

guide

No. 4

workplace rights for

domestic

workers

covid-19

Updated on 1 April, 2020



COMARCAL SUR
MADRID



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1 April, 2020.

Includes the specific measures for domestic employees from the *Royal Decree-Law 10/2020 of the 29th of March*.

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26 March, 2020.

This updated guide includes all of the provisional regulations from the *Royal Decree-Law 8/2020 of the 17th of March*, which are urgent extraordinary measures to help face the social and economic impact of Covid-19, and any updates that the government passes during the course of the state of emergency.

Guide No. 4 Workplace rights for domestic workers©

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Contents

4 DO THE NEW MEASURES ANNOUNCED BY THE GOVERNMENT AFFECT ME AS A DOMESTIC WORKER?

TERMINATION OF EMPLOYMENT

- 4 Can they decide they don't need me anymore and fire me?
- 4 Can they apply a temporary redundancy (ERTE)?
- 5 Can they tell me to leave and that they will call me back when this situation is over?

5 CHANGES TO YOUR WORKING CONDITIONS

- 6 Can they change my schedule?
- 6 Can they change the location of my workplace?
- 6 Can they make me take vacation time?

8 THE SPECIAL BENEFITS FOR DOMESTIC WORKERS

- 8 What requirements do I need to meet?
- 8 How much will I receive?
- 9 For how long can I receive the benefits?
- 9 How do I apply for the benefits?
- 9 How long do I have to apply for the benefits?
- 9 Compatibility of the special benefits
- 9 Incompatibilities of the special benefits

10 UNEMPLOYMENT INSURANCE

- 10 Can I receive unemployment benefits if I get fired?

10 RECONCILIATION AND REDUCTION OF HOURS

- 10 Can I ask for a reduction of my hours or a modification to my schedule so that I can care for family members?

11 WORKPLACE HEALTH AND SAFETY

- 11 Does my employer have to follow the measures outlined in Workplace Risk Prevention regulations to prevent possible infections?
- What happens if I get sick?

GUIDE for Domestic Workers

COVID-19 Emergency

1. ¿DO THE NEW MEASURES ANNOUNCED BY THE GOVERNMENT AFFECT ME AS A DOMESTIC WORKER?

The measures announced by the government in the *Royal Decree-Law 8/2020 of the 17th of March: extraordinary measures to address the economic and social impact of COVID-19* did not include any measures specifically for domestic workers. Due to strong pressure from unions and social movements, however, the government modified these measures with a special benefit program for domestic workers. We have included these measures in the updated version of this document.

2. TERMINATION OF EMPLOYMENT

Can they decide they don't need me anymore and fire me?

Yes. Unfortunately your employer can fire you if they decide that they no longer need the services of a domestic worker that you were hired for, ending your contract. This is unique to the contracts of domestic workers, and allows your employer to fire you simply if they no longer need your services, which can result from many situations: the

insist that your employer communicate any modifications to your working conditions in writing, especially if you are being fired

family may be in a bad economic situation, maybe a member of the family is on a temporary redundancy (ERTE) and is now around the house and no longer needs the services of a domestic worker, etc.

They need to comply with the following requirements:

- Give you a written communication clearly stating that the contract is ending. They need to give you at least 20 days notice if you have worked for them for more than one year, or at least 7 days notice if you have worked less than a year (they must pay your salary for those days if they give shorter notice).

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- They must pay your severance in cash. If the work contract was signed after 01/01/2012, the severance pay should be 12 days of salary per year of employment. If the contract is from before 01/01/2012, the severance pay would be 7 days of salary per year of employment. In either case, maximum amount of the severance pay is 6 months salary.

Can they apply a temporary redundancy (ERTE)?

No. Your employer cannot apply temporary redundancy (ERTE) to you. The acceptable reasons for temporary redundancies (ERTEs) do not apply to the special regulations for domestic workers. There cannot be a suspension or a reduction of hours due to force majeure or for objective reasons (economic, productive, organizational or technical). In this case, since your boss is a person, not a company, the necessary conditions for a temporary redundancy (ERTE) do not apply.

So they cannot use this method to reduce your hours or suspend your work.

Can they tell me to leave and that they will call me back when this situation is over?

