until childbirth, as a result of the advanced gestation state.

#### **Suppression of the delivery of the registered part of the worker.**

Royal Decree 625/2014 of 18 July 2014 regulating certain aspects of the management and control of temporary incapacity processes in the first three hundred and sixty-five days of their duration, as well as the rule implementing it, Order ESS/1187/2015, of 15 June, is amended.

That amendment is made, in particular, by the abolition of the delivery to the worker, by the doctor who issues the medical discharge, confirmation and medical discharge, of a paper copy of them intended for the undertaking and the corresponding obligation to submit it to the company within a specified period. This is replaced by the timely communication of the discharge, confirmation and registration directly by the administration to the company, as well as the transmission of the latter to the Social Security Administration of the additional data required for the management of the benefit and the compensation in the contribution, where appropriate, of the amount paid in delegated payment.

Royal Decree 625/2014, of 18 July, is amended by Royal Decree 1060/2022 of 27 December (<https://www.boe.es/eli/es/rd/2022/12/27/1060>). And this is because, thanks to the current degree of development of the computer systems, it is possible to dispense with the delivery to the worker of the paper copy of the medical part intended for the company and its presentation by that part to the company, therefore, with the aim of achieving a greater degree of effectiveness and efficiency, and avoiding bureaucratic obligations to the worker who, precisely because he is temporarily incapacitated, can be burdensome. the delivery to the working person by the physician who issues the medical discharge, confirmation and medical discharge, of a copy of these to the company, and the corresponding obligation to submit them to the company by the working person within a specified period shall be deleted. To this end, it also regulates the actions and communications that, as a result of that deletion, are precise, which entered into force on 1 April 2023.

#### **IV. UNEMPLOYMENT BENEFITS**





Royal Decree-Law 13/2022, of 26 July, establishing a new contribution system for self-employed or self-employed workers and improving the protection against cessation of activity, extends the cases in which it can be understood that there are economic, technical, productive or organisational reasons determining the failure to continue the economic or professional activity, assuming a legal situation of cessation of activity:

- The reduction of 60 % of the working hours of all the employees of the undertaking or the temporary suspension of the contracts of 60 % of the workforce, provided that it is established that the two fiscal quarters prior to the application submitted to the tax administration, the level of ordinary income or sales has experienced a reduction of 75 % of those registered in the same periods of the previous financial year or years and, in the case of self-employed workers, that their monthly net income during those quarters, for all economic, business or professional activities carried out, do not reach the amount of the minimum interprofessional salary or the base for which they came contributing, if this is lower.
- In the case of self-employed workers who do not have employees, the maintenance of debts due to creditors whose amount exceeds 150 % of ordinary income or sales during the two fiscal quarters prior to the request, and that these income or sales in turn represent a reduction of 75 % compared to that recorded in the same periods of the previous financial year or years. For this purpose, the debts that for non-compliance with its obligations with the Social Security or with the Tax Administration will not be counted.

It shall also be required that the monthly net income of the self-employed person during those quarters, for all the economic or professional activities he carries out, does not reach the amount of the minimum wage between the profession or that of the base for which he came contributing, whichever is lower. For this purpose, the debts that for non-compliance with its obligations with the Social Security or with the Tax Administration will not be counted.

Royal Decree-Law 32/2021, of 28 December, on urgent measures for labour reform, guaranteeing stability in employment and the transformation of the labour market, introduces in the TRLGSS an additional provision forty-first regulating the provision of sustainability and maintenance of employment.

When, in accordance with the provisions of Article 47a of Royal Legislative Decree 2/2015, of 23 October, approving the consolidated text of the Workers' Statute, by agreement of the Council of Ministers, the RED Mechanism for Flexibility and Stabilisation of Employment is activated, and the companies concerned obtain authorisation from the Labour Authority for its application, they may reduce the working time or suspend the employment contracts of the workers, and they can access the sustainability and maintenance of employment (RED) benefits.

When, in accordance with the provisions of Article 47a of Royal Legislative Decree 2/2015 of 23 October 2015 approving the consolidated text of the Workers' Statute Act, by agreement of the Council of Ministers, the RED Mechanism is activated and companies affected by a



macroeconomic situation that requires additional measures, or that belong to sectors that need requalification processes, obtain authorisation from the labour authority, may reduce the working time or suspend the employment contracts of workers, and they can access the sustainability and maintenance of employment (RED) benefit, without it being necessary to prove a minimum period of contribution to social security. The duration of this benefit shall be extended, at the latest, until the end of the period of application of the RED Facility in the company.

