

# List of Unit Topics for Teachers

## Social Security Classroom



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In March 2007, a general cooperation protocol was signed between the then Ministry of Education and Science and the Ministry of Work and Social Affairs, which was committed to providing education on the Social Security System. It had the common goal of promoting knowledge of Spain's state Social Security System, considered to be one of the pillars of the social protection model in Spain and the welfare state, among Spanish society through different levels of education.

Organic Law 2/2006, of 3 May, on Education, sets out the principles that should inspire our education system; the transmission and implementation of values that promote personal freedom, responsibility, the exercise of democratic rights, solidarity and the observation of the social environment and the needs, occupations and services of life in the community.

This learning process, which is implemented in early years education and establishes itself through school curricula, must be complemented with the implementation of activities at schools enabling children and young people to increase their knowledge of the values upon which democratic society is founded, the rules and principles of coexistence provided for in the Constitution, the evaluation of public services, and the duties of the public authorities and citizens to uphold these, such as is the case with the state Social Security System, considered to be one of the pillars for guaranteeing the present and future welfare of families and individuals.

School, due to the extensive period of their life young people spend there, is the ideal place for them to be educated, at a decisive age, on establishing behaviour patterns and concepts, including the acquisition of knowledge on the vast and complex framework of rights and obligations included in Spain's Social Security System and on social responsibility that requires the appropriate use of the social protection mechanisms established for certain contingencies or situations of need.

Furthermore, education goes beyond sphere of the public authorities and components of the school community, affecting society as a whole.

Therefore, the public authorities must enable and encourage the involvement of individuals and public and private enterprises in the education of citizens in general, insofar as it promotes the exercise of freedoms and the respect of the rights of third parties.

### Among other purposes, the aforementioned cooperation protocol makes reference to:

- **Drawing up coordinated strategies** between the interested parties to gain further knowledge of democratic principles, with the understanding that solidarity, equality and proportionality are the guiding principles of Spain's Social Security System.
- **Implementing the Seventh Recommendation of the Non-Permanent Commission of the Toledo Pact**, which considers it to be vital that citizens can access understandable and reliable information on the long-term prospects of their social protection system and in particular any welfare benefits to which they may be entitled.
- **Promoting the knowledge of Social Security options** to encourage the exercise of the rights to which young people are entitled when joining the labour market and the fulfilment of their obligations.
- **Updating the knowledge of children and young people of Spain's social protection model**, as a result of the development taking place in Spanish society due to circumstances such as the integration of people with disabilities and citizens from other countries.
- **Promoting educational activities that enable children and young people to acquire greater knowledge of the pillars of the social protection system and contribution of Social Security to the structuring of the welfare state.**
- **Promoting the preparation and dissemination of teaching materials** applied to education on Social Security benefits.
- Coordinating the efforts of the authorities involved and oblige schools to incorporate an **integrated vision of the Social and Democratic State governed by the Rule of Law, recognised by the Spanish Constitution**, into their educational setup and curriculum.
- **Setting up coordination mechanisms through agreements between the educational authorities and the institutions responsible for Social Security.**

Among other issues, the content of these agreements will make reference to the training of school leadership teams in their role as drivers and catalysts of initiatives being implemented in schools in this area; the holding of regular meetings between the teaching staff and Social Security officials for the exchange of knowledge and experience; the organisation of visits or open days at the facilities of the Social Security organisations to increase knowledge of the Social Security institutions, etc.

- **Promoting the preparation and dissemination of teaching materials containing common psycho-pedagogical criteria.**
  - In this line of action, collaboration with publishing houses specialising in the preparation and production of educational publications is considered to be of vital importance, providing the subject matter and basic knowledge to be covered and integrated into the school texts, teaching guides and corresponding support materials.

- **Creating a specific portal within the Social Security Website.**

The launch of this portal, aimed specifically at teachers and students in primary and secondary education, is aiming to achieve, among other goals, the following: to generate a culture of cooperation in society, educating people to meet their obligations and exercise their rights in relation to Social Security; to build an informative and educational platform to bring the Social Security Administration closer to citizens and in particular the education community and promote the use of these types of tools among young people.

To imbue the aforementioned actions with the desired level of uniformity, the Social Security bodies and institutions have prepared this document which, duly updated and adapted according to criteria of accessibility, rationality and understanding by experts in the various branches of educational science, provides the basic knowledge required and represents the basis and focal point of the project as a whole, notwithstanding the variables and alternatives that may arise during its implementation.

**Madrid, 2009**

## 0 General Concepts. Principles and Directives of the Social Security System

### Aims

The aim of this session is for students to be able:

- To share main principles that organise and guide the Spanish Social Security System.
- To understand the aim and nature of the rights that make up our Social Security System.

### Content

- Constitutional references and transformation of the Social Security model.
- The Toledo Pact and Social Agreement on development and tendencies of the Social Security System.

### We remind you that...

The main principles that support and guide the development of our Social Security System are:

- Contributive fairness: proportionality between the amount received and the amount contributed.
- Universality: maximum coverage of the protective action.
- Intergenerational solidarity: while we are working we make contributions to fund current pensions.
- Fairness and equality of rights, irrespective of the time and place of residence of the insured person.
- Sufficiency: guarantee and improvement of the levels of well-being through appropriate benefits.
- General Fund: the State is sole owner of all Social Security resources, obligations and benefits.

### 0.1 Principles and Directives of the Social Security System

In accordance with the provisions of Art. 41 of the Spanish Constitution, political power and social actors and partners are responsible for guaranteeing a fair, balanced and shared public pension system in the future.

In view of this constitutional mandate, the State is committed to establishing a public protection system and coordinating the financial resources that make said social protection sufficiently viable, although, the Constitution also states that the supplementary aspect of social protection shall be optional, that is, it may be private.

Therefore the Spanish Social Security System, to make the aforementioned constitutional principle into a reality, requires public protective action that guarantees all citizens sufficient protection in situations of need and stable and sufficient financial resources to fund said protective action.

The Spanish Social Security System, in addition to being universal, provides special protection for workers against risks they are subject to as a result of work, including, according to the Constitution, unemployment.

The Social Security model that governed in Spain until recent times, was basically organised according to three main principles: proportionality between the benefit granted and the financial contribution made by the workers (contributive fairness), professional nature of protection related to carrying out a job and little or no consideration of the financial resources available to the protected individual.

These characteristics which provided information to our Social Security System, underwent a significant alteration after the approval of Law 26/1990, of 20 December, on Non-Contributory Benefits of the Social Security, which introduced a second level of protection with the aim of replacing the shortfall in subsistence incomes, irrespective of the professional activity of the beneficiary and their financial contributions to the system (contributions).

In order to understand the true magnitude of the transformation of the principles that guide our Social Security System, we need to refer to the Toledo Pact, set up to analyse and detect problems in the Social Security System and draw up a list of possible lines of action. In particular it emphasised the problems of funding the Social Security and its future development to plan ahead for the actions that should be adopted in order to prevent the increase in the public deficit, as a result of increased benefit payments and in particular, retirement pensions.

The result of this work (Toledo Pact), was approved by full Parliament on 6 April 1995.

The included proposals can be summarised into the following basic mission statement: "to guarantee a future public pension system that is fair, balanced and shared, in accordance with the principles contained in Art. 41 of the Spanish Constitution".

It is worth highlighting some of the recommendations included in the aforementioned report that affect the guiding principles of the Spanish Social Security System, such as:

- Fairness and contributory nature of the System, strengthening the validity of these principles in such a way that, without prejudice to the principle of solidarity and in a gradual way, benefits are more proportional to the amount of contributions made.
- Strengthening of the principle of solidarity, insofar as the financial situation allows, adopting measures such as the increase in the maximum age for continuing to receive the orphan's pension or the improvement in widowhood pension in the case of lower incomes.

In implementing one of the recommendations of the Toledo Pact, a non-permanent commission was set up to assess the results achieved in implementation of the adopted recommendations and based on that, to study its future development, within the criteria of stability, sustainability and equality of benefits for the whole of Spain, which enables the continuity in the improvement in the welfare of pensioners, with a particular focus on smaller pensions, to be guaranteed.

On 2 October 2003, the full Spanish Parliament approved the report drawn up by the non-permanent commission. In this report, apart from reinforcing the conclusions of the 1995 Toledo Pact, new recommendations were introduced which addressed the following issues:

- The advisability of examining the situation of workers affected by modern methods of work organisation, in particular with regard to the expansion of part-time work, the incidence of temporary employment and the possibilities of making wages and pensions consistent.
- To study mechanisms that include periods of care and support of children or dependent people as "elements to consider in contribution histories".
- To set up an integrated system that tackles the phenomenon of dependency from a global perspective.
- To give special consideration to people with physical, psychological or sensory disabilities.
- To adopt the measures needed to guarantee the inclusion of citizens from other countries into the social protection system with full rights and obligations.

Also noteworthy for its importance is the Agreement on Social Security Measures, entered into on 13 July 2006, by the government, the General Workers' Union, the Trade Union Confederation of Workers' Committees, the Spanish Confederation of Business Organisations and the Spanish Confederation of Small and Medium-Sized Enterprises, which together with the priorities set out by the Toledo Pact in their 2003 parliamentary session, which give rise to Law 40/2007, of 4 December, on urgent Social Security measures, which reiterates the need to maintain and strengthen certain basic principles on which the Social Security System is founded as an objective for guaranteeing its effectiveness and improving the levels of welfare of all citizens.

In this way, the principle of solidarity and guarantee of sufficiency take shape through the gradual improvement and expansion of the protective intensity, as well as the strengthening of the general fund. The contributive fairness of the system has also been improved, providing greater proportionality between the contributions made and the benefits received, and at the same time avoiding situations where there is a lack of fairness in the granting of these benefits. Likewise, progress has been made on the already-initiated path to encourage the voluntary extension of working life beyond the legal retirement age, without forgetting the need to alleviate the negative consequences experienced by older workers prematurely forced out of the labour market.

Finally, we should mention the goal of modernising the system in order to tackle situations created by new family circumstances. All of the above is within the context of the demands arising from the socio-demographic situation from which circumstances such as an ageing population, the increasing incorporation of older workers into the labour market and the phenomenon of immigration, as well as the harmonising criteria moving towards those set down in the sphere of the European Union, with the aim of guaranteeing the financial sustainability of the pension system.

Furthermore, two aspects should be mentioned that are considered to be of vital importance when completing the general analysis of the principles and directives that support and guide our Social Security System.

The first of those relates to the state ownership of the resources and the obligations of the Social Security by virtue of the provisions of Art. 141.1.17<sup>a</sup> of the Spanish Constitution states that the State is responsible for "basic legislation and the financial framework of the Social Security, without prejudice to the implementation of its services by the Autonomous Communities.

Arising from said provision is the equality of rights of insured persons, irrespective of their place of residence and simply for having this status, given that such rights are exercised against a single owner, the State, which is required to apply the principle of financial solidarity without discriminating according to region. Directly related to the above, in Art. 149.1.17<sup>a</sup> of the Spanish Constitution, the principle of having a general fund is implicitly included and expressly stated in

various legally binding regulations and must be interpreted in light of the constitutional doctrine in the sense of the existence of a single owner (the State) of all resources, obligations and benefits of Social Security, across the entire national territory, irrespective of the fact that said exclusive owner can use different collection and registration bodies.

The principle of a general fund must be understood as the will of the State to streamline over time and across the whole national territory, the distribution of Social Security funds, in order to meet all of its obligations.

To conclude we need to highlight some points that illustrate and characterise the natural vocation and purpose of the Spanish Social Security System:

- The Social Security must guarantee citizens and their families protection in situations of old age, illness, unemployment and other social deprivation which require assistance over the course of people's lives.
- Social Security has become a vital activity and essential element of social cohesion.
- The Social Security responds universally and unitedly to the range of individual needs in situations that must be protected. This solidarity is demonstrated from a double viewpoint:
  - a) **Solidarity between generations:** the Spanish system and a distribution system means that younger generations pay contributions to fund the benefits of the older generations or those in need.
  - b) **Solidarity between regions:** the Spanish system is based on the concept of having a **general fund**, in other words, contributions collected throughout Spain are used to fund benefits for all Spanish citizens.
- The Social Security finds its *raison d'être* in the insecurity of life, through the organisation of a protection system that responds to individual, family and collective needs.
- The Social Security has become a fundamental and universal right that includes all citizens, offering protection irrespective of their personal and social situation.
- The Spanish Social Security System has to be understood within its historical context, as the result of the progress of Spanish society and process of social battles and conquests.

# 1 The Spanish Social Security System.

## Aims

The aim of this session is for students to be able:

- To learn about the development and change that has taken place in the Spanish Social Security System, from its creation up to the current social protection model and consolidation of the current welfare state.
- To learn about the organisational model of the Social Security and the bodies responsible for managing their benefits and services.

## Content

- History and Current Model of the Spanish Social Security System.
- Social Security Managing Organisation.

## We remind you that

We can make a distinction between three stages of development of the Social Security in Spain.

- Welfare and institutional definition stage (1900 -1962).
- Regulatory configuration stage (1962 – 1978).
- Stage of consolidation of the social protection system, towards the welfare state (from 1978 to the present).

The management and administration of the Social Security benefits and services is entrusted to state bodies, under the control and supervision of the senior bodies of the General State Administration.

## 1.1 History and Current Model of the Spanish Social Security System

In all countries, Social Security is a result of the development of society and is conditioned both by the demands that society aspires to meet, and by the potential of the economic setting they find themselves in.

The formation and development of the Social Security, until arriving at the current model, is characterised by the existence of a series of stages, whose timeline can be drawn up according to successive political, legal and organisational measures which have shaped social protection in a broad sense.

In broad outlines, the development of the Social Security features three fundamental stages:

- Welfare and institutional definition stage (1900-1962).
- Regulatory configuration stage (1962 -1978).
- Stage of consolidation of the social protection system as an expression of the welfare state (from 1978 to the present).

## 1.2 Welfare and Institutional Definition Stage (1900-1962)

This stage is characterised by the creation and generalisation of social insurances which, in their beginnings, were the result of protection instruments and mechanisms that the worker movement had been developing in the form of mutualism and through the drawing up and creation of regulations and institutions that covered the benefits for all workers which, up to those times, were only granted to unionised workers, outside the scope of the State. In this stage, the following milestones are worthy of mention:

### Enactment of the Work-Related Injuries Act

Industrial development and the increasing mechanisation of productive processes caused a significant increase in work-related injuries, with total abandonment of workers and their families.

The aforementioned law, approved on 30 January 1900, defined a work-related injury as "any bodily injury suffered by an operator during or as a result of carrying out employed work".

It declared, for the first time, the direct and objective responsibility of companies in injuries suffered by their workers and promoted the institution of insurance, but the compulsory nature on behalf of the employer and in general did not appear until 1932.

### Creation of the National Welfare Institute (INP)

In 1908 the National Welfare Institute was created. Its most remarkable achievement would be the putting into practice of a system of subsidised freedom which aimed to find the balance between the freedom of the insured parties to agreeing an insurance policy and the responsibility for coverage of risks by the State.

### The Appearance of Compulsory Worker Retirement

In 1919 Compulsory Work Retirement was created, managed by the INP and intended for wage-earners between the ages of 16 and 65 whose pay did not exceed a certain limit. This insurance protected against old age by considering it to be a disability due to reasons of age.

The funding was mixed, with involvement of companies and the State.

### **Unification and Coordination of Social Insurances**

Over the period from 1932 to 1935, the government of the Second Republic made the INP responsible for a project to unify and coordinate pre-existing social insurances, which never came into fruition and could not be implemented as a consequence of the Spanish Civil War. This project envisaged an occupational Social Security system that was integrative and based on participatory management.

### **Family Benefits**

A 1938 Bases Act founded a compulsory family benefits system. This new insurance extended its scope of application to all employed workers, in certain branches of production, and calculated its benefits according to number of children, their age and their working capacity.

### **Compulsory Old Age and Disability Insurance**

In 1939, the old Workers' Retirement pension was replaced by the Old Age Benefit, and eight years later, in 1947, this benefit was replaced by Compulsory Old Age and Disability Insurance, all of which were managed by the INP.

### **Compulsory Sickness Insurance (SOE)**

In 1942 Compulsory Sickness Insurance was created, intended for all "financially weak" labourers. It was organised based on a distribution system and premiums were paid in equal shares by employers and workers. This insurance disappeared with the introduction of health care into the Social Security's protective action.

### **Labour Mutualism**

From 1946 and owing to a quantitative insufficiency of social insurances, supplementary forms of social protection were set up in Spain, organised by occupational sectors. This process would culminate in 1954 with the publication of the General Regulations on Labour Mutualism. The benefits that would be granted were regulated (pensions and benefits) and optional (social welfare, credits, training programmes). Contributions were two-sided; payable by employers and workers.

To conclude the examination of this first stage, we should mention that the legal reforms introduced in this period shared a double characteristic:

- minimum involvement of employers in the managing bodies.
- low protective intensity as a result of the meager level of investment in social protection.

## **1.3 Regulatory Configuration Stage (1962 -1978)**

At this stage, the foundations of an integrated Social Security System of professional scope were approved with a declaration of subjective and objective universality, in an attempt to cover the entire population and with regard to all benefits.

