

Employment Flash – September 2026

1. Royal Decree 723/2026 of 9 September, transposing Directive (EU) 2019/1152 of the European Parliament and of the Council of 20 June 2019 on transparent and predictable working conditions in the European Union.

The new Royal Decree aims to regulate the information that employers must make available to workers. It will come into force twenty days after its publication, that is to say, on 5 October 2026. It applies to all companies and workers covered by the Workers' Statute contracts lasting longer than four weeks.

Regarding deadlines, the employer must provide the employee with information on the essential terms of the employment contract before the employment relationship begins; in cases where services are to be provided abroad, the employer must provide the employee with this information before their departure; and information regarding changes to the terms of the employment relationship must be provided by the employer to the employee as soon as possible and, at the latest, on the day the change takes effect.

a) New mandatory information (Articles 3, 4 and 5)

Identity of the parties	Company name, tax identification number, etc.
Duration of the contract	- Start date. - End date and expected duration (for fixed-term contracts).
Company address	- Address of the registered office and place of work. - Place of work to which the remote worker is assigned. - Mobile or itinerant workplace, or in the cases where the worker is free to determine where they provide their services; this circumstance.
Nature of the work	Where the employment is temporary, a precise description of the grounds for the contract, the specific circumstances justifying it and its connection with the anticipated duration of the contract.
Category or professional group of the post	Characterisation or summary description of the post, providing sufficient detail to understand the specific nature of the work.
Salary	- Amount of the basic salary and allowances, frequency and method of payment. - Method of calculating variable pay components and the criteria determining their payment.

Working hours	• Duration and distribution of the standard working hours, on a daily, weekly and annual basis. • Identify any work carried out at night or in shifts. • Conditions and procedures for modifying working hours. • Arrangements relating to overtime and its remuneration.
Holidays	• Procedure for determining the period during which annual leave is to be taken.
Irregular distribution of working hours	• A scheduling system, with specified times and days on which the company may require services to be provided. • Minimum notice periods prior to the start of work and its cancellation. • In the case of fixed-term intermittent contracts, the periods of activity and inactivity, or an estimate thereof. These may be specified at the time of call-up.
Probationary period	• Specific duration. • Information regarding the respective obligations of the employer and the employee to carry out the tasks that form the purpose of the probationary period.
Right to training	• Training provided by the company. • Courses, attendance at training sessions, grants, etc.
Temporary employment agencies	• Identity of the user company (company name, tax identification number, etc.). • Reason justifying the conclusion of each temporary employment contract.
Algorithmic decision-making systems	• Guidelines, criteria and operating rules. • When used to decide on the establishment, variation or amendment of terms and conditions of employment: working hours and their distribution, allocation of tasks, wages, career progression, place of work or termination of the contract.
Equality Plan	• Existence and identification of the plan. • Company policy on work-life balance.
Protocol on sexual harassment and harassment on the grounds of sex.	• Existence, identification, access to the document, etc.
Measures and resources for the genuine and effective equality of LGBTI people	• Where available. • What measures and resources are available and how can LGBTI people access them.
Termination of the contract	• Formal requirements, duration of notice periods.
Applicable collective agreement	• Reference to the code of each collective agreement and the date of publication in the relevant official gazette. • Period of validity. • Current situation of continued validity.
System of collaboration in the administration of Social Security	• Entity managing or collaborating with Social Security. • Voluntary improvements to Social Security protection. • Pension schemes and funds set up for the benefit of employees and contributions made to them.
Circumstances in which changes may occur to the content of employment benefits, occupational category or group, salary calculation or working hours	• Procedure to be followed in such cases

Provision of services abroad (if for more than 4 weeks)	- Country, duration, currency of salary, remuneration and allowances, and repatriation. - In the EU/EEA, the remuneration payable in the host country and a link to its official posting portal. - Information on the currency of the salary and on remuneration in accordance with the legislation of the host country must be provided by means of a precise reference to the applicable legal provisions, regulations or collective agreements.
Termination of the contract	Formal requirements, the duration of notice periods or, where it is not possible to specify these, the procedures for determining such notice periods.
Changes to the terms and conditions of employment	Any amendment to the elements and conditions set out in the articles must be communicated in writing, unless it arises from a reference to the applicable legal or regulatory provisions or collective agreements and there is a change to those provisions or agreements.

Information relating to certain matters ((i) the amount of the basic salary and each of the salary supplements; (ii) matters concerning working hours, except where relating to irregular working hours; (iii) the duration and conditions of the probationary period; (iv) the right to training provided by the company; (v) the procedure for terminating the contract; and (vi) the system for collaboration in the management of social security) may be provided by means of a reference to applicable statutory or regulatory provisions or to the applicable collective agreement, provided that such reference is precise and enables the applicable provisions to be clearly identified.

b) Means of providing information (Article 6)

The information may be provided on paper or electronically, provided it is accessible, storable and printable, and the company retains proof of delivery. For people with disabilities or limited intellectual capacity, it must be accessible and comprehensible.

c) Information for employees with a current contract (Transitional Provisions 1 and 2 and Sole Final Provision)

For employment relationships in force at the time the Royal Decree comes into force, the employer must provide this information only if the employee requests it, within thirty working days, provided that the employee does not already have it in their possession.