### **Amount of unemployment benefit.**

Law 31/2022, of 23 December, on the General State Budget for 2023, improves the unemployment benefit by increasing the percentage to be applied on the regulatory basis from day 180, which was previously 50 %, becoming 60 %.

### **Unemployment benefit for domestic workers.**

Royal Decree-Law 16/2022, of 6 September, on the improvement of working and social security conditions for domestic workers, aims to equate the working and social security conditions of family domestic workers with those of other employed persons, ruling out those differences which, not only do not respond to justified reasons, but also place this group of workers at a particular disadvantage and may therefore be discriminatory.

In its third article, it sets out the necessary legislative amendments to establish the equality in the field of social security between domestic workers and other employed persons.

Article 251 (deleting point (d)) is amended to include unemployment protection in the protective action of domestic workers and therefore makes unemployment contribution compulsory for this sector.

Domestic workers are the only unprotected working group, when most find their occupation in part-time and intermittent jobs, who often face a sudden termination of their work due to the death of their employers and a special termination regime that allows arbitrary and untimely dismissals, without any objective justification. In this context of particular vulnerability, the provision of unemployment is, from the perspective of social justice, an unavoidable necessity.

the judgment of the High Court of Justice of the European Union of 24 February 2022 has established that domestic workers cannot be deprived of their right to pay contributions for unemployment, and that provision must therefore be removed from the social security system that workers in this sector of activity are excluded from the unemployment benefit provided for in Article 251 (d) of the TRLGSS. Once this section is deleted, the unemployment benefit will be part of the protective action of the special system of domestic employees and, therefore, the unemployment contribution will be mandatory.



### **Unemployment and/or agrarian income benefit for farm workers of a temporary nature.**

Royal Decree-Law 18/2022 of 10 October 2022 approving measures for the protection of potential agricultural workers affected by drought decreases from 35 to 10 the minimum of actual working days in the Special System of Workers on Agriculture Sector on the 12 months preceding the legal situation of unemployment.

### **Improving the social protection of artists.**

Royal Decree Law 1/2023 of 10 January adds to the TRLGSS an additional fifty-first provision governing a special unemployment benefit for workers subject to a special employment relationship of persons engaged in artistic activities, as well as the technical and ancillary activities necessary for its development that meet the requirements of the above-mentioned additional provision. It will last 120 days and its amount will be equivalent to 80 % of the Public Indicator of Multiple Effect Income (IPREM) monthly in force at all times, except when the daily average of the worker's contribution bases in the last 60 days of work is greater than EUR 60, in which case the amount of the benefit will be equivalent to 100 % of the IPREM.

### **Unemployment benefits regulations planned for publication in the BOE this year.** **Simplification of the level of care of unemployment benefits.**

The objective of the proposed proposal is to simplify and improve the framework of care-level unemployment protection by creating a supplementary benefit to the Contributory Unemployment Benefit and in the framework of Reform 10 of Component 23: new public policies for a dynamic, resilient and inclusive labour market.

The objectives of the reform are to:

- Extending unemployment protection, eliminating gaps in the current system and unifying the duration of allowances;
- Simplifying the system, currently fragmented into several schemes;
- Link the benefit to a personalised activation pathway for employment;
- Supplementing the protective action with a complementary monthly support compatible with work, linked to the dynamics of the subsidy and the return to the labour market;
- Facilitate the transition to social protection, where the beneficiary does not rejoin the labour market and is in a vulnerable situation.

### **Capitalisation of unemployment benefit.**

Law 16/2022, of 5 September, on the reform of the consolidated text of the Bankruptcy Law, approved by Royal Legislative Decree 1/2020, of May 5, in its eighth final provision, Article 10 bis is incorporated into Law 5/2011 on social economy. This includes the capitalisation of the unemployment benefit for the acquisition of the status of a working company or



transformation into a cooperative by commercial companies in competition. In order to carry out this capitalisation, all the general conditions for access to the contributory benefit must be met except that relating to the legal unemployment status.

## V. OLD-AGE BENEFITS.

### **Recognition of the time of provision of social service for women in access to the partial retirement pension.**

Law 24/2022, of 25 November, for the effective recognition of the time of provision of the social service of women in the access to the partial retirement pension, amends Article 215.2 of the TRLGSS.