Its main milestones were:

### **The 1963 Social Security Bases Act.**

The Social Security Bases Act and its Legal Texts I and II (1966 and 1974), unify and integrate the various social insurances and give rise to a new Social Security system that reorganises the protective action from predominantly contributory parameters towards the group of employed workers and their family members, with it only being partially shared by other professional sectors with lower contributory capacity.

On 1 January 1967, the new Social Security System came into force.

### **1972 Funding and Improvement Act.**

To solve the financial problems inherited from the former mutualism, a higher contribution structure was set out, calculated in the General Scheme according to actual wages and in the remaining Special Schemes, which defines the Bases Act, with regard to the different nature and conditions of certain professional activities, in accordance with minimum bases or the terms agreed in negotiated procedures. The scope of protective action was also improved and the progressive standardisation of the schemes was initiated.

Nevertheless, even when the aforementioned laws stated that State contributions would be progressive and was an ordinary resource of the Social Security, in practice they were social contributions that bore the majority of the funding of the services and benefits of the protective action. As a result, the benefits continued to be insufficient and the social protection system was of little importance in the grand scheme of the national economy.

Other noteworthy points of the second stage were: the assignment of the management of Social Security to the State and the separation of the General Scheme and several Special Schemes.

## **1.4 Period of the Welfare State (1978 up to the present day)**

A decisive point in the development of the Social Security was the approval of the 1978 Spanish Constitution, in which several of the provisions explicitly refer to the Social Security, in particular Article 41, which is considered to be key for understanding the public protection system in Spain and which designs the current Social Security model. In the Article it declares its governing principle for social and economic policy to be the maintenance, by the public powers, of a public Social Security system for all citizens that guarantees sufficient benefits in situations of need, especially in the case of unemployment. Additional benefits and assistance will be optional.

This democratic stage was characterised by the presence of the following elements:

- **Financial reform**, which translated into the full integration of the Social Security budgets into the General State Budget, which would enable greater transparency based on the existence of parliamentary control of expenditure and revenue of the Social Security and the consolidation of the public nature of the System.
- **Participation and control of social partners** (unions and employers' organisations) in the operation of the Social Security System, through their involvement in the management and control organisations of the Social Security.
- **Increase of financial resources** with the aim of achieving the average levels of spending on social protection in relation to countries on the same socio-economic level.
- **Differentiation of non-contributory benefits** linked to citizenship and funded with resources from taxes and contributory benefits related to contributing workers and their families.

Universal benefits granted to all citizens and with the requirements established for each situation were:

- Health care.
- Social services.
- Non-contributory old age and disability pensions.
- Benefits for the birth or adoption and benefits granted to vulnerable families (with disabled members, single-parent, large, with a lack of resources), as well as non-contributory maternity benefits.
- Benefits of the dependency system.

They were benefits granted at the contributory level:

- Temporary financial benefits for work-related injuries and common or occupational diseases.
- Benefits for contributory retirement, permanent disability, widowhood, orphanhood and family members.
- Benefits for maternity, risk during pregnancy, paternity and risk during breastfeeding.
- Unemployment benefit for employed workers.
- **The benefits gradually extended**, covering legal loopholes that result in unprotected situations, and reducing the differences between groups of employed workers or even between dependent workers and self-employed workers.
- **Public social protection benefits were completed with the creation and organisation of supplementary social welfare** through individual instruments (Pension Plans and Funds) linked to collective bargaining and personal savings.

Noteworthy among the measures implemented in this stage because of their qualitative importance were those aimed at improving the work-life balance of working people, the improvements in family protection, gradual and flexible partial retirement and measures for the effective equality of women and men with a view to granting the right to work-life balance and greater sharing of responsibility between women and men when carrying out family duties.

Finally, the recent Social Security Measures Act, which aimed to guarantee financial sustainability and the improvement in the levels of welfare for all citizens. These measures were based on a series of circumstances such as the ageing population, the inclusion of women into the labour market and the phenomenon of immigration.

We can conclude that the extension of the scope of coverage of social protection experienced over recent years and aligned with the societal changes of the 21st century have contributed to consolidating and improving the Spanish welfare state.

### 1.5 Social Security Managing Organisation

The management and administration of the Social Security's social protection system is entrusted to a group of public bodies with administrative, regulatory, planning and managerial powers and responsibilities.

The main characteristics of the management organisation of the Social Security are:

- To have their own legal personality overseen by the corresponding ministry.
- To carry out their duties on a decentralised basis in the different regional spheres.

- Their supervision and oversight is carried out by organisations in which the trade unions, business organisations and the Civil Service are equally represented.
- They cannot serve as a basis for commercial profit-making operations.
- The Social Security falls within common administrative procedure, as it is a public service.

The following managing bodies and departments are subordinate to the Secretariat of State for Social Security:

- a) The General Directorate of Social Security Organisation:** This is responsible for carrying out the legal, financial and economic duties of the Social Security, planning and conducting legal, economic, financial, demographic and studies, preparing the draft budget of the Social Security, the economic and budgetary monitoring of the Managing Bodies and Common Services, etc.
- b) The General Auditing Department of the Social Security:** This is the organisation responsible for the internal oversight and accounts management of the Social Security.
- c) The Social Security Legal Services Department:** This is responsible for carrying out the duties and responsibilities relating to legal advice, representation and defence of the Managing Bodies and Common Services of the Social Security.
- d) The National Institute of the Social Security:** This is the organisation responsible for managing and administering the financial benefits of the Social Security System, apart from those assigned to the ISM, IMSERSO and the services for which the Autonomous Communities are responsible.
- e) The Social Marine Institute:** This is the organisation responsible for dealing with the social problems in the sea fishing industry and for managing the Special Scheme for Sea Workers of the Social Security.
- f) The General Treasury of the Social Security:** This is responsible for the management of financial resources and the financial administration of the Social Security System, in accordance with the principle of financial solidarity and having a general fund, as well as the ownership of the all of the System's assets.
- g) The Social Security IT Department:** This is responsible for all matters related to the use and application of new information and communication technologies in the area of Social Security.

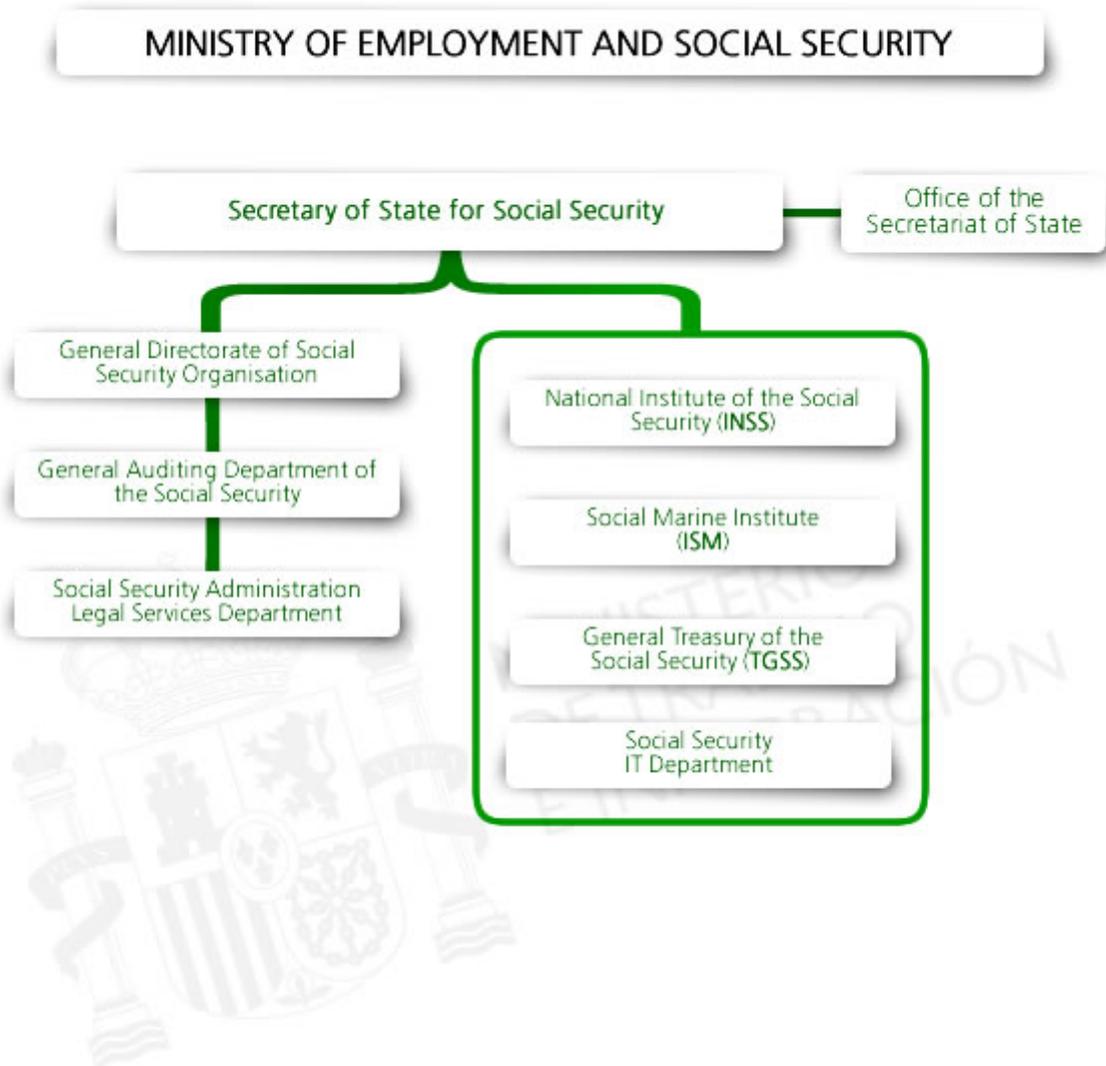
In addition, the following organisations report to other secretariats of state or ministries:

**The Institute for the Elderly and Social Services:** This is responsible for the management of social services, services that are supplementary to the Social Security System, and national programmes and services for the elderly and people in situations of dependency, without prejudice to the management which has been transferred to the Autonomous Communities.

**Public State Employment Service:** This is basically responsible for the management and control of unemployment benefits, analysis of the labour market, public registry of bids, demands and contracts, as well as policies for training and placement in the regions where this has not been transferred to the respective Autonomous Communities.

**The National Health Management Institute (INGESA):** This is responsible for the management of health care benefits of the Social Security in the autonomous cities of Ceuta and Melilla, since the other Autonomous Communities have been transferred these powers.

The State has exclusive jurisdiction over the bases and general coordination of health care, legislation on pharmaceutical products and health care abroad.



**(\*) MANAGEMENT COLLABORATION: Social Security Mutual Societies for Work-Related Injuries and Occupational Diseases.**

**(\*\*) HEALTH CARE: National Health System (Autonomous Communities and INGESA).**

## 2 The Current Social Security Model. Basic Level of Protection - Occupational or Contributory Level - Supplementary Level of Protection

### Aims

The aim of this session is for students to be able:

- To comprehend and understand how the Spanish Constitution treats the Social Security and its governing principles.
- To talk about the Spanish Social Security model, based on the different levels of protection that are granted and specifically, the basic level of the Social Security (non-contributory).

### Content

- Basic Level of Protection.
- Characteristics: Subjective Scope, Funding and Management.
- Contents: Pensions, Benefits and Services.

### We remind you that...

- In accordance with the provisions of Art. 41 of the Constitution, the Social Security protection system is implemented through two levels: the contributory and non-contributory levels.

There is also a third level which is open to all: Funds and Pension Plans.

### 2.1 The Current Social Security Model

The Social Security model that the Constitution sets forth is going to be more ambitious than the current model and will require adaptation of the system to the constitutional provisions, since the ordinary pre-constitutional regulations relating to Social Security are insufficient for meeting the model required by the Constitution.

The Constitution uses the term "Social Security" in four different provisions, although the most important, as we have already stated is Article 41. The second provision of interest is Article 149.1.17 which includes the basic legislation and the financial framework of the Social Security among the areas over which the state has exclusive power, without prejudice to the implementation of its services by the Autonomous Communities.

The third provision, Article 129.1, states that said legislation over which the state has power must provide for the methods through which the interested parties participate in the Social Security.

A fourth and final reference to the Social Security is included in Article 25.2 when, when referring to the right of a person sentenced to prison, it states that "in all cases, they shall be entitled to paid work and Social Security benefits".

But the provisions of the governing principles of the Social Security outlined by the Constitution are not limited to the four aforementioned articles, in which this term is used. Three other articles must also be mentioned: the family protection benefit (Article 39); health protection (Article 43), treatment and rehabilitation of physically disabled persons (Article 49); and financial sufficiency of citizens during old age, through adequate and periodically updated pensions (Article 50). All of these aspects are internationally considered to be relevant to Social Security.

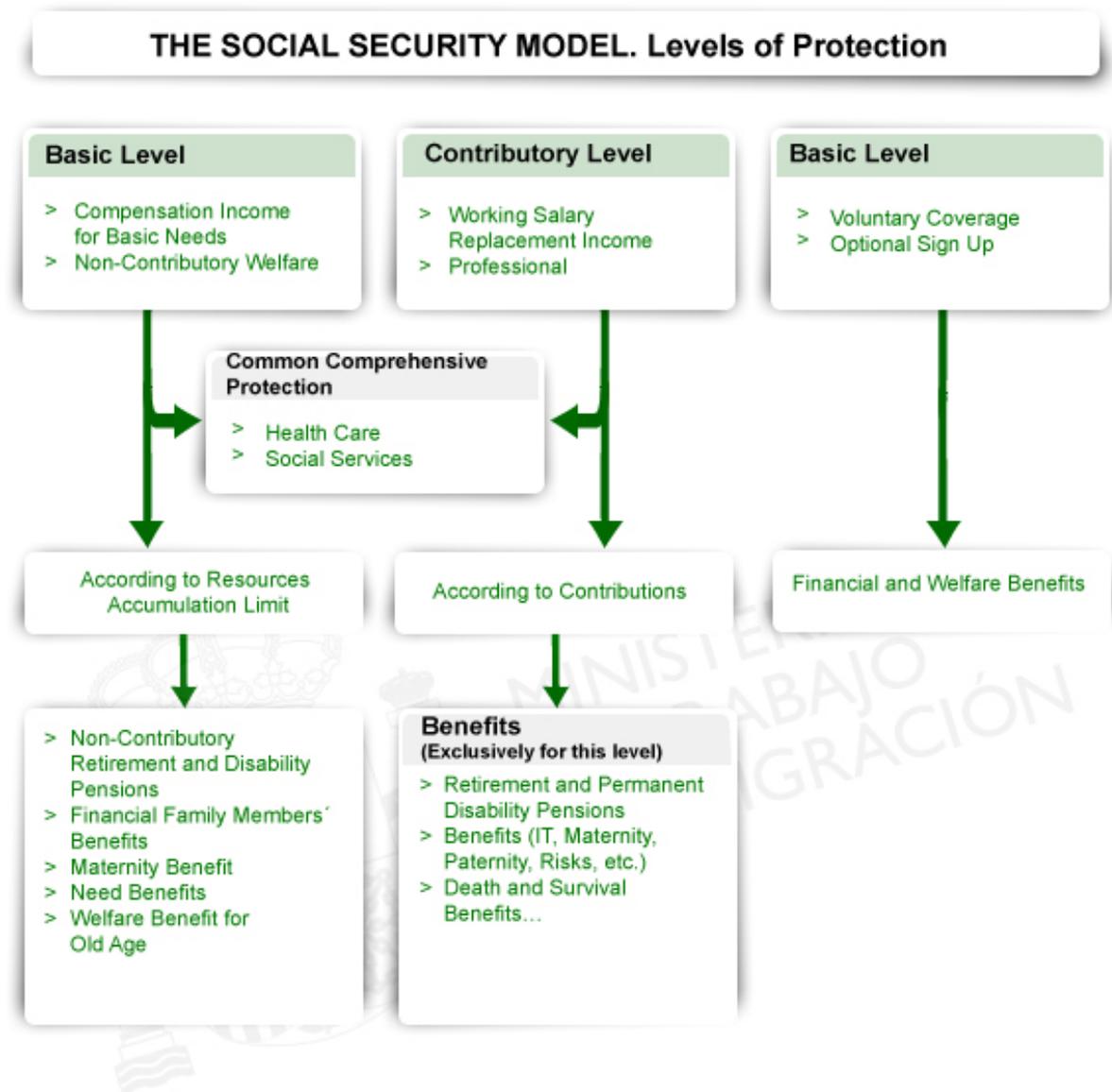
The constitutional mandate, included as one of the governing principles of social and economic policy, has been achieved through the enactment of the Non-Contributory Benefits Act, and thus the Social Security protection system has been definitively shaped by two modes or levels: the contributory and non-contributory levels.

Article 41 of the Spanish Constitution, when referring to the Social Security states that the public powers shall maintain a public Social Security system for all citizens, which guarantees sufficient social benefits and assistance in the face of situations of need, especially in the case of unemployment. Additional benefits and assistance will be optional.