As explained above, they cannot apply temporary redundancy (ERTE) and suspend the contract with the excuse of the Covid-19 situation.

The terms of employment can be suspended by mutual agreement, if you make an agreement with your employer. In this case, it is best to put in writing when the suspension will start and when it will end and you will return to work. Agreeing to a suspension could be a way to avoid being fired, if the employer decides that they don't need you for the duration of the Covid-19 crisis.

The employer can also suspend the contract unilaterally if they have just cause, which would depend on the details of each case. Insist that they give you the suspension and the reason in writing, so that you can determine if it was justified or not.

GUIDE for Domestic Workers

COVID-19 Emergency

3. CHANGES TO YOUR WORKING CONDITIONS

Can they change my schedule?

No, they cannot freely change your schedule, either to increase your hours or reduce them.

You can mutually agree to a change, if you consent to it. In this case, we recommend that you make the agreement in writing in order to be clear about the new hours and whether the change is temporary or permanent.

If they unilaterally change your hours, we recommend that you gather proof of the changes, so that you are able to take legal action if necessary.

Can they change the location of my workplace?

No, they cannot change your work location unilaterally. Maybe your employer has decided to travel to a second home or some similar situation and is demanding that you go with them or that you commute to this new house. If the move is temporary, you can ask for a suspension of employment for the duration of the move.

you cannot be required to take your vacation time with the excuse of the coronavirus

If the move is permanent or if they do not agree to a suspension, you have the right not to accept the change if the new work location would require you to move houses. In this case, you can end the employment with the right to the same severance pay as if your employer had fired you. (See the point Can they decide they don't need me anymore and fire me?)

It is important to understand that if there is a change in location and you continue to work for 7 days, it is understood that you have consented to the move. So it is important to indicate that you do not accept it before 7 days have passed.

¿Can they make me take vacation time?

No, they can't send you on vacation because of the coronavirus crisis.

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Vacation time has to be agreed on by both parties, and if there is no agreement the employer picks half of the days and you pick the other half, but they have to advise you of your vacation days at least 2 months in advance.

If you sign a written agreement to take vacation time now, it will be difficult to contest it later. If your employer is trying to force you to take your vacation time, ask for it in writing so that you are able to take any appropriate legal action.

So it is important to indicate that you do not accept it before 7 days have passed

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GUIDE for Domestic Workers

COVID-19 Emergency

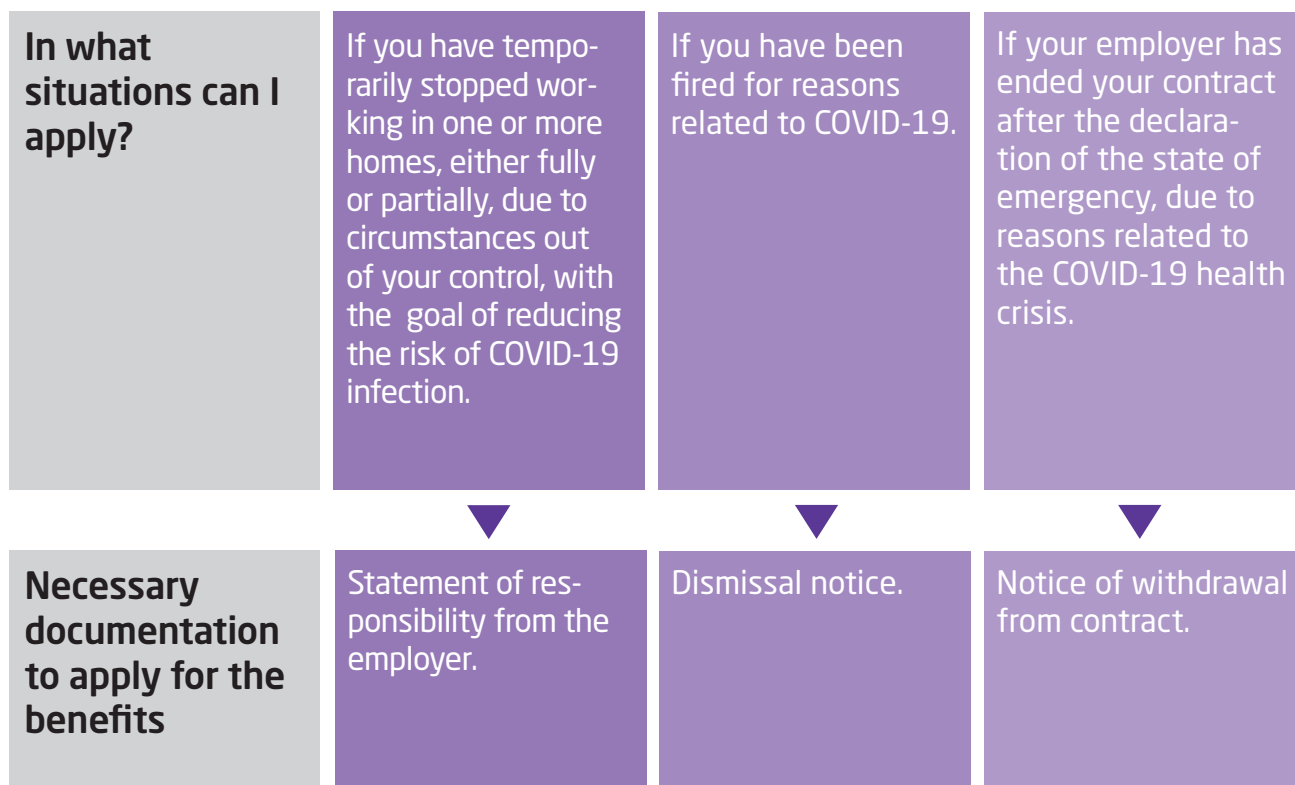
4. THE SPECIAL BENEFITS FOR DOMESTIC WORKERS