Law 21/2021 of 28 December 2021 on the guarantee of the purchasing power of pensions and other measures to strengthen the financial and social sustainability of the public pension system amended Articles 207(1)(c) and 208.1(b) of the TRLGSS in order to establish the minimum effective contribution period required for access to early retirement for reasons not attributable to the worker and early retirement at will of the person concerned, respectively. This legislative progress, as regards early retirement, in relation to the principle of equal treatment between men and women did not apply to partial retirement. For this reason, through Law 24/2022 of 25 November, female social service is granted the same effects on access to partial retirement as on access to early retirement.

### **Compatibility for 3 years of receipt of the contributory retirement pension with the work of primary care physicians.**

Royal Decree-Law 20/2022, of 27 December, on measures to respond to the economic and social consequences of the Ukrainian War and to support the reconstruction of the island of La Palma and other situations of vulnerability, introduces a transitional provision, the 35th, in the TRLGSS, which allows, within three years of the entry into force of this transitional provision, primary care physicians, family doctors and paediatricians, seconded to the National Health System with statutory appointment or official may continue to carry out their duties during the extension in active service and, at the same time, access to retirement by receiving 75 % of the amount resulting in the initial recognition of the pension, after applying, where appropriate, the maximum limit of public pension.

### **New way to calculate the regulatory basis for retirement pensions.**

Royal Decree-Law 2/2023 of 16 March on urgent measures for the extension of pensioners' rights, the reduction of the gender gap and the establishment of a new framework for the sustainability of the public pension system extends the period to be taken into account for the calculation of the regulatory basis of the retirement pension to 27 years. These 27 years



must be included within the last 29 years prior to the month preceding that of the event giving rise. Of these 29 years, the 324 bases of contributions of the highest amount of the whole period are selected ex officio, for which first the monthly payments in which there has been no obligation to quote are included and, subsequently, the contribution bases of the period are updated according to the evolution of the Consumer Price Index, except for those corresponding to the 24 months preceding the month preceding the month preceding the month preceding that of the event giving rise, which are taken into account in their nominal value. This new regulation will enter into force on 1 January 2026 and a gradual implementation is foreseen until 2037.

### **Integration of gaps.**

Royal Decree-Law 2/2023, of 16 March, adds a new paragraph to Article 322 of the TRLGSS, which regulates the amount of the retirement pension, in order to improve the technique of integrating gaps in the Special Social Security Scheme of self-employed workers, so that in cases where in the period to be taken for the calculation of the regulatory base they appear, after the termination of the economic benefit for cessation of activity, periods during which there was no obligation to contribute, the contribution gaps of the following six months of each of those periods shall be integrated with the minimum basis of the general table of this special scheme.

This rule also incorporates, from 1 January 2026, and until the gender gap in pensions is below 5 %, an improved system of integration of gaps in the calculation of women's pensions, and of men who qualify for recognition of the supplement for the reduction of the gender gap, consisting of increasing the percentage of the minimum base of the General Scheme with which non-listed monthly payments are integrated, from 48, which is generally 50 %, to 100 % from the 49th monthly amount not paid to the 60th, and 80 % from the 61st to the 84th.

## **VI. BENEFITS IN THE EVENT OF AN ACCIDENT AT WORK AND OCCUPATIONAL DISEASE.**

There is no significant legislative amendment.

## **VII. FAMILY BENEFITS.**

Although Spain has not ratified this part of the European Social Security Code, it is important to note that Royal Decree-Law 2/2023, of 16 March, on urgent measures for the extension of pensioners' rights, the reduction of the gender gap and the establishment of a new framework for the sustainability of the public pension system, improves family benefits in the form of contributions. To this end, it amends paragraphs 2 and 3 of Article 237 of the TRLGSS, so that the period considered to be contributions for the purposes of social security benefits for retirement, IP, death and survival, birth and child care is extended to three years in respect of periods of leave for the care of family members, as well as the periods of reduction of working hours leading to a 100 % increase in eligible contributions.



## VIII. MATERNITY BENEFITS.

### **Regulatory basis for the child's birth and care allowance.**

Royal Decree-Law 13/2022, of 26 July, establishing a new system of contribution for self-employed or self-employed workers and improving the protection against cessation of activity, amends Article 179 of the TRLGSS, in order to give a new regulation to the financial benefit for the birth and childcare of employed persons, in cases where, due to a change in the working situation of the worker, it is not possible to determine the regulatory basis in the terms provided, establishing that this basis shall be equivalent to the basis of contributions for common contingencies corresponding to the month immediately preceding the start of rest or leave for birth and childcare.