The State Public Employment Service will make a template for the information document available. However, whether or not the template exists does not alter the fact that the information obligations set out in the Royal Decree are enforceable; until it is published, the employer must provide the contractual information by any means that ensures it is recorded and accessible to the employee.

d) Recommendations for organisations

From a practical perspective, the main impact will be on document management and internal processes. In particular:

- Review contract documentation to ensure it covers all the requirements set out in the regulation, as it introduces disclosure obligations on a wide range of matters which were not traditionally expressly included in contractual documentation.
- Keep evidence that the information has been provided to the employee and of when this took place.
- Establish an internal procedure to enable a swift response should a current employee request the information provided for in the Royal Decree, given the 30-working-day deadline.
- Review how future changes to terms and conditions will be documented to ensure that, where applicable, the required information is provided in writing within the stipulated timeframes and that a record of this is kept.

2. Recent Case Law Developments

a) Supreme Court Judgment No. 372/2026 of 15 April 2026 (Appeal No. 674/2025) Overtime and Working Time Records. Burden of Proof

The Supreme Court has ruled that an employer's failure to comply with the obligation to keep a daily record of working hours (Article 34.9 of the Workers' Statute) does not, in itself and in all cases, automatically reverse the burden of proof regarding the overtime claimed: the outcome depends on whether or not there was a pre-established work schedule known to both parties. Where there is no fixed timetable (work with irregular or unpredictable patterns), the absence of a record obliges the employer to prove the hours actually worked; if the employer fails to do so, the hours claimed by the employee must be deemed to be correct, provided that the employee has specified them precisely and at the appropriate stage of the proceedings.

b) Supreme Court Judgment No. 522/2026 of 29 May 2026 (Appeal No. 28/2025) Variable remuneration system and protected absences

The Supreme Court rules that a variable remuneration scheme may not reduce the incentive through mechanisms that treat certain protected absences—such as those arising from temporary incapacity, leave due to force majeure under Article 37.9 of the Workers' Statute (ET), or certain work-life balance measures—as absenteeism, as this would contravene Law 15/2022. The judgement clarifies, however, that incentives may be linked to time actually worked provided that the required targets are adjusted proportionally. With regard to suspension from employment and pay as a disciplinary sanction, it rules out the existence of a 'fine on earnings' but considers the reduction to be unlawful as it entails double penalisation for the same absence.

c) Supreme Court Judgment No. 554/2026 of 16 June 2026 (Appeal No. 219/2025) Access to mailing lists in connection with trade union elections

The Supreme Court rules that freedom of association is infringed when a company, whilst already having an internal email system in place, unjustifiably refuses to allow a trade union without representative status to use it during trade union elections, provided that it is established that such use does not disrupt the normal running of the business and does not entail any additional burdens, encumbrances or increased costs for the company.

d) Supreme Court Judgment No. 547/2026 of 16 June 2026 (Appeal No. 97/2025) Protected absences cannot prevent the payment of a length-of-service bonus

The Supreme Court examines whether absence resulting from leave, suspensions of contract (Articles 48.4 to 48.8 of the Workers' Statute) or temporary incapacity prevents the accrual of the continuity bonus provided for in a company collective agreement. The Chamber concludes that leave due to accident or serious illness, leave to balance work and family life, leave to carry out trade union duties, leave relating to maternity or adoption, suspensions governed by paragraphs 4 to 8 of Article 48 of the Workers' Statute, and temporary incapacity cannot affect this bonus, as their exclusion from the bonus would constitute indirect discrimination on the grounds of sex, illness or association.

e) Supreme Court Judgment No. 562/2026 of 23 June 2026 (Appeal No. 2521/2025) Guarantee of indemnity and internal complaints

The Supreme Court has declared the dismissal of a female employee null and void, having found sufficient evidence of a breach of the guarantee of indemnity. The Chamber considers that the employee's refusal to comply with a company requirement to work on Saturdays, followed by her dismissal barely six days later and without the company establishing a genuine cause unrelated to retaliation, justifies the reversal of the burden of proof. The judgement is significant because it confirms that certain internal complaints or disputes may be protected by the guarantee of indemnity even before formal proceedings are brought, provided that there are circumstances revealing a reasonable connection with the exercise of employment rights.

Simmons Spain's Employment Law Team:



Eduardo Peñacoba
Country Head & Partner
T +34 91 426 2646
E eduardo.penacoba



Carmen Torres
Partner
T +34 91 426 2589
E carmen.torres



Jesús Gimeno
Of Counsel
T +34 91 426 2661
E jesus.gimeno



Cecilia Castro
Managing Associate
T +34 91 426 2647
E cecilia.castro



Sara Moukayed
Supervising Associate
T +34 919 02 61 07
E Sara.Moukayed



Paola Vegazo
Supervising Associate
T +34 914 26 29 31
E Paola.Vegazo



Carla Sánchez
Associate
T +34 91 4262650
E Carla.Sanchez



Jorge Carrasco
Associate
T +34 91 426 2684
E jorge.carrasco



Blanca de la Peña
Associate
T +34 919 02 61 19
E Blanca.delaPena



Lucía Fernández
Associate
T +3491 426 2887
E Lucia.Fernandez



Paulo Portela
Paralegal
T +3491 426 2996
E Paulo.PortelaPonte

Recent recognition of the Employment team at Simmons & Simmons Spain in the leading legal directories:



Chambers & Partners 2024
Employment Elite
Promoted to Band 3



Legal 500 2024
Employment
Promoted to Tier 3