What requirements do I need to meet?

You must have been registered in the Special System for Domestic Employees in the General Social Security Scheme before the declaration of the state of emergency.

portion in the case of a reduction of hours). The total amount cannot be greater than the minimum interprofessional salary, excluding the proportional part of bonus pay.

With a single employer, the daily contribution basis is the contribution basis for the domestic employee corresponding to the month prior to the temporary stoppage (full or



How much will I receive?

You will receive 70% of the contribution basis corresponding to the work activities that you have stopped performing (or the corresponding

partial), termination, or withdrawal from the contract, divided by 30 days.

With multiple employers, the daily contribution basis is obtained by calculating the contribution bases for

Applicable labor laws

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the previous month for each of the jobs that you have stopped (or the proportional amount in the case of a partial stoppage), taking 70% of each basis, and adding up the total sum to find the total amount of the benefits.

The payment will be monthly starting from the date of the stoppage, firing, or termination of contract.

For how long can I receive the benefits?

The benefits will take effect starting from the moment that your work ends temporarily, you are fired, or your contract is ended by the employer due to the COVID-19 health crisis.

The benefits will continue for up to one month after the expiration of the declaration of the state of emergency or its extensions.

How do I apply for the benefits?

The SEPE (National Public Employment Service) has one month to establish how to process applications for the subsidy, the forms that need to be used, and the time limits for applications.

How long do I have to apply for the benefits?

Once the SEPE (National Public Employment Service) has established how to process the benefits, they will announce the time limits for applications.

Compatibility of the special benefits

These benefits are compatible with any payments that you are already receiving when you apply for the benefits either from employers (under any Social Security System) or as a freelancer, as long as the total income from the benefits and other sources is not greater than the Minimum Interprofessional Salary.

Incompatibilities of the special benefits

You cannot receive these benefits if you are already receiving benefits for temporary disability, or the recoverable paid time off for workers who are not providing essential services due to COVID-19.

GUIDE for Domestic Workers

COVID-19 Emergency

5. UNEMPLOYMENT INSURANCE

Can I receive unemployment benefits if I get fired?

Unfortunately, as a domestic employee you do not pay into the unemployment fund, so time spent working as a domestic employee does not count when applying for unemployment benefits or a subsidy.