In this way, the protective action of the Spanish Social Security System is currently based on a comprehensive and universal protection model that includes, pharmaceutical-health care, family protection, social services and, in certain cases, unemployment benefit.

All citizens can access this protection, under identical terms, irrespective of whether or not they have made contributions to the Social Security System and it is completed, on the one hand, by a financial benefits system which, in a harmonious and differentiated manner, is included in the contributory level, where incomes to replace the wages earned when working are provided (with proportionality between salary-contributions and benefits) and, on the other hand, by the non-contributory level, aimed at providing compensation income for basic needs to those citizens who, finding themselves in a situation of need, are unable to access the contributory mode.

In addition to these two public and compulsory levels there is a third level, which is optional and consists primarily of Social Welfare Organisations and Pension Funds.



## 2.2 Basic Level of Protection

### 2.2.1 Features

Protection through non-contributory benefits, to a greater or lesser extent, started to shape itself after the 1980s, when the government started a slow progressive reform to the Social Security System. The main features of this reform were:

- **Scope of individuals**, which refers to the inclusion in the System's scope of application of all the people who, for whatever reason, have never made any contributions or made insufficient contributions to be entitled to its benefits, and do not have sufficient resources to maintain a minimum standard of living.

- **Funding**, manifested in the benefits payable by the General State Budget, given that it is a model that assumes the existence of a legal relationship of direct protection between the state and the protected individuals, which they are not as individuals of an employment relationship or self-employed activity.
- **Management**, of a public nature, which is exactly the same as with the contributory level and it is also carried out by specialist Managing Bodies:
  - The management of retirement and disability pensions corresponds to the Managing Body of the Social Security System which also has responsibilities relating to supplementary benefits, the Institute for the Elderly and Social Services (**IMSERSO**) or the competent bodies of the Autonomous Communities to which management duties and services have been transferred.
  - The management and granting of financial benefits for family protection is carried out by the National Institute of the Social Security (**INSS**).
  - The implementation of the health care benefit is done by the competent service of the Autonomous Communities or the National Health Care Institute (**INGESA**) in the cities of Ceuta and Melilla.
  - The management of the unemployment or welfare benefit is carried out by the Public State Employment Service.

IMSERSO and INSALUD (INGESA) have currently transferred their powers to all of the Autonomous Communities except the autonomous cities of Ceuta and Melilla.

### SOCIAL SECURITY BASIC LEVEL. Non-contributory

#### Characters

- > **Subjective Scope.** People without Contributions or Resources
- > **Funding** through State Contributions
- > **Public Management**, by Specialised Managing Bodies

#### Content

- > **Pharmaceutical and Health Care**
- > **Non-Contributory Pensions** { Retirement  
Disability
- > **Need Benefits** (Foreign Residents)
- > **Welfare Pensions for Old Age** (Returned Spanish Citizens)
- > **Financial Family Members' Benefits**
- > **Unemployment Benefits**
- > **Non-Contributory Maternity Benefit**
- > **Social Services**

### 2.2.2 Health Care Benefits. Content

As we have analysed, the Spanish Constitution provided for the entitlement to health protection for all citizens and, in the implementation of this entitlement a new concept "universal" was drawn up for the health care benefit, in all cases due to loss of health.

Furthermore, it guarantees the effective equality of the entire population with regard to health care benefits and the non-existence of any discrimination in the access to, as well as the administration and system of providing health care services.

The regulatory framework defined by the constitutional and legal provisions, guarantees health protection, equality and accessibility to adequate health care, to which all citizens are entitled irrespective of their place of residence, and with the benefits being implemented through the National Health System's portfolio of common services, which includes the techniques, technologies and procedures covered by the System.

The General Health Care Act extends the coverage of the benefit to persons who are without financial resources and are not included in the health care of the Social Security System.

However, it was in 1989 when the right to Social Security health care benefits for Spanish citizens residing in national territory and without sufficient financial resources was granted and implemented. This health care was granted with an identical scope and content as that provided for in the General Scheme of the Social Security.

Following the entry into force of the law on rights and liberties of foreign citizens in Spain and their social integration, foreign citizens who find themselves in Spain and registered on the electoral register of the town in which they regularly reside, are entitled to health care under the same terms as Spanish citizens.

In addition, foreign citizens who are in Spain (although they do not reside in Spain) are entitled to emergency public health care in the event of serious diseases or injuries, irrespective of their cause and the continuation of said care until they are granted medical discharge; if it is a minor under 18 years of age, the health care is granted under the same terms as with Spanish citizens and, finally, foreign citizens who are pregnant and are located in Spain are entitled to health care during the pregnancy, birth and post-natal period.

### 2.2.3 Non-Contributory Pensions

Non-contributory protection within the framework of the Spanish Social Security System is no longer a marginal section within the content of contributory benefits and has become an additional section of the protective action of the Social Security System since the introduction of non-contributory benefits.

The law extends the entitlement to Social Security retirement and disability pensions to all citizens, even when they have never made any contributions or have not contributed for a sufficient amount of time to qualify for contributory benefits.

Welfare pensions for old age granted to Spanish emigrants can also be assimilated to non-contributory pensions, although it must be taken into account that they do not form part of the institutional framework of the Social Security.

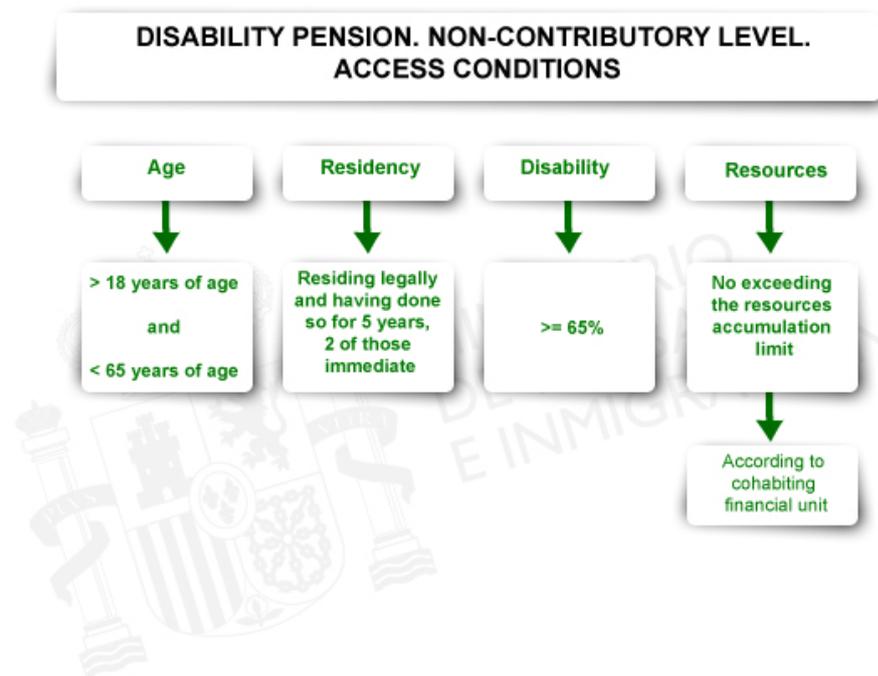
### 2.2.3.1 Spanish Citizens (or Assimilated Spanish Citizens) Residing in National Territory

#### Disability Pensions

At non-contributory level, foreseeably permanent physical or psychological deficiencies, irrespective of whether or not they are congenital, which impede or adjust the physical, psychological or sensory capacities of the sufferers may constitute disability. There are two degrees of disability:

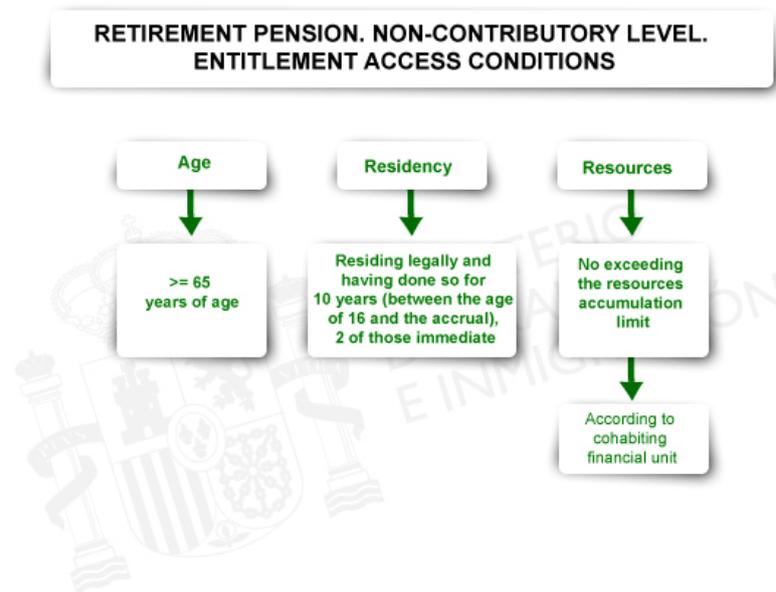
- Disability or chronic disease > 65%.
- Disability or chronic disease > 75% and third party assistance.

The disability percentage is determined by assessing both physical factors and other additional social factors. The assessment is carried out by specialist professional teams.



#### Retirement Pensions

The people who meet the following requirements are beneficiaries of the non-contributory retirement pension:



### 2.2.3.2 Spanish Residents Abroad

#### Need Benefits

This is a protection mechanism that guarantees Spanish citizens residing abroad the entitlement to receive benefits after having moved outside of Spain for work-related, financial or any other reason, and having turned 65 years of age and being unable to work, are in a situation of need because they lack sufficient resources to meet their needs.

The need benefit includes:

- The financial benefit for old age.
- The financial benefit for absolute disability for all types of work.
- Health care.

### 2.2.3.3 Returned Spanish Citizens

#### Welfare Benefit for Old Age

Spanish citizens, residing in countries where the instability of the social protection system justifies the existence of the need benefit, may be beneficiaries of the welfare benefit for old age when they return to Spain.

The entitlement to the welfare benefit for old age for people who have returned to Spain will be granted as long as the requirements for gaining entitlement to a non-contributory retirement pension are proven, apart from the requirement referring to periods of residence in Spanish territory.

The amount of the benefit is that which is set in the General State Budget Act for the non-contributory retirement pension of the Social Security System, calculated on an annual basis and referring to the 12 monthly payments.

### 2.2.4 Special Maternity Benefit

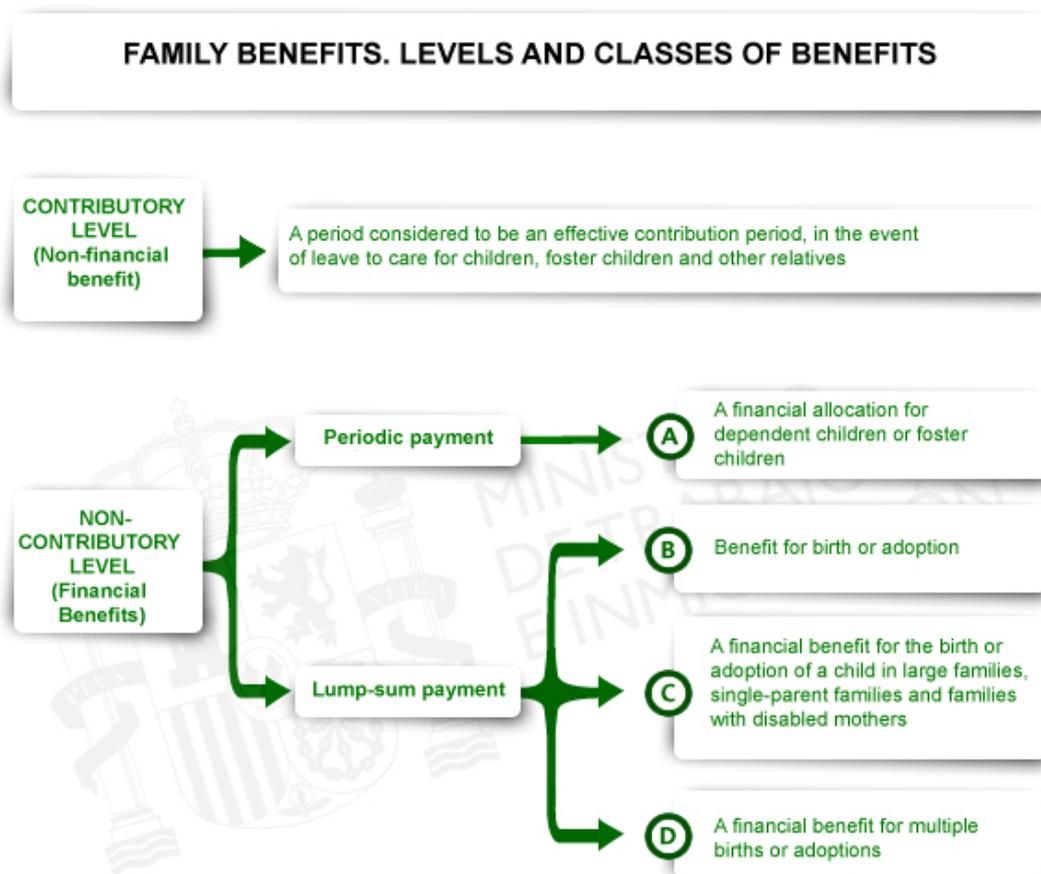
The Law for Effective Equality between Women and Men provides for a maternity benefit, in the event of birth, for those persons who meet all the requirements for accessing the maternity benefit, except for the minimum period of contributions required.

This benefit includes only the event of birth and is applicable to all female workers, both employed and self-employed, in all of the Social Security schemes.

### 2.2.5 Family Protection.

Those persons who legally reside in Spanish territory, are not entitled to benefits of this nature in any other public social protection scheme and meet the requirements provided for in the regulations, are beneficiaries of the family protection financial benefit.

Foreign citizens residing in Spain will be entitled to the benefits under the same terms and Spanish citizens.



### 2.2.6 Welfare Level of Unemployment Protection

The welfare level is intended for unemployed persons who for different reasons have been unable to return to work or access the contributory unemployment benefit; it is funded by state contributions and it consists of a financial benefit and a payment to the Social Security for the contributions corresponding to certain contingencies.

The beneficiaries of the unemployment benefit are people who are out of work and registered as job seekers for a one-month period, without having rejected a suitable offer of work or having refused to participate, without a justified cause, in professional conversion, training or promotion activities, as well as people who do not have monthly earnings greater than 75% of the national minimum wage, excluding the proportional part of the special payments, provided that they are in one of the following situations:

- Having used up a contributory unemployment benefit and having family responsibilities.
- Having used up a contributory unemployment benefit of at least 360 days, having no family responsibilities and being over the age of 45 on the date of the benefit expiry.
- Not being entitled to a contributory benefit, if they meet certain requirements (minimum contribution period and/or family responsibilities).
- Under the terms provided for, being a returned emigrant, freed from prison or rehabilitated disabled person from a situation of total or absolute permanent disability or serious disability.

The duration of the benefit and the Social Security contributions shall depend on the type of benefit to which the beneficiary is entitled. These types are:

- 1) Unemployment benefit. The amount is equivalent to 80% of the current monthly Public Income Indicator with Multiple Effects (IPREM) in force at any given time. In 2011, the monthly IPREM was set at €532.51, therefore the benefit will be €426.
- 2) Unemployment subsidy for workers older than 52 years of age. The amount in this case is identical to the previous amount. They can receive the benefit until reaching retirement.
- 3) Special benefit for workers over 45 years of age who have used up their 24-month unemployment benefits. The amount varies between 80% of the IPREM (worker with one or zero dependant family members); 107% (two dependent family members) and 133% (three or more dependent family members).

### 2.2.7 Social Services

The beneficiaries of non-contributory pensions, with regard to Social Security pensioners, receive not only a financial income and medical-pharmaceutical assistance, but also a series of social services that include: family guidance, home help, community residences and homes, occupation of free time and leisure activities, etc., in this way receiving comprehensive coverage of their situation of need.

## 2.3 Occupational or Contributory Level

With the Social Security contributory level, the state guarantees the people included in its scope of application, due to carrying out an occupational activity, and to the family members or assimilated family members they have in their care, adequate of the contingencies and situations provided for by law.

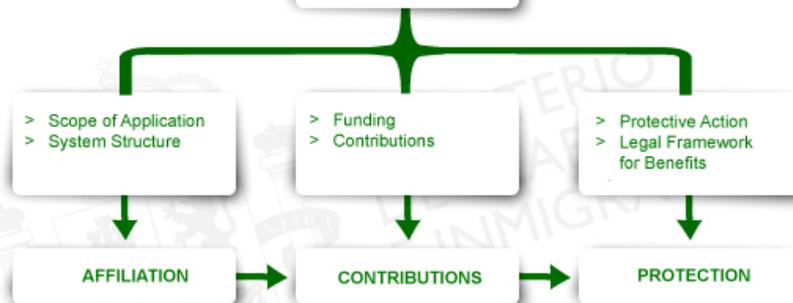
The analysis of the contributory or occupational level of the Social Security, shall be done in the following teaching units which refer to the protective action and the legal framework for the Social Security benefits, scope of application, funding and contributions.

**SOCIAL SECURITY CONTRIBUTORY LEVEL**

**Concept**

- > Adequate Protection
- > Guaranteed by the state
- > For people included in the scope of application
- > **For carrying out a professional activity**
- > In the defined contingencies and situations

**SCOPES OF ANALYSIS**



## 2.4 Supplementary Level

This third level of protection is free and it is primarily made up of the Social Welfare Organisations and Pension Funds. Coverage is voluntary and signing up for it is optional. The type of benefits in this level basically comprises welfare and financial benefits.

## 3 Protective Action and Legal Framework of Benefits

### Aims

The aims of this session are:

- To be aware of the huge range of rights that exist in the Social Security framework, for certain situations or contingencies.
- To gain a deeper understanding of the characteristics of Social Security benefits.

### Content

- Concept, codes and characteristics of Social Security benefits.
- Table of Protective Action. Notes and diagrams.
- Revaluation of pensions, limits and minimum supplements.

### We remind you that...

- Social Security benefits are financial and non-waivable by their beneficiaries.
- The National Institute of the Social Security is responsible for granting of the right to health care, although the Public Health Services of the Autonomous Communities are responsible for the benefits arising from that right.
- Unemployment benefits are managed by the Public State Employment Service.
- Social Security benefits are revalued annually in accordance with the increase in the Consumer Price Index (CPI).

### 3.1 Concept, Classes and Characteristics of Benefits

In the area of Social Security, financial benefits, largely contributory, include a monetary entitlement which, once granted after having met certain conditions, is awarded to the beneficiary, in the event of protected situations or contingencies provided for in the law.

There are four classes of benefits:

- **Pensions:** financial benefits paid periodically which last for life or until reaching a certain age.
- **Benefits:** temporary benefits paid periodically.
- **Compensation:** financial benefits paid in a single payment.
- **Other benefits:** such as unemployment benefits and non-financial family protection benefits.

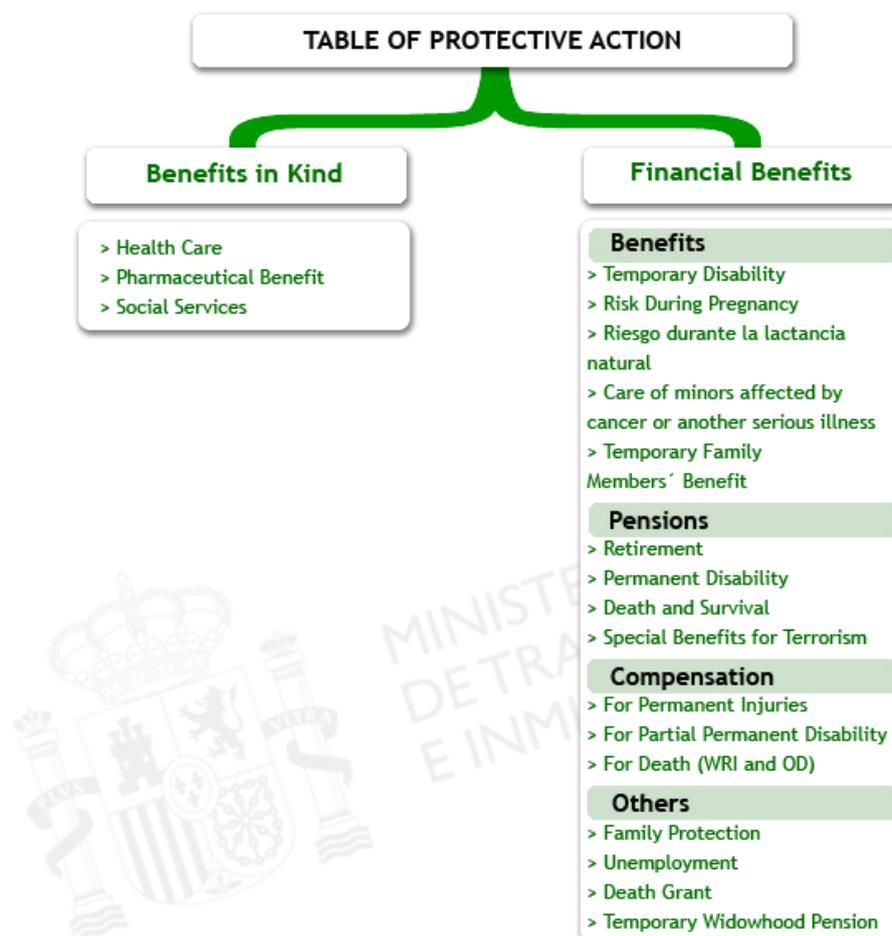
In addition to financial benefits it would be worth mentioning health care, the pharmaceutical benefit and social services which, in reality, are benefits in kind but which have an undoubtable financial impact.

Financial benefits of the Social Security have the following characteristics:

- **They are public**, since they are included in the public scheme of the Social Security described in Article 41 of the Constitution.
- **They are non-transferable and non-waivable**, since beneficiaries cannot transfer or waive their entitlement to them, irrespective of the exercise of the right to choose in the event of incompatibility of benefits.
- **They enjoy guarantees against third parties**, in other words, they cannot be subject to withholding, compensation or discount, except in the established cases (maintenance obligations, debts to the Social Security, etc.).
- **They can only be frozen** according to the terms and amounts set by the Civil Procedure Act for pensions and wage income.
- They are **preferential benefits**, they have the nature of credits with a general preference.
- They have a **specific tax treatment**, given that they are subject to taxation according to the terms set forth in the regulations for each tax.

### 3.2 Table of Protective Action

At contributory level, except for certain exceptions in the special schemes (for example, temporary disability and unemployment in the Special Agricultural Scheme and the Special Scheme for Self-Employed Workers) the protective action of the Social Security includes the following benefits:



### 3.2.1 Health Care Benefits

Even though it is a benefit which is in principle non-financial, it is included in this table of protective action, both due to their obvious impact it has on the finances of the protected individual, as has been previously stated, and because the responsibility for granting the entitlement corresponds to the INSS and the ISM, in relation to the Special Scheme for Sea Workers, although the health care is implemented by the applicable independent body or the INGESA services.

The aim of the benefit is to provide medical and pharmaceutical services intended to preserve or restore the health of the beneficiaries, as well as their ability to work in the case of working people.

The beneficiaries are affiliated workers with active contributor status, pensioners and people on benefits, as well as their dependent family members (spouse, descendents, ascendants, etc.) who live with them and do not receive an income greater than the public income indicator with multiple effects (€527.24/month).

Entitlement occurs on the day after that on which the application for active contributor status was submitted or, where appropriate, from the date pensions started being received or the application date.

The preventive, diagnostic, therapeutic, rehabilitation, and health improvement and maintenance services or group of services intended for citizens are considered to be health care benefits of the National Health System.

The list of National Health System benefits, includes benefits for public health, primary care, specialist care, social health care, emergency care, pharmaceutical products, ortho-prosthetics, dietary products and health care transport.

The health care benefits in the list are implemented through the portfolio of services agreed within the Interterritorial Council of the National Health System.

### 3.2.2 Temporary Disability

This is when a worker finds themselves in a situation where they are temporarily unable to work and require health care from the Social Security.

The beneficiaries are affiliated workers with active contributor status who have covered a minimum contribution period of 180 days within the 5 years prior to the date of the leave, when it is due to a common disease. In the event of occupational diseases or injuries, no previous contribution period is required.

#### Temporary Disability. Contingencies

	Amount on the regulatory base.	Acquisition of a right to benefits	Duration of the situation
Common diseases and non-work-related injuries	60% (4th to the 20th) * 75% (from the 21st)	4th day	365 days + 180 days of extension
WRI and OD	75%	Day after the injury or leave (day of leave payable by the company)	365 days + 180 days of extension
Observation period			6 months + 6

\* From the 4th to the 15th, payable by the company

\*\* Also, after 365 days, the INSS can issue a medical discharge certificate or open a permanent disability file

Payment of benefit.....for the duration of the TD.

Strike and lockout.....there is no entitlement.

### TEMPORARY DISABILITY. Concept

#### Concept

- > Unable to Work
- > Need for Health Care

#### Determining Situations

- > Disease { Common  
Occupational
- > Periods of Observation
- > Injury { Work-Related  
Non Work-Related

#### Beneficiaries

- > Unable to Work
- > Need for Health Care

### 3.2.3 Risk during pregnancy

A law to promote the work-life balance of working people implemented the risk during pregnancy benefit, within the protective action of the Social Security, with the aim of protecting the health of expectant mothers. In this way it provides coverage for cases where the female worker is required to change her job post to one that is compatible with her condition, because -in accordance with the Law on Occupational Risk Prevention- the conditions in which she works may have a negative effect on her health or that of her unborn child, and such a change is not technically or objectively possible, or cannot be demanded due to justified reasons.

#### Benefits for Risk During Pregnancy

- 1) **AIM:** To protect the health of female workers.
- 2) **PROTECTED SITUATION:** Employment contract suspension in the cases provided for in Art. 26 of the Law on Occupational Risk Prevention.

- 3) **FINANCIAL BENEFIT:** From the start for the suspension up to the maternity leave or return to work.
- 4) **AMOUNT:** A benefit equivalent to 100% of the regulatory base for TD, arising from occupational contingencies.
- 5) Direct management by the INSS or the ISM or by the Mutual Society for Work-Related Injuries and Occupational Diseases.

### 3.2.4 Risk during breastfeeding

The Law on Effective Equality for Women and Men has created the benefit for risk during breastfeeding, within the protective action of the Social Security System, with the aim of protecting the health of female workers and their children during the breastfeeding period. In this way it provides coverage for cases where the female worker is required to change her job post to one that is compatible with her condition, because -in accordance with the Law on Occupational Risk Prevention- the conditions in which she works may have a negative effect on her health or that of her child, and such a change is not technically or objectively possible, or cannot be demanded due to justified reasons.

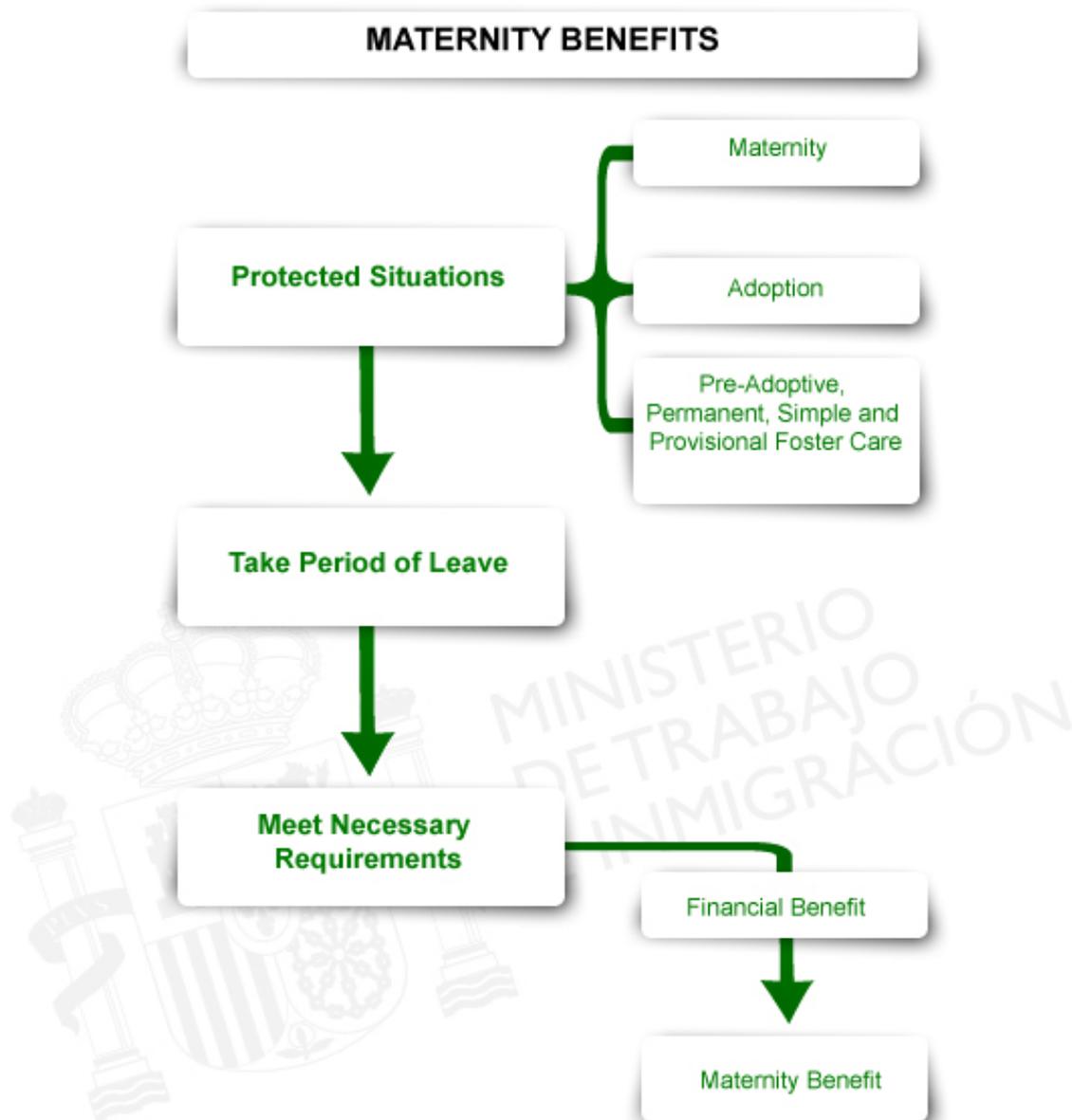
#### Benefit for Breastfeeding

- 1) **AIM:** To protect the health of female workers and/or newborn children.
- 2) **PROTECTED SITUATION:** Employment contract suspension in the cases provided for in Art. 26 of the Law on Occupational Risk Prevention.
- 3) **FINANCIAL BENEFIT:** From the start of the suspension up to when the child reaches nine months of age or the female worker returns to her job post or one compatible with her condition.
- 4) **AMOUNT:** A benefit equivalent to 100% of the regulatory base for TD, arising from occupational contingencies.
- 5) Direct management by the INSS or the ISM or by the Mutual Society for Work-Related Injuries and Occupational Diseases.

### 3.2.5 Maternity

Since 1995, maternity has been set out as a specific contingency, separate from temporary incapacity to work with which it had previously been associated. The ultimate aim of the protection; to care for children and promote the emotional relationship between mother and child, particularly in the initial moments, justifies that separation.

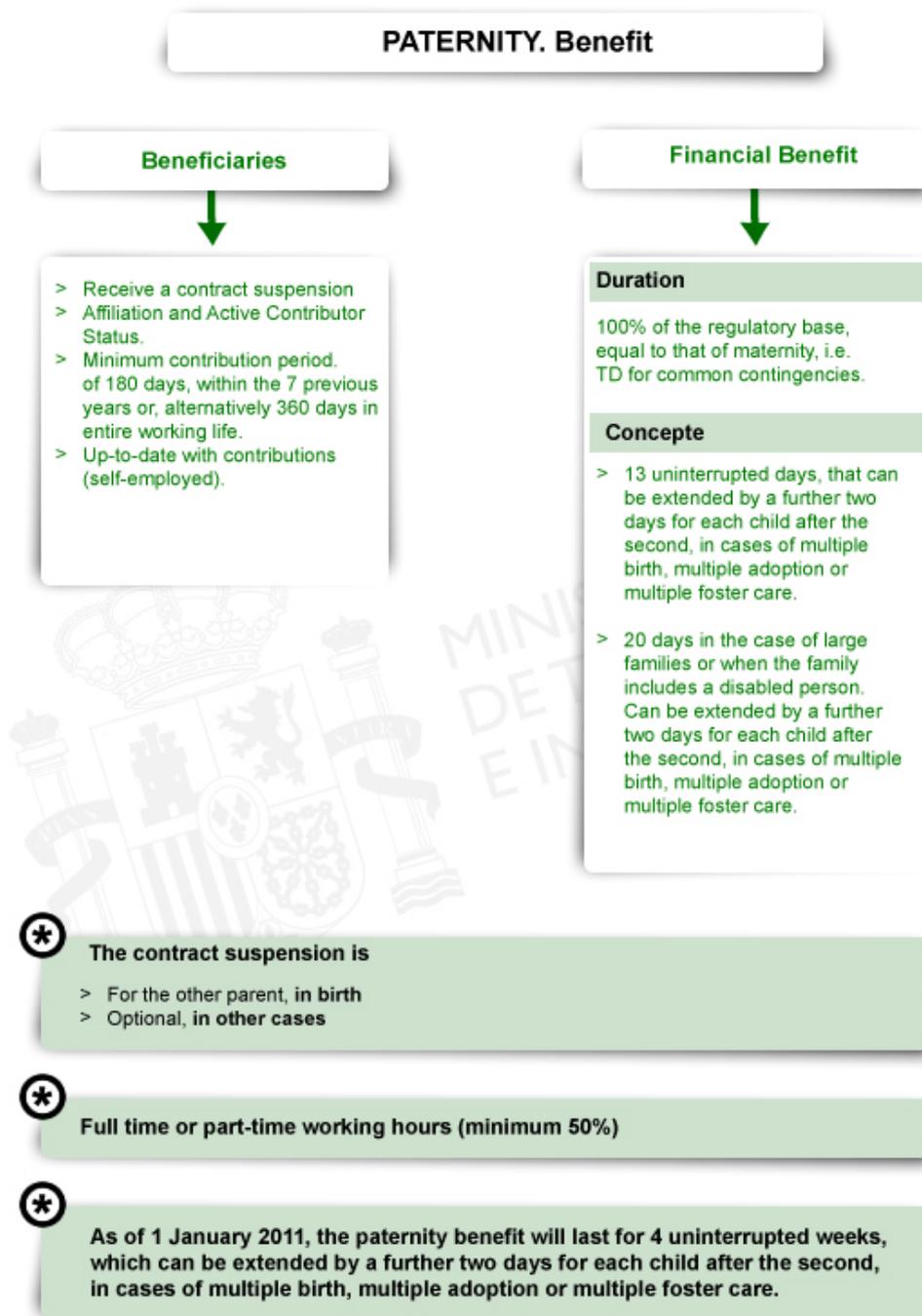
With the maternity benefit, the protected situations are considered to be maternity, adoption, whether pre-adoptive, permanent or simple, in accordance with the Civil Code or the governing civil laws in the Autonomous Communities, provided that, in this latter case it is not for less than one year, and although said foster care may be temporary, for the periods of leave that are legally taken by workers for these situations.



### 3.2.6 Paternity

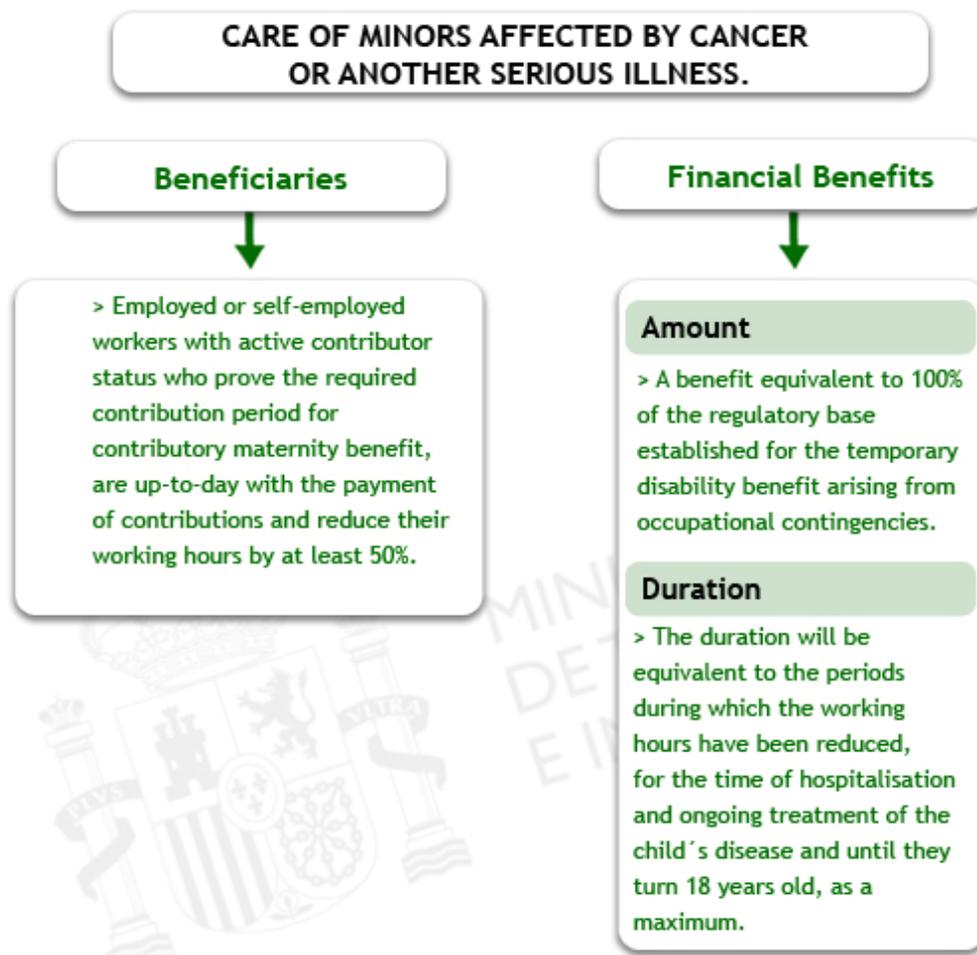
The Law on Effective Equality for Women and Men has created the paternity benefit.

With the paternity benefit, the protected situations are considered to be childbirth, adoption, whether pre-adoptive, permanent or simple, in accordance with the Civil Code or the governing civil laws in the Autonomous Communities, provided that, in this latter case it is not for less than one year, and although said foster care may be temporary, for the periods of leave that are legally taken by workers for these situations.



### 3.2.7 Care of Minors Affected by Cancer or another Serious Illness

This is a financial benefit for parents, adoptive parents or foster parents who reduce their working hours to care for a dependent minor affected by cancer or another serious illness. The benefit will be a subsidy equivalent to 100% of the regulatory base established for the Temporary Disability benefit arising from occupational contingencies.



### 3.2.8 Permanent Disability Benefits

At contributory level, workers who, after having undergone the prescribed treatments and having been granted discharge from medical care, still present serious anatomical or functional reductions, which can be determined objectively and are expected to be permanent, and which diminish or impair their capacity to work, are considered to be in a situation of permanent disability.

Permanent disability, irrespective of its determining cause, is classed according to the following degrees:

- Partial permanent disability for usual occupation.
- Full permanent disability for usual occupation.
- Absolute permanent disability for any job.
- Serious disability.

**Partial Permanent Disability** for the usual occupation means a disability that without reaching a degree of total disability, causes the worker a reduction of no less than 50% of their normal performance in said occupation and does not prevent them from performing the basic tasks of their job.

**Total Permanent Disability** for the usual occupation means a disability that makes the worker unable to perform all the tasks or the basic tasks of their job, provided that they are able to carry out a different job.

**Absolute Permanent Disability** for all work means a disability due to which the worker is completely unable to carry out any job or occupation.

**Serious Disability** means the worker is in a situation affected by permanent disability and as a result of anatomical or functional losses, requires the assistance of other people for the most basic activities of daily living such as dressing, moving, eating or the like.

In the case of work-related or non-work-related injuries, usual occupation means the job that the worker was normally carrying out at the time of suffering the injury; in the case of common or occupational diseases, it means the worker's main job during the twelve months prior to the date on which the temporary disability began.

Situations of permanent disability shall give entitlement to the applicable benefits if the established conditions are met.

### 3.2.9 Non-Disabling Permanent Injuries

"Non-disabling permanent injuries" means all permanent injuries, mutilations or deformities caused by work-related accidents or occupational diseases, which alter or reduce the worker's physical integrity, do not constitute permanent disability and are classified in the scale established for this purpose.

The benefit consists of a lump-sum compensation payment, the amount of which is set by the scale. The benefit is compatible for working in the same company but incompatible with permanent disability benefits, for the same injuries.

### 3.2.10 Retirement

The retirement pension is a financial benefit that is granted, after having reached the established age, to those people who stop or have stopped working, totally or partially, in the activity for which they were included in the Social Security System and have proven the set contribution period. There are different types of retirement:

#### Ordinary Retirement

This occurs when the worker stops working due to their age and meets the general eligibility requirements for the pension.

#### Partial Retirement

This is retirement that starts after turning 60 years of age, at the same time as having a part-time contract, irrespective of whether or not it is linked to a relief contract. A distinction must be made between workers who are older and younger than 65 years of age:

##### Workers over 65 years of age

Workers who are 65 years of age and meet the eligibility requirements for the retirement pension, can qualify for partial retirement without needing to have entered into a relief contract, provided that there is a reduction in their working hours ranging from a minimum of 25% to a maximum of 75%.

### Workers under 65 years of age

Full time workers can qualify for the partial retirement pension, provided they have simultaneously entered into a relief contract with a term that is equal to the time remaining until the replaced worker turns 65 years of age and meet the following requirements:

- Be 61 years of age, or 60 if the worker was a member of a mutual society on 01/01/1967.
- Prove a period of service in the company of at least 6 years immediately prior to the retirement date.
- The reduction in their working hours must be between a minimum of 25% and a maximum of 75%, or 80% in the cases in which the relief worker has been hired on a permanent full-time contract, and they must prove 6 years service in the company and 30 years of Social Security contributions.
- Prove a previous period of 30 years of contributions.
- In cases where the job that the relief worker is going to do cannot be the same as or similar to that of the partial retiree due to the specific requirements of the latter's job, the contribution bases for the two different jobs must correspond and the base for the relief worker may not be less than 65% of the base at which the worker who is taking partial retirement was making contributions.

### **Flexible retirement**

The situation of flexible retirement is considered to arise from the option to make the retirement pension compatible, once in effect, with a part-time contract (reduction in working hours between 25% and 75%-85%), with the resulting reduction of the pension being inversely proportional to the reduction applicable to the pensioner's working hours, in relation to that of a comparable full-time worker.

### **Early retirement**

- For workers with active or assimilated contributor status, the age of 65 can be reduced, under certain circumstances, even to 60 or below (disabled persons, transitional rules, arduous work, mining, railways, etc.); special retirement aged 64.
- Since 1 January 2002, there has been the possibility of taking early retirement from 61 years of age, when the worker has proven 30 years of contributions, the termination of the employment contract has not occurred due to a reason attributable to them and they have been registered as a job seeker for a period of at least 6 months immediately prior to the retirement.

### **General requirements for retirement.**

The beneficiaries are workers who meet the following requirements:

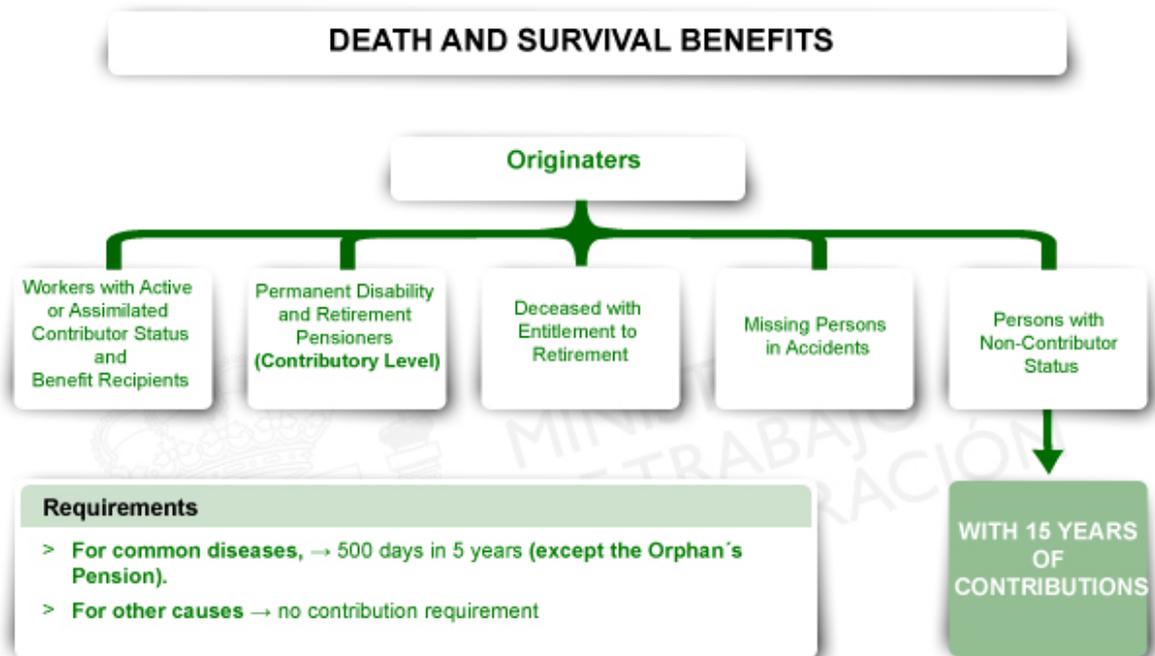
- **Scope of application and active contributor status.** They are or have been included in the scope of application of the System, affiliated and with active contributor status (or not) when qualifying for the pension.
- **Age.** As a general rule, and apart from the specified exceptions, an age of 65 is required.
- **Contribution period.** The minimum contribution period required is 15 years, of which, at least 2 must be included within the 15 years immediately prior to the time of gaining the entitlement; in the cases in which the worker qualified for the retirement pension with active contributor or assimilated contributor status and with no obligation to make

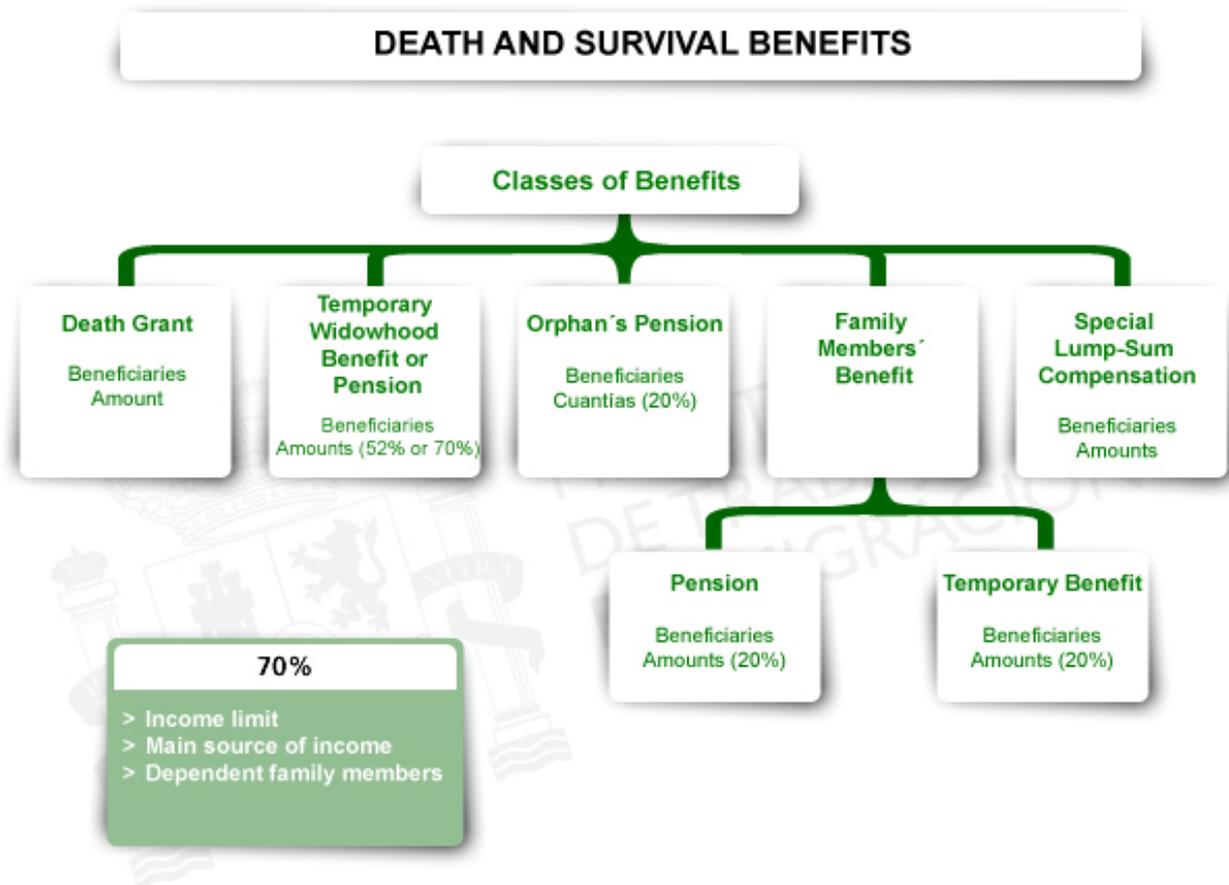
contributions, the 2-year period must be included within the 15 years prior to the date on which the obligation to make contributions came to an end.

- **Triggering event.** The triggering event, that is, the end of work for the worker with active contributor status, or the submission of the pension application in the other cases, must occur.

### 3.2.11 Death and Survival Benefits

With these benefits, a distinction must be made between the originators (the deceased) and beneficiaries.





### 3.2.12 Family Benefits

The content of the benefit consists of considering the first two years of a period of leave taken by workers as an effective contribution period, in accordance with the provisions of the Workers' Statute, to care for each child or foster child, in cases of permanent or pre-adoptive foster care, even though this may be temporary, or the duration of the leave if it was for less than two years.

This period considered as an effective contribution period will have a duration of 30 months if the family unit that the child -for whom the leave is being requested- is a part of is classed as a large family in the general category or 36 months in the special category, under the terms provided for in the Large Families Act for both categories.

Likewise, the first year of the period of leave taken to care for other family members, up to the second degree of blood relationship or affinity, who, due to reasons of age, injury, illness or disability, are not able to take care of themselves and do not carry out paid work, will be considered as an effective contribution period.

Beneficiaries are considered to have active contributor status in order to qualify for the benefits (except temporary disability) and the contribution period which is granted will be taken into account for the coverage of the minimum contribution period required to gain entitlement to benefits for retirement, permanent disability, death and survival, and maternity and paternity, as well as to determine their regulatory base, and even the applicable percentage (where appropriate, to the retirement pension).

In addition, during the specified period, the entitlement to the Social Security health care benefit is maintained.

### 3.2.13 Special Pensions Arising from Acts of Terrorism

People who become disabled or whose family members die as a result of acts of terrorism shall be entitled, respectively, to special disability, death or survival pensions.

In order to qualify for these pensions in the Social Security System, these victims of acts of terrorism need:

- to be affiliated to the Social Security.
- to have active contributor status (or not) in any of the Social Security schemes.

The calculation method that applies to these pensions is the same as that for disability and survival pensions arising from work-related injuries.

#### SPECIAL PENSIONS FOR ACTS OF TERRORISM

##### Classes

- > Disability
- > Death and Survival

##### Originator Requirements

- > Affiliation to the Social Security
- > Active or Non-Contributor Status in the System

##### Regulatory Base (Circumstances)

- > Active Contributor → Last contribution base
- > Non-Contributor → Minimum contribution base
- > Pensioners → Pension they were receiving

##### Percentage

- > 200% of the regulatory base

**NOT SUBJECT TO THE MAXIMUM LIMIT  
APPLICABLE TO PENSIONS**

### 3.2.14 Unemployment Benefits

This covers the contingency of unemployment for those people who, while willing and able to work, lose their job temporarily or permanently, or have their working hours reduced by at least a third, with the corresponding loss or reduction in wages due to any of the reasons established as legally unemployed statuses. The protection of this situation at contributory level is known as unemployment benefit.

Employed workers included in the General Scheme of the Social Security, personnel hired under administrative law and civil servants working for the Civil service who are required to make contributions for this contingency, are included under unemployment protection.

Employed workers included in the special schemes of the Social Security which cover this contingency (coal mine workers, permanent employees in the Special Agricultural Scheme and sea workers, including those paid with a profit share system who provide services on fishing vessels under 10 gross tonnes) are also included, with certain special rules.

#### Duration

The duration of the benefit depends on the period of effective contributions over the six years prior to the acquisition of legally unemployed status or the time when the obligation to make contributions came to an end, or from the start of the entitlement to the previous unemployment benefit, in accordance with a scale starting from 360 days of contributions (which would give entitlement to 120 days of benefits) up to 2,160 days or more of contributions (in which case the benefit would be extended to 720 days).

#### Duration of the unemployment benefit

Contribution period (in days)	Benefit period (in days)
From 360 up to 539	120
From 540 up to 719	180
From 720 up to 899	240
From 900 up to 1079	300
From 1,080 up to 1,259	360
From 1,260 up to 1,439	420
From 1,440 up to 1,619	480
From 1,620 up to 1799	540
From 1,800 up to 1,979	600
From 1,980 up to 2,159	660
From 2,160	720

Duration
Periods of effective contributions over the previous six years

## UNEMPLOYMENT BENEFITS

### Beneficiaries

- > Employed workers; loss of employment

### Requirements

- > With active contributor and legally unemployed status
- > Twelve months of contributions in the last six years
- > Not having reached retirement age
- > Not being affected by incompatibility

### Content

- > Financial benefit
- > Payment of Social Security contributions

### Benefit Amount

- > **Regulatory base** = average contributions over the previous 180 days
- > **Percentages**
  - ▶ **Up to 180 days** = 70%
  - ▶ **From 181 days** = 60%
  - ▶ **Maximum**
    - > 175% IPREM, without children
    - > 200/225% with children
  - ▶ **Minimum**
    - > 80% IPREM, without children
    - > 107% with children

### 3.3 Revaluation, Maximum Limit and Minimum Supplements

The Social Security contributory pensions, including the amount of the minimum pension, will be revalued at the beginning of each year, based on the corresponding Consumer Price Index (CPI) forecast for that year.

If the cumulative Consumer Price Index, corresponding to the period between November of the previous tax year and November of the tax year of the revaluation, is greater than the forecast CPI, on which the revaluation was calculated, the corresponding update will be carried out in accordance with the General State Budget Act. To this end, pensioners whose pensions were subject to revaluation in the previous tax year will be paid the difference in a lump-sum payment, before 1 April of the subsequent year.

Also, for pensions below the minimum, supplements in line with the difference between the amount of the pension granted and the annually established minimum are guaranteed.

These supplements may not be consolidated, and will be absorbed with any future increase to the interested party's earnings, whether through revaluation or the granting of new periodic benefits.

Minimum supplements shall be compatible with the pensioner receiving income from employed or self-employed work and/or capital gains, provided that it does not exceed the annually established limit.

## 4 Legal Relationship with the Social Security. Scope of Application Affiliation, Registration, Acquiring and Terminating Active Contributor Status, Schemes.

### Aims

The aims of this session are:

- To frame the Social Security System within a social and democratic state governed by the rule of law.
- To highlight the need to fulfil obligations in order to acquire rights.
- To define the types of legal relationships between citizens and the Social Security.
- To set out the requirements for being included in the scope of application of the Social Security System.
- To define the concept of Affiliation: its compulsory nature, its procedure and its effects.
- To define the concept of Registration; its compulsory nature, its procedure and its effects.
- To establish the difference between Affiliation and Active Contributor Status in the Social Security.
- To define the concepts of Acquisition of Termination of Active Contributor Status: rates, procedures and effects.
- To define how the contributory level of the Social Security is organised in the different schemes and their specific features.

### Content

- Legal Relationship with the Social Security.
- Scope of Application.
- Affiliation.
- Company registration.
- Acquisition and Termination of Active Contributor Status.
- Schemes.

### We remind you that...

- The Social Security System is a State mechanism for providing protection in situations of need.
- The rights and obligations arising from the system, and its management, are "public".
- It is the law that determines and regulates the "relationship" between citizens and the Social Security. It is not at the free discretion of parties.
- Orientation towards the principle of universality: contributory and non-contributory level.
- Affiliation and the subsequent acquisitions of active contributor status are the mechanism for determining who is responsible for making contributions and the rights that the worker is acquiring through their "contributions" to the System; if the worker does not have active contributor status and the Social Security is not aware of this circumstance, they cannot be provided with protection. It is very important to control the fulfilment of this obligation.
- Affiliation is unique, lifelong and exclusive.
- Affiliation, registration and active contributor status must take place prior to starting work.

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## 4.1 The Social Security Legal Relationship

Currently, it is not in question that providing protection in situations of need that citizens may suffer is a role of the State. It states in Article 1 of the Constitution that Spain is founded on a "Social and Democratic State governed by the Rule of Law", and, insofar as it is a social State, it can not abandon the maintenance of people who are unable to support themselves with their own job to private initiative.

On these foundations, a framework of "social insurances" are built, which only becomes an authentic Social Security system when there is a general conviction of the fact that solidarity in the area of work can only ever be truly effective if it is channeled and organised through a system in which the State, via the Law, specifies the situations worthy of protection and the contribution that active workers must make for said protection. It is also necessary for the State to oversee, through public organisations, the granting of these rights and the fulfilment of these obligations.

A Social Security System does not truly exist if it is not based on this public dimension: the rights and obligations that give rise to the System are "public", insofar as they originate from the Law and not from agreement between private citizens, and the System is also public, insofar as it is entrusted to organisations that are subordinate to the State.

It is the Law, therefore, that determines and governs the "legal relationship" between citizens and the Social Security. This relationship -always aimed at the social protection of citizens in situations of need- requires both parties, the State and the citizen, to carry out certain activities, which may be very diverse in their nature, depending on the citizen's position with regard to the Social Security; an employer, active worker or benefit recipient.

At contributory level, a distinction is normally made between three areas in which this legal relationship is implemented: affiliation, contribution and protection:

**AFFILIATION** or the initial acquisition of **ACTIVE CONTRIBUTOR STATUS** in the Social Security, and the subsequent acquisitions constitute the mechanism provided by the State for determining, while the worker has active contributor status, the persons who are responsible for making contributions, and also the entitlements that said worker is acquiring through their "contributions" to the System.

**CONTRIBUTION** is the principal mechanism provided by the Law for funding the contributory level of the Social Security. If the **ACTIVE CONTRIBUTOR STATUS** was acquired as an employed worker, the employer is responsible for paying in the contributions. If the **ACTIVE CONTRIBUTOR STATUS** was acquired as a self-employed worker, the worker has to pay them in themselves.

The System established for the State to recognise situations of need when they occur, and provide the aforementioned public benefits to deal with said need is considered to be a "PROTECTIVE relationship".

## 4.2 Scope of Application

Through the scope of application we are going to establish and determine a group of people who are included in the Spanish Social Security System and who, therefore, are going to be individuals with rights and obligations. These people have come to be known as "protected individuals".

In principle, the Spanish System is focused on the principle of universality, meaning that all citizens would be included in its scope of protection. Thus, it is inferred from Art. 41 of the Constitution and from Art. 1 of the General Social Security Act (LGSS).

However, this statement needs to be qualified, because meeting the requirement of citizenship is not enough. Thus, the State guarantees their protection "either for carrying out a professional activity, or for meeting the requirements at the non-contributory level". (Art. 2 of the LGSS).

Therefore, we have to set out two different criteria for achieving protected individual status:

- 1) Carrying out a professional activity, which would imply the duty to pay contributions and, in return, the entitlement to "contributory" benefits, which take these contributions into account.
- 2) Meeting certain conditions specifically provided for in the regulations (situation of need and lacking personal financial resources), which would give rise to receiving benefits known as "non-contributory".

There is, therefore, a two-tier level of protection: contributory (occupational) and non-contributory (welfare).

It is in Art. 7 of the LGSS where the scope of application of the Social Security System is set out in detail.

Thus, the contributory level is provided for in the first paragraph, where it states that Spanish citizens residing in Spain and foreign citizens residing legally in Spain are included in the System, provided that they are carrying out a professional activity in national territory and are included in one of the following paragraphs:

- Employed workers who provide their services under the terms provided for in Art. 1.1 of the Workers' Status in the various branches of economic activity.
- Self-employed workers over the age of 18.
- Worker-members of Associated Work Cooperatives.
- Students
- Civil servants or military personnel.

This inclusion takes place irrespective of gender, marital status or occupation.

With regard to the non-contributory level, the third paragraph of the aforementioned Art. 7 mentions "Spanish citizens residing in national territory" and the fifth paragraph places "Hispanic-American, Portuguese, Brazilian, Andorran and Philippine citizens residing in Spanish territory" on an equivalent level.

Citizens from other countries will be subject to the provisions of the Treaties, Agreements, Pacts, etc., or will be dealt with according to the principle of reciprocity, implicitly or explicitly recognised.

## 4.2.1 Special Cases

### Employer Family Members.

Section 2 of Art. 7 of the LGSS, excludes the spouse, descendants, ascendants and other family members of the employer by consanguinity or affinity up to the second degree inclusive and, where appropriate, by adoption, employed in their workplace or workplaces, when they live in the employer's home and are in the employer's charge, from being considered as employed workers, unless they can prove otherwise.

This exclusion means that they are considered as workers included in the Special Scheme for Self-Employed Workers.

Nevertheless, Law 20/2007, of 11 July, of the Self-Employed Workers' Statute, has created the possibility of hiring children under the age of 30, even though they are living with the employer.

### Spanish Citizens Non-Resident in Spain.

In principle, they are excluded from the Social Security System, however there some exceptional cases where they are included with certain particular conditions, according to specific regulations:

- Workers posted by their companies outside of national territory.
- Spanish citizens residing abroad who are working for international intergovernmental organisations.
- Spanish personnel hired to work for the Spanish Civil Service abroad.
- Emigrant workers who are not protected in the country where they carry out their activity and who can sign a special agreement with the Spanish Social Security.

Finally, the government, in accordance with Art. 7.4 of the LGSS, may establish different social protection measures for Spanish citizens not residing in Spain.

### Foreign citizens residing in Spanish territory.

At the contributory or occupational level, they are fully equivalent to Spanish citizens provided that they reside or are in Spain legally, with refugees and stateless persons also qualifying for the protection.

### Persons excluded from the scope of application.

Persons who carry out jobs that with regard to their working hours or remuneration are considered to be marginal and not to represent a basic means of earning a living, are excluded from the scope of application of the Social Security by Royal Decree.

### Special Cases.

In accordance with Art. 8 of the LGSS, persons included in the scope of application of one of the Social Security schemes, may not be required to be included for the same job in another scheme outside the System.

As a general rule, in the event that a person carries out different jobs which are included in the System's scope of application, they will be included simultaneously in two or more schemes; for example, in the General Scheme and the Special Scheme for Self-Employed Workers.

### 4.3 Affiliation

Affiliation is the administrative decision through which the General Treasury of the Social Security grants the status of "being included" in the Social Security System, with the effects provided for in law, to the individuals carrying out a professional activity for the first time that determines their inclusion within its scope of application.

Affiliation has the following characteristics:

- It is compulsory: all people included within the System's scope of application for contributory benefits are required to become affiliated.
- It is unique for the entire system and for all the schemes, even when people change to from one scheme to another as a result of their activity.
- It is lifelong, because initial affiliation lasts throughout a person's life, even when their active contributor status is terminated in the Scheme because they have finished the work they were doing.
- It is exclusive, insofar as you cannot have active contributor status in another social welfare scheme outside the System.
- Affiliation alone or together with other requirements is a condition for being a holder of rights and obligations.

#### 4.3.1 Methods of Completing Affiliation

There are three methods of carrying out affiliation:

- Initiated by the Employer
- Upon the request of the worker
- Automatically, by the General Treasury of the Social Security

##### Affiliation Initiated by the Employer

The employer is the first person required to request affiliation with the system for non-affiliated persons who start working for them.

Non-fulfilment of this requirement, in addition to constituting a serious offence, determines the employer liability for the benefits, unless such non-fulfilment has been remedied through the other two methods of carrying out affiliation.

##### Affiliation upon the Request of the Worker

In the case of self-employed workers or assimilated self-employed workers it is they themselves who are required to carry out affiliation when they start working.

Likewise, in the event that the employer does not meet their obligation to affiliate its workers, they may request affiliation and initial active contributor status in the General Treasury of the Social Security at any time when said non-fulfilment becomes evident.

### **Automatic Affiliation**

Affiliation can be carried out automatically by the General Treasury of the Social Security when it has evidence of the failure to apply for affiliation, whether it be through actions by the Inspectorate of Labour and Social Security, through the data on record in the Managing Bodies or through any other procedure.

### **4.3.2 Location and Deadlines**

Affiliation must be processed at the regionally competent department of the General Treasury of the Social Security according to the company address, the establishment of the self-employed worker or, in the absence of this, their home address.

If the workers are included in the Social Security Special Scheme for Sea Workers, affiliation should be processed at the Provincial Directorate or Local Office of the corresponding Social Marine Institute.

Nevertheless, they can also submit the affiliation application in any of the offices of the General Treasury of the Social Security or in the registration offices provided for in Art. 38.4 of Law 30/1992 (post offices, bodies of the General State Administration and the Autonomous Communities, Spanish diplomatic or consular offices abroad, etc.)

As a general rule, the affiliation application must always be submitted prior to starting to provide services as an employed worker, under the same terms as for initially acquiring active contributor status.

However, as an exception, affiliation takes place after starting work in the case of the Special Scheme for Self-Employed Workers, as is stated in transitional provisions.

If the details provided when becoming affiliated are subsequently amended, the employer or the worker, as applicable, must send notification of these changes within a six-day period.

### **4.3.3 Effects of Affiliation**

Once the affiliation has been granted by the General Treasury of the Social Security, a Social Security affiliation number will be assigned, a Social Security affiliation document will be issued and the worker's details will be registered in the general affiliation file.

In the event that affiliation is declared invalid after it has been granted because it involves a person who is outside its scope of application, the worker will return to their previous situation, and the contributions paid in shall have no effects whatsoever.

In the event of persons acting with malice, negligence or delay, the appropriate liability may be demanded.

## **4.4 Company registration**

This is the administrative decision through which the General Treasury of the Social Security includes employers that hire employees in the relevant Scheme, in order to identify them and to monitor the fulfilment of their obligations to the Social Security.

This registration is a compulsory requirement prior to starting activities. Non-fulfilment of this requirement gives rise to liability for the employer, which carries with it the non-fulfilment of other legal obligations such as, affiliation, notification of active contributor status, contributions, and even their direct liability with regard to the benefits to which workers have become entitled.

At the same time as registration, the employer must exercise the option of an insurance company to provide coverage for the contingencies of work-related injuries and occupational diseases as well as the financial benefit for temporary disability, for the workers it is responsible for.

### 4.4.1 Definition of Employer

An employer is defined as any natural or legal person, public or private, even if their activity is not for profit, to whom people provide services as employed workers or assimilated employees within the scope of application of any Social Security scheme.

### 4.4.2 Registration Application

The aim of registration is to inform the General Treasury of the Social Security of the employer's identity details.

Employers must also inform the General Treasury of activities being carried out other than those declared when requesting initial registration, the details of the company workers who are in special circumstances with regard to contributions, advance notification of changes that occur to the details provided, and any other circumstances that are provided for in law.

The documentation to be submitted when registering is needed to identify the individuals who are in charge of the company: name, address, activity and contribution account codes, as applicable.

When the employer is a legal person, in addition to identifying the individuals in charge, it shall certify their employer status.

Together with this documentation, the documents relating to the option of an insurance company to provide coverage for occupational contingencies and temporary disability arising from common contingencies shall be provided.

### 4.4.3 Completing Registration. Subsequent Variations

By means of the administrative decision on registration, the General Treasury of the Social Security will assign the employer a unique registration number, which will be considered to be their primary and main Contribution Account Code. The successive account codes that are created in the same or in different provinces shall be linked to said Contribution Account Code.

Employer registration is unique and is valid in the relevant Social Security schemes, throughout Spanish territory and for the lifetime of the natural or legal person that owns the company.

Employers are required to communicate changes in the details included when registration was completed, within a period of six calendar days from the change, especially if they involve a change of name, address, economic activity, subcontracting of works and services to other companies, etc.

It is also compulsory to provide ten days advance notification of a change in the insurance company providing coverage for occupational contingencies.

#### **4.4.4 Cover for the Contingencies of Work-Related Injuries and Occupational Diseases**

The protection that the Social Security system grants to the included individuals is not uniform, but rather it changes depending on the original cause of the protected situation, where the origin could be both "common" or "occupational".

Whether the contingency is common occupational has some important effects with regard to the necessary requirements, scope of protection, managing body and funding.

In the case of professional contingencies, the LGSS allows the management to be undertaken by the Mutual Societies for Work-Related Injuries and Occupational Diseases, granting the employer a right to opt for these when filling out the registration forms or subsequently, through the association document, which has an initial validity of one year.

### **4.5 Acquisition and Termination of Active Contributor Status**

#### **4.5.1 Concept and Characteristics**

Active contributor status is an administrative decision through which the General Treasury of the Social Security grants people who start their activity the status of being included within the scope of application of a certain Social Security Scheme, according to the type of activity they are carrying out, with the corresponding rights and obligations.

Termination of active contributor status is an administrative decision that ends the Social Security legal relationship.

Variations are administrative decisions by which modifications to identification, address or employment data on the affiliated workers are communicated to the Social Security System.

Active contributor status is compulsory and the acquisition and termination of active contributor status expresses the current situation of the workers depending on whether or not they are carrying out a professional activity that is included within one of the System's schemes.

Whereas affiliation is unique, the acquisition and termination of active contributor status can be multiple, successive or even simultaneous if workers are carrying out more than one activity.

Simultaneous active contributor status can give rise to two situations:

- Multiple activity: when a worker carries out activities that require them to have active contributor status in two or more different Social Security Schemes.
- Multiple employment: when an employed worker provides services in two or more different companies, but within the same Social Security Scheme.

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## 4.5.2 Classes of Active Contributor Status

### Active Contributor Status

This takes place after having started work, thereby meeting the obligation to process the application for active contributor status.

### Assimilated Contributor Status

This takes place under a range of circumstances that are stated in the regulations in which, during a temporary or definitive stoppage of work, the law considers that the active contributor status that existed before the stoppage should continue.

It must be taken into account that assimilated contributor status is not full active contributor status, but rather it is considered with regard to the stated contingencies, the scope and validity which are determined in each given case.

Examples of assimilated contributor status are in the event of: involuntary unemployment due to a temporary or definitive stoppage in work while receiving benefits, forced leave or leave taken to care for children, periods of inactivity for seasonal workers or having signed a special agreement.

### Assumed contributor status or contributor status by operation of law

When the protected individual does not have active contributor status and in is an situation where they should have it, the law provides for assumed existence of active contributor status for certain contingencies such as: work-related injuries and occupational diseases, unemployment, and health care for common diseases, maternity, risk during pregnancy and non work-related injuries. The principle of automatic receipt of benefits is applied in these cases.

### Special Contributor Status

This occurs in the event of strikes and lockouts, but in reality it is similar to assimilated contributor status.

## 4.5.3 Methods of Promoting Acquisitions and Terminations of Active Contributor Status

The employers and, where appropriate, the self-employed workers are the persons required to inform the General Treasury of the Social Security of the start or end of the provision of services, using the methods provided for affiliation.

It is also necessary to report affiliation or termination of affiliation in the event of changing province or changing contribution account code.

If the employer fails to meet their obligation, the worker themselves may request affiliation or termination of affiliation, or the General Treasury of the Social Security may carry it out automatically.

Active contributor status will continue during the situation of temporary disability and in those other situations with assimilated contributor status in which the obligation for the employer to make contributions remains.

#### **4.5.4 Applications for Acquisition and Termination of Active Contributor Status. Location and Deadline**

They can be processed by submitting the official form or using electronic media under the terms established by law.

Applications should be sent to the competent regional body of the General Treasury of the Social Security according to the address of the company or workplace of the self-employed worker, but they can also be submitted in the same places as those indicated for affiliation.

If the workers are included in the Social Security Special Scheme for Sea Workers, applications should be sent to the Provincial Directorate or Local Office of the corresponding Social Marine Institute.

Affiliations should be submitted by the individuals with the obligation to do so prior to the starting of work. Whereas, applications for termination of affiliation and change of details should be submitted within the subsequent six calendar days. This is valid for the General Scheme. In the Special Schemes there are different deadlines than those specified above.

#### **4.5.5 Effects of Active Contributor Status**

##### **Acquiring active contributor status on time**

When the acquisition of active contributor status is processed on time, it will start to have legal effects from the start of activity. However, these effects can be annulled if it is shown that the start of activity did not take place.

##### **Acquiring active contributor status after the deadline**

As a general rule, this will start to have legal effects from the application date, however the obligation to make contributions begins on the date the activity was started.

As an exception, if contributions have been paid in on time prior to the application for active contributor status, the effects will be backdated to the date on which the contributions were paid in.

When the acquisition of active contributor status after the deadline is completed automatically, the effects will be backdated to the date on which the Social Security became aware of the situation.

Likewise, if the company pays in contributions following a Labour Inspectorate requirement or decision, retroactive effects may be applied.

##### **Incorrect acquisition of active contributor status**

If a person should not have active contributor status in any of the System's schemes, the active contributor status will be cancelled. If they should have active contributor status in a different scheme to the one in which it was acquired, the active contributor status will be valid until the date specified by the General Treasury of the Social Security, and the contributions shall be considered to be valid until the date on which the change of scheme takes place.

### 4.5.6 Effects of Termination of Active Contributor Status

If the termination of active contributor status is processed on time and according to the method established by law, the obligation to make contributions will come to an end. However, if the termination of active contributor status is submitted after the deadline, the obligation to make contributions will not come to an end until the General Treasury of the Social Security becomes aware that the person has stopped working. Nevertheless, the interested parties can demonstrate via any legally accepted method, the actual date that work stopped for the purposes of ending the obligation to make contributions.

## 4.6 Schemes

The contributory level of the Spanish Social Security System is organised into different schemes, which include those persons who, while carrying out a professional activity, are included in its scope of application.

In accordance with Art. 9.1 of the LGSS, the system includes the following schemes:

- 1) The General Scheme made up of employed workers from industry and services.
- 2) The Special Schemes, in which activities are provided for that, due to their nature, their particular conditions relating to working hours and location, or the nature of their productive processes, makes them necessary in order to implement Social Security benefits appropriately.

This system has, therefore, a plural configuration, in which, the General Scheme is the basis, both for the number of workers that join and for the scope of its protective action.

There are, however, a series of common legal principles or measures:

- a. A common legal framework for the entire system, including the regulations dealing with topics such as affiliation, contributions, collection and protective action.
- b. A unique and lifelong affiliation with the System, irrespective of the scheme in which a worker has active contributor status.
- c. The adding together of all the time spent in each of the schemes, as long as they do not overlap, when workers pass from one scheme to another.
- d. The reciprocal contribution calculation with the state's Passive Classes Scheme for common benefits for the schemes in question.
- e. The existence of "common services" to carry out functions that affect all schemes included in the system.

### 4.6.1 General Scheme

This scheme is the most important in the Social Security System and the LGSS gives it Title II, configuring it as the coverage ideal in respect of the special schemes, implementing its regulations as subsidiary to these special schemes.

#### Inclusions

Globally, the General Scheme includes employed workers or assimilated employees from the various branches of economic activity, over 16 years of age, irrespective of their gender, marital or professional status and also whether they are domestic, temporary, seasonal, permanent or

intermittent workers. The occupational classification and the method and amount of remuneration are also irrelevant.

For the definition of employed workers we refer to Art. 1 of the Workers' Statute, which defines them as "those persons who voluntarily provide paid services as an employee and within the scope of the organisation and management of another legal or natural person, known as an employer".

More specifically, the LGSS provides for in Art. 97 a more detailed list of the included groups of workers.

Effective as of 1 January 2012, two special systems have been created within the General Scheme:

- The Special Agricultural System, which includes paid employed workers who carry out agricultural, forestry or livestock work or who are supplementary to or assist in these tasks, on farms.
- The Special System for Domestic Employees, which includes workers who carry out services or activities for a family home, which could entail any type of domestic task, as well as manage or care for the home as a whole or any of its parts, provide care or support to family members or people who are part of its scope, as well as other additional jobs such as child care, gardening, driving vehicles, etc.

### Exclusions

The LGSS sets out the following exclusions:

- People who occasionally carry out so-called amicable, charitable or good neighbourly work.
- The jobs that give rise to inclusion in one of the Special Schemes of the Social Security.
- Jobs that with regard to their working hours or remuneration can be considered to be marginal and not to constitute a fundamental means of earning a living, and which have been approved as such by the government.

### 4.6.2 Special Schemes

The Special Schemes currently in force are set out below:

#### **Special Scheme for Self-Employed Workers (RETA).**

Generally includes workers over 18 years of age who, regularly, personally and directly perform an economic activity for profit without being subject to an employment contract, although they may use the remunerated service of other persons.

More specifically the following groups are included, among others:

- 1) Spouse and family members of the employer up to the second degree, who have a position at their place of work and do not have salaried worker status, when they are living with and are financially dependent on said employer.
- 2) Associates of general partnerships and general partners of special partnerships.
- 3) Members of professional associations, except when they have the option to join an alternative mutual society.
- 4) Members of associated work cooperatives if they choose to be part of the RETA.

- 5) Members and board members of trading companies with direct or indirect control over the company.
- 6) As a special scheme included in the RETA, self-employed agricultural workers, under the legally established terms.

### **Special Scheme for Sea Workers**

It includes both employed and self-employed workers who carry out maritime fishing activities. Employed workers includes persons who carry out activities in the merchant navy, maritime fishing, extraction of other products from the sea, interior port traffic, sports and recreational craft and pilotage and port stevedores. Self-employed workers includes shipbuilders of small boats who work on-board, persons who work in the extraction of products from the sea and net-markers who do not work for a fishing company.

### **Special Scheme for Coal Mining**

Established for employed workers who provide their service for companies that carry out activities related to coal mining: extraction in open-cast or underground mines, manufacture of agglomerates, production furnaces, river transport and others.

### **School Insurance**

It includes persons under 28 years of age who are enrolled in the 3rd and 4th year of ESO (Compulsory Secondary Education), baccalaureates, intermediate and advanced level professional training courses, university studies, etc.

Finally, we make reference to the Special Scheme for Civil Servants, the Special Scheme for the Armed Forces and the Special Scheme for Members of the Legal Profession, which are governed by their specific laws.

## 5 Funding. The Social Security Budget

### Aims

The aims of this session are:

- Make students aware of the economic cost of Social Security benefits, and the need to guarantee its sources of funding function well.
- Provide students with knowledge of Social Security Budgets, a policy that from an economic and financial point of view explains its operation.

### Content

- Funding
- The Social Security Budget. Introduction Drawing up the budget, Contents, Expenditure and Income + The Social Security Budget 2009.

### We remind you that...

- Social Security benefits have a high economic cost, as they affect a very high number of citizens.
- Both for society and specifically for the benefits of every citizen, it is very important to monitor compliance with the obligation of employers and other liable people to make contributions.
- The Single Till principle guarantees solidarity, and equal treatment, between Spaniards, regardless of their place of residence.
- The distribution principle is a system of solidarity between generations.

## 5.1 Funding

### 5.1.1 Sources

Spanish Social Security relies on a mixed system of funding as it is fed by very different means to gather the resources necessary to fulfil its obligations.

The resources for funding the Spanish Social Security System are constituted by:

- The progressive contributions of the State, that are allocated permanently in the General Budgets, and those agreed for special cases arising from exceptional situations.
- The payments from people required to make them.
- The amounts collected in concept of surcharges, fines or similar.
- The income, earnings or interest and any other product of its heritage resources.
- Any other income, without detriment to that stipulated in the twenty-second additional provision of this Law.

Regarding the content and characteristics of each of the various sources of resources, the following clarifications can be made:

The most important economic resource is the contributions or payments to the Social Security, which consist of an economic contribution from the employers and workers, a contribution that is defined based on a percentage of the workers' remuneration.

After the contributions of employers and workers, the next most important is the State contribution to sustain the Social Security System.

These State contributions make part of the citizens' income tax payments available to the Social Security system, so that the effects that the financial system has in general are reproduced in this sector. Thus, if the taxes really achieve, in every case and at all times, the redistribution of taxpayer income, the Social Security system, receiving these benefits and paying the corresponding benefits, also plays a part in this redistribution function.

The second characteristic of these State contributions is their decisive nature, in that they are not devoted to the payment of the obligations of the Social Security System as a whole, but to funding some of them, in short health care, the complements for pension minimums and the budget for the Institute for Social Services and the Elderly.

The volume of resources channelled by the Social Security system, make it a significant economic factor with influence in competitiveness, productivity, consumption and inflation.

Regarding surcharges, fines and the like, this source of revenue refers to those which occur as surcharges for late payment penalties, delays from the compliance with the regulatory period for paying the debt, and can be demanded 15 days after the notification of the enforcement order, if the debtor does not make the payment, and those obtained by issuing fines.

The income, earnings or interest and any other returns from their assets are the concepts indicated as a funding source that can be classed as marginal.

The reference made in this section to "any other income" refers to the list in the General Collection Regulations, which does not fit into any of the previous sections (State contributions, Social Security contributions, etc.).

The LGSS states that "income arising from the following care, benefits and services shall not be considered to be Social Security Resources", thereby describing certain income that is a consequence of providing health care in certain circumstances, as well as the sale of certain materials, or which is a result of from agreements, grants and donations, etc.

The analysis of the determining regulations of funding the expenditure budget of the Social Security System allow the following considerations to be made:

The "**contributory level**" of protection, comprising the financial benefits of the different Schemes of the Social Security System and those arising from the contingencies of work-related injuries and occupational diseases, as well as "the expenses arising from their management and operation of the services corresponding to affiliation, collection, and economic-financial and asset management"; will be "basically" funded by contributions, the amount of the surcharges and fines, the income, earnings and interest from its assets and the profit from other income. If necessary, this is supplemented by State contributions that can be provided for specifically.

In short, the current trend of our Security Social system is that the resources indicated -without the State Contributions- allows funding at contributory level and the management and administration expenses.

The funding of the "**non-contributory or welfare level**" is paid for by the State, setting its funding in the respective Budget Acts for each year, with specifically-aimed contributions. The minimum supplements to pensions are also paid for by the State, which, once the temporary period indicated has ended, will contribute with specifically-aimed contributions set out each year in the Budget Acts, with the Social Security Budget covering the difference.

For health care and social services, whose management has been transferred to the Autonomous Communities, funding will be made in accordance with the Autonomous Community Funding System in force at any given time.

To remove any doubts there may be regarding the "**non-contributory**" nature of a benefit, the LGSS states that they have the following nature:

- The "health care" benefits and services included in the protective action of the Social Security System and those corresponding to "social services", except those resulting from work-related injuries and occupational diseases.
- Non-contributory pensions due to disability and retirement.
- The minimum supplements to Social Security pensions.
- Family benefits governed by the LGSS.

### 5.1.2 Funding Systems

Funding systems are understood to be the financial techniques used to plan the coverage of the costs of the protective action of the Social Security System. Basically, they are: capitalisation and distribution

#### Capitalisation

Capitalisation techniques involve forming capital comprising the contributions or premiums plus the accumulative interest, intended to pay for future benefits. Thus designed, the capitalisation technique has been the main financial vehicle of the social welfare systems, especially while these have been kept attached to the actuarial techniques and legal frameworks of private insurance. Of course, the capitalisation technique has its roots in private insurance.

This technique has been explained as a private account open to every insured party, into which the contributions and their interest are paid. Nevertheless, there are numerous disadvantages of this system (monetary depreciation, long time period, complex management administration, etc.).

#### Distribution

The financial techniques of distribution implies the immediate or short term distribution of the contributions and general revenue of the Social Security System that, without time to be capitalised, become benefits to be received by the recipients. The distribution techniques are those that best suit a social security system, and allow the principle of financial solidarity to be expressed.

As the deficiencies of the capitalisation system are corrected, these corrections appear as advantages of the distribution system.

The current funding method of the Social Security System, if one thinks about it carefully, is based on the idea of solidarity; solidarity that, at the same time, operates on three different axes:

- solidarity between generations.
- solidarity between the working and the non-working.
- solidarity between the various regions of the nation.

Article 87 of the General Social Security Act states that the financial system of the Social Security is a distribution system, in other words, that it imposes sacrifices on young people to benefit older people; the healthy to benefit the sick; the employed to benefit the unemployed; those who are living to benefit the families of those who have passed away; those who do not have dependent family members to benefit those who do; prosperous and growing economic activities, finally, to benefit depressed sectors.

These links of solidarity between the current contributors and the receivers of benefits, are added to the no-less-significant links of solidarity that occur between the various regions of the nation.

A certain region may have a deficit, if only the contributors and pensioners that live there at a given point in time are considered. In this case, it is the contributions from residents in other regions that salvage the situation, forming what the Constitutional Court has come to name interterritorial solidarity.

Also from the point of view of funding it must be noted that Article 41 of the Constitution provides for "a public Social Security system", which in the interpretation of the Constitutional Court implies "a single and unique Social Security system for all citizens that at the same time guarantees equality to all Spanish citizens in the exercise of their rights and duties regarding Social Security".

For this equality of Spanish citizens before the Social Security to be real and effective it is necessary to ensure, at least, the following:

- That the contributions made over time, in any part of national territory, are, when the time comes, sufficient to pay the corresponding benefits, regardless of where they are claimed.
- That the requirements for company registration, affiliation, acquisition and termination of active contributor status, variations and the scheme of the corresponding benefits are uniform throughout national territory.
- That the contributions are of the same amount and are required in the same way in any part of national territory.
- That when the time comes the recipients can claim their benefits in any part of national territory.

Achieving these goals also involves achieving other very significant aspects such as compliance with constitutional and legal stipulations, as well as different European Union Treaties.

Effectively, the importance of the contributions made in any territory ensures Spanish citizens are free to reside in any part of national territory and contributes to the free movement of workers within the European Union.

The cost identity of Social Security regardless of where the services are provided helps prevent the splitting of the labour market.

The significance of achieving these goals is not only evident during the working life of workers, but extends into retirement. The Florida effect, meaning the fact that many pensioners choose to live elsewhere after retirement, would not be possible without the principle of exporting the benefits required by EU regulations on the matter.

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## 5.2 The Social Security Budget

### 5.2.1 Introduction

The management of the public sector is subject to the system of an annual budget approved by the Spanish Parliament and based on the principles of budget stability, multi-annual nature, transparency and efficiency. The multi-annual nature is to strengthen the budget forecast and standardise the procedures for all Civil Service Departments with stability and growth programmes; transparency that enables the budget stability to be verified and finally efficiency in the allocation and use of the public resources that must guide spending policies.

We can define the budget as the set of rights (revenue) and obligations (expenditure) to settle over the financial year by each of the bodies and organisations that make up the state public sector.

The Social Security is in accordance with Art. 2 of Law 47/2003 of 26 November, on the General Budget, is part of the public sector and therefore must be provided with an annual budget governed by these principles, which is integrated into the General State Budget and is approved by law.

For 2011, Law 39/2010 of 22 December, on the General State Budget, has set a budget of €124,408.08 million with favourable results that enables €3,456.90 million to be allocated to the Reserve Fund, which will be 6.5% of GDP, with a view to guaranteeing the future stability of the system. This is possible thanks to the financial reforms and the reforms of the pension system that have taken place, which have enabled contributive fairness to increase at the same time as improving benefits, effectively helping social cohesion and the redistribution of income.

In the specific area of Social Security, we can define its budget as the set of obligations that the agents who make up the System's institutional administration have to meet in a financial year, when carrying out the activities they are responsible for and the rights that they expect to settle in said year to financially cover the benefits and services that have to be granted under the scope of its protective action.

### 5.2.2 Preparation of Budget

Every year at the end of May or beginning of June a Ministerial Order is published stating the regulations for drawing up the preliminary drafts for Social Security Budgets that must be sent to the General Directorate of Social Security Economic Organisation within 20 days of publication in the Official State Gazette.

The Ministry of Employment and Social Security integrates the preliminary draft budget of the General Treasury of the Social Security with those drawn up by the Managing Bodies, Mutual Societies for Work-Related Injuries and Occupational Diseases, the preliminary drafts for budgets of other institutions to draw up the preliminary draft budget of the Social Security System. This will be sent to the Ministry of Economy and Competitiveness and from there onto the government so that they can approve it and include it in the General State Budget Proposal.

The proposal of the General State Budget Act, once approved by the Council of Ministers, shall be sent to the Spanish Parliament before 1 October of the year prior to the year it refers to. In conjunction with the Act a number of explanatory reports must be included on the proposed expenditure and, among other documents, the accounts and balance sheet of the Social Security for the previous year.

This documentation is justified by the fact that this Act is mixed, as it combines legislative and government oversight functions.

The Spanish Parliament will pass it as if it were another Act. First the Congress of Deputies will vote on its general approval or the amendments to it presented by parliamentary groups, which if successful mean the full text is returned to the government. After this process, the partial amendments are studied, the capacity of which to modify the text is subject to not altering the budget balance, first by the existing committees and then before a full Parliament. Once it is approved in this chamber, it passes to the Senate, where it is read for a second time. The parliamentary groups use this opportunity to introduce amendments that they were unable to propose in the previous stage, although taking into account that the possibilities for change are very limited. Having been approved in the Senate, it goes back to Parliament for a final vote and approval of the definitive text.

This process must be concluded, including the publication of the text in the Official State Gazette before 31 December. Should this not be possible, the General Budget Act provides for the automatic extension of the time limit for the initial budgets of the previous financial year.

### 5.2.3 Content

The General State Budget is going to be structured separating on one side the expenditure and on the other the revenue that will be used.

### 5.2.4 The Social Security Budget 2012

The statements of expenditure and revenue that appear in the Social Security Budgets can undergo modification in any entry from one financial year to another.

By studying it in detail we can see the aims of the Social Security and the condition of the existing social welfare system in Spain. Thus, in 2011 the Social Security Budget will record a surplus of 0.4 % of GDP, due to the difference between the non-financial revenue (social contributions, taxes, transfers from the State and others) and the non-financial expenditure (staff, purchase of goods and services, social benefits, transfers and investment), as has occurred in previous financial years.

Social contributions have increased and the State contributions to the budget of the Social Security System have been maintained to fund the minimum pension supplements, non-contributory pensions, family benefits, IMSERSO and ISM social services and the health care provided by INGESA.

In the section on expenditure this budget combines the moderation of spending on management services, with the maintenance of the effective level of protection and improvements for the most vulnerable people and groups, to whom 91.86 % of the budget is directed. Thus, contributory pensions have increased by 3.95 % and the protective action has been extended, recognising the out-of-work benefit for self-employed workers and the occupational contingencies in the Special System for Domestic Employees.

## 6 Contributions

### Aims

The aims of this unit are:

- To define the relationship between contributions and benefits.
- To define who makes contributions and how and when they are made, and which risk situations are protected by which contributions.
- To define the different concepts that make up the dynamics of contributions: contribution bases, common and occupational contingencies, contribution rates, payments, deductions, and payment periods.
- To show the special contribution features of each scheme.

### Content

- Contributions to the General Scheme and the Special Schemes of the Social Security.
- Contributions in the Social Security Special Schemes.

### We remind you that...

- The Social Security is responsible for managing the public pension system.
- The General Treasury of the Social Security (as the System's general fund) is responsible for collecting contributions and managing all the System's resources, among other duties.
- It is a distribution system, as a reflection of inter-generational and inter-regional solidarity.
- The basic and principal source of funding for the public pension system are the employer and worker contributions.
- Contribution to the Social Security is compulsory.
- The obligation to pay contributions begins as soon as the employment activity commences.

### 6.1 Introduction

Article 41 of the Spanish Constitution states that *"The public authorities will maintain a public Social Security system for all citizens, which guarantees sufficient social benefits and support in situations of need"*. **The Social Security**, through its Managing Bodies (National Institute of the Social Security, Social Security Institute, Institute for Migration and Social Services, National Health Care Management Institute), Collaborating Bodies (Mutual Societies for Work-Related Injuries and Occupational Diseases), Common Services (General Treasury of the Social Security and IT Management) and Independent Organisations such as the Public State Employment Service and the Wage Guarantee Fund, among others, **is responsible for managing the public protection system** which guarantees maintenance for citizens in situations of need. This guarantee is mainly funded by the revenue from social contributions paid by employers and workers. Therefore one of the most important challenges for the public pension system is to ensure they are both sufficient for their entitlement holders and sustainable, that is, guaranteed for the future.

General Treasury of the Social Security (as the System's general fund) is responsible for collecting the social contributions from the individuals liable to make them in advance and on a monthly basis, with the single aim of covering risks and situations of need, guaranteeing to the people who make contributions that they will receive the same benefits that were being paid to those who came before them (known as a distribution system, in which each generation bears their current risks and the risks of past generations, in exchange for their futures being supported by future generations).

**The basic and principal sources of funding** for the public pension system are contributions in the form of **payments** made by employers and workers to the various schemes that make up the System. The method and amount to pay of their compulsory contributions will depend on the scheme in which they are included due to the activity they carry out. A constant and consequence of this is that **the higher the salary, the higher the contributions and the better the pension, in short; more effort means more pay in the future.**

The obligation to make contributions involves carrying out the necessary activities through which the individuals liable to make contributions provide financial resources to the Social Security System. The basic elements of this are the contribution base, rate and payment.

The formula is:  $\text{Contribution} = \text{Base} \times \text{Rate} / 100 - \text{Deductions}$ .

The payment of Social Security contributions, which have become due over the period to which the payment refers and, where appropriate, the applicable deductions and surcharges, shall be made by the individuals liable to make contributions by filling out the contribution documents determined by the Ministry of Employment and Social Security.

Let us move on to defining the different concepts that make up the dynamics of contributions.

## 6.2 Contributions to the General Scheme of the Social Security

Contribution to the Social Security is compulsory. The obligation to pay contributions begins as soon as the employment activity commences, and continues throughout the whole period in which the worker continues working and only ends when they stop providing services and communicate this in the established time and manner.

This obligation is also extended to different occupational situations in which the work contract is suspended although the working relationship is not terminated, for example: Temporary incapacity for work (TI), situations of maternity and paternity, risk during pregnancy and risk during breastfeeding, periods of unpaid leave that do not give rise to extended leave of absence, annual holiday not taken and paid on termination of the work contract, etc.

In the same way, once the working relationship has been terminated and while receiving benefits for unemployment, the obligation to pay contributions remains (the Public State Employment Service will pay the employer's contribution).

### 6.2.1 Contribution Subjects and Concepts

In this section we will state WHO has to contribute, and HOW and WHEN, and WHICH risk situations are protected by the corresponding contribution. Risk situations arising from common diseases and non-work-related injuries (common contingencies) and risk situations arising from work-related injuries and occupational diseases (occupational contingencies).

All workers who, depending on their activities, are included in the scope of application of the General Scheme of the Social Security are required to make contributions, through payment of the contributions corresponding to the worker and their employer (employer contribution). All individual and group agreements through which one of the individuals required to make contributions takes on the responsibility of fully or partially paying the contributions for the other shall be deemed void.

Employers shall deduct from their workers the contribution corresponding to each of them (worker contribution) when paying them their remuneration (if not done at that moment it cannot be done retroactively), and are exclusively liable to pay in the full amount of the contributions (worker and employer contributions). That is, the individual responsible for the payment or compliance with the obligation to make contributions is the employer, who must pay in the full amount of their own contributions plus those of the workers. Employers that, having deducted the corresponding contributions from their workers, do not pay them in on time will be liable before them and before the Managing Bodies affected, without prejudice to the appropriate criminal and administrative liabilities.

The risk situations protected by the contributions are:

- **COMMON CONTINGENCIES**; funded by both employers and workers to cover situations of need that may arise from: **Temporary incapacity for work** due to a common disease or non-work-related injury, benefits for **retirement, disability and death and survival** (benefits for widowhood, orphanhood, death grant, pension and family members benefit) due to a common disease or non-work-related injury, **family protection, pharmaceutical benefits, health care**, as well as situations of **maternity, paternity, risk during pregnancy and risk during breastfeeding**.
- **OCCUPATIONAL CONTINGENCIES**; with the aim **providing cover for situations of need arising from work-related injuries and occupational diseases**. The full contribution is exclusively paid by employers. This contributions includes the payment of two premiums, one for the situation of temporary disability and other for disability, death and survival (benefits for widowhood, orphanhood, death grant, pension and family members´ benefit).
- **OVERTIME**; the remuneration received by workers for overtime, regardless of their contributions for the purposes of contingencies due to work-related injuries and occupational diseases, unemployment, wage guarantee fund and occupational training (not taken into account for the contribution base for common contingencies), shall be subject to an additional contribution, intended to increase the general resources of the Social Security System. This additional contribution is made up of two parts: employer and worker
- Together with the Social Security contributions themselves, "Other contributions" for special concepts are collected:
  - a) Unemployment; for coverage of this risk. The employer and the worker will be required to pay this.
  - b) Wage Guarantee Fund (FOGASA); this is a body that guarantees workers receive their wages, redundancy or termination pay, pending payment due to insolvency, suspension of payments, bankruptcy or bankruptcy proceedings of the employer, thus benefiting any worker with an employment contract. This payment is exclusively paid by the employer.
  - c) Occupational Training; the employer and worker contributions collected for this concept are for the purposes of professional training, retraining, requalification and reclassification.

## 6.2.2 Contribution Bases

The contribution base is the amount established according to the applicable regulations to which the corresponding percentage (contribution rate) to quantify the obligation to make contributions is applied.

### 6.2.2.1 Composition of the Contribution Base

The General Social Security Act states that: *"The contribution base for all contingencies and situations covered by the protective action of the General Scheme, including work-related injuries and occupational diseases, will be constituted by the complete remuneration, regardless of its form or name, which the worker is entitled to receive monthly, or the remuneration actually received should this be higher, as a result of the work performed as an employee". "The payments that are due less often than monthly (extra payments among others) will be calculated on a pro rata basis throughout the 12 months of the year.*

Two circumstances must be taken into account:

- The **establishment of minimum** and maximum limits to the contribution bases.
- And the **complete or partial exclusion of some wage payments**, either because they cover non-wage concepts (compensation for transfers, suspensions, dismissals and resignations, payments for marriage, death compensation or voluntary contributions to the benefits granted by the Social Security) which are excluded from the contribution base, or because these wage payments compensate costs related to work (food allowances, wear on work tools, clothing, cash loss, distance and urban transport allowances, transport expenses, etc.) that will be subject to the Personal Income Tax Regulations, so the excess over the limits established therein shall be counted as part of the contribution base, thereby excluding a predetermined amount.

### 6.2.2.2 Calculating the Contribution Base for Common Contingencies

Once the concepts for contribution purposes have been fixed, with the exception of overtime (which is calculated for the contribution base for Occupational Contingencies, Unemployment, the Wage Guarantee Fund and Occupational Training), the following regulations must be taken into account:

- a) The **remuneration accrued in the month** to which the contributions refer will be calculated.
- b) To the compensation calculated according to the previous rule, **the proportional part of the extra payments established and other remuneration concepts that are paid less often than monthly** or which are not periodic and are paid within the accounting period of current year is added. To this end, the estimated annual amount for these extra payments and other concepts will be divided by 365, and the resulting ratio is multiplied by the number of days that make up the contribution period of each month. If the remuneration corresponding to the worker is paid on a monthly basis, the annual amount will be divided by 12.
- c) If the contribution base according to the previous regulations is not between the amount of the **minimum and the maximum base** corresponding to the contribution group of the occupational classification of the worker, the contribution will be the minimum or the maximum base, if the resulting base is below the former or above the latter. The specified minimum base will apply regardless of the number of hours worked daily, except in cases where legal regulations state otherwise (e.g. part-time contracts).

**Maximum and Minimum Bases.**

In accordance with the provisions of the General State Budget Act, with regard to the maximum bases and the General Social Security Act, with regard to the minimum base (current national minimum wage increased by a sixth), the contribution bases will be limited to the amounts that appear in the Ministerial Order published every year for each group of occupational classifications:

GROUP	OCCUPATIONAL CLASSIFICATION
1	Engineers and University Graduates
2	Engineering Technicians, Experts and Qualified Technicians
3	Administrative and workshop managers
4	Assistants without a University Degree
5	Administrative Officials
6	Subordinates
7	Administrative Assistants
8	1st and 2nd level officials
9	3rd level officials and specialists
10	Unskilled Workers over 18 years of age
11	Workers under 18 years of age

**Contribution rate.**

The contribution rate is the **percentage applied to the contribution bases**, the result of which is the rate or amount to be