As a general rule, according to the new Article 179(1), the basis for the contribution for common contingencies for the month immediately preceding the month preceding the month preceding that of the event giving rise (not that of the previous month, as in IT), divided by the number of days to which that contribution relates. Where the worker receives monthly remuneration and has remained registered in the undertaking throughout the calendar month, the corresponding contribution base shall be divided by 30.

Previously, as mentioned above, the regulatory basis was the basis of quotation for the month immediately preceding the event giving rise. Since the basis of the regulation was referred to the last basis of contributions of the worker involved, in many cases, being unaware of the amount that served as the basis for calculating the amount to be paid and, therefore, and in the absence of the corresponding information for the exact calculation of the financial benefit at the time of its determination, it was necessary to issue, in most situations, a provisional decision for the estimated amount, which became final when the actual amount of the contribution base of the previous month of the worker was known. Generally, the difference between the amount resulting from the subsidy and the amount initially calculated was minimal, but which, if lower than the amount received, involved initiating the appropriate debt claim file.

This situation hindered the processing and management of the benefit, making it more feasible and timely, as in the calculation of retirement pensions and IP pensions derived from common contingencies, to take as a reference the previous penultimate contribution base for the purposes of its calculation.

However, as problems could arise in cases in which the worker has changes in his employment situation in the months prior to leaving for birth and child care, it has been considered feasible to maintain, for these situations, the regulation in similar terms to the previous ones, that is, to maintain the provisional calculation of the amount of the benefit and to determine the amount in relation to the contribution base of the month prior to that of the event causing it. Therefore, if the worker has entered the company in the month preceding that of the event giving rise, for the calculation of the regulatory basis, the basis



of contributions for common contingencies corresponding to the month immediately preceding the start of the rest or leave for birth and child care shall be taken. And if the worker had entered the company in the same month as the event giving rise, for the calculation of the regulatory base the basis of contribution for common contingencies of that month will be taken.

### **Childcare allowance for children affected by cancer or other serious illness.**

Royal Decree-Law 2/2023 of 16 March on urgent measures for the extension of pensioners' rights, the reduction of the gender gap and the establishment of a new framework for the sustainability of the public pension system. Paragraphs 20,21 and 22 of this Royal Decree-Law amend the articles that make up Chapter X Care of children affected by cancer or other serious illness of Title II of the TRLGSS, extending the benefit until the age of 23 in case of persisting cancer or serious illness diagnosed previously and the need for hospitalisation, treatment and care persists during this period. Likewise, the benefit will be maintained until the age of 26 if, before reaching the age of 23, a degree of disability equal to or greater than 65 % is credited.

At the same time, the final stubborn provision<sup>3</sup> of the RD-Law amends Royal Legislative Decree 2/2015, of 23 October, approving the consolidated text of the Workers' Statute so that leave for the care of children affected by cancer or other serious illness can also be recognised up to the age of 23 or until 26 under the conditions indicated in the previous paragraph.

It is allowed that in cases of termination of a de facto partner or when it is proven to be a victim of gender-based violence, the parent who lives with the sick person, may reduce his working day.

The requirements for access to the financial benefit are relaxed in cases of nullity, separation, divorce or termination of the partnership constituted under the terms of article 221, as well as when the status of victim of gender-based violence is established, since it recognises the right in favor of the parent, keeper or welcoming who lives with the sick person, even if the other does not work, provided that he proves the required requirements.

### **IX. INVALIDITY BENEFITS.**

There are no substantial changes in the reference period.

### **X. SURVIVOR'S BENEFITS.**

There are no substantial changes in the reference period.

### **XI. FINANCING**



In Law 31/2022, of December 23, on General State Budgets for the year 2023, the financial aid received by the Social Security Administration of the General State Budget is indicated.

Following the purpose of the **thirty-second additional provision** of the consolidated text of the General Law on Social Security, in the State Budgets for 2023, transfers from the State to the Social Security budgets will be made, in compliance with the first recommendation of the Toledo Pact 2020 on the separation of sources of financing that seeks that non-contributory and universal benefits are financed by contributions from the State. The amounts of transfers are specified in **Article 12 Four of Law 31/2022, of December 23, on General State Budgets for 2023.**

The **third additional provision** of the Law on General State Budgets for 2023 provides for the State to grant a loan of up to EUR 10.003.806.15 thousand to the Social Security Treasury in order to provide adequate coverage for social security obligations and to enable the budgetary balance of the same, the cancellation of which will take place within a maximum period of ten years from 1 January of the year following its granting.