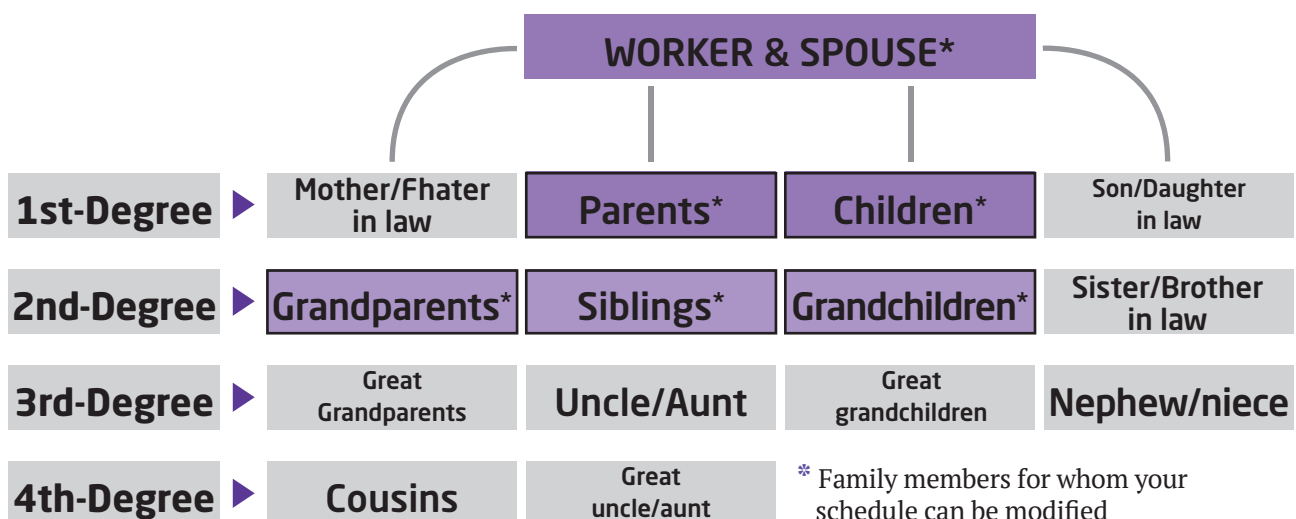
But if in the last 6 years you have at least 360 days worth of unemployment contributions from a job that is not domestic work (and you have not used these contributions before), you can apply for unemployment benefits. If you don't have 360 days, but you have at least 90 days if you have family responsibilities or 180 days if you have no responsibilities, you can apply for an unemployment subsidy, if you meet the requirements.

6. RECONCILIATION AND REDUCTION OF HOURS

Can I ask for a reduction of my hours or a modification to my schedule so that I can care for family members?

Yes. The new legislation on workplace measures during the coronavirus crisis allows you to request to modify your schedule in order to care for family members up to second degree for reasons of age, illness, disability, force majeure (e.g. school closures and the need to care for your children) or to care for a person infected with COVID-19.

Although it is a right, it must be used in a proportional manner, so we recommend that you attempt to make an agreement with your employer about the new schedule. If your hours



are reduced, there will be a proportional reduction of your salary.

7. WORKPLACE HEALTH AND SAFETY

Does my employer have to follow the measures outlined in Workplace Risk Prevention regulations to prevent possible infections? What happens if I get sick?

The Law on Workplace Safety does not apply to domestic workers, since their work does not occur in a normal workplace but instead in a home. But you still have the right to safe working conditions, especially with respect to health. If there exist serious and urgent risks, you have the right to stop going to your job, but the risk must be real and serious for your health, as might be the case if you are caring for people who are sick with Covid-19.

We recommend that you make an agreement with your employer about some basic safety measures like maintaining safe distances, cleaning and disinfection, gloves and masks, etc.

What happens if I get sick?

If you get sick, you will need to arrange for sick leave, by getting in

touch with the health centers (they recommend calling by phone before showing up). If they confirm your sick leave, you will receive the normal temporary disability benefits.

If you get sick with covid-19, you have the right to receive the same benefits as if you were on sick leave for a workplace accident, receiving benefits equal to 75% of your contributions ■

► **Don't hesitate to contact the union if you have any questions or concerns:**

sindical@comarcalsur.cnt.es

► **For more advice from the union, check out our other Legal guides:**

nº1 ERTE's de Fuerza Mayor

nº2 ERTE's causas objetivas

nº3 Teletrabajo, reducción de jornada y conciliación

nº5 Contrato temporal, obra y servicio o eventuales

<https://fcs-villaverde.cnt.es/>

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Complete the form and we
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The Union that stands up for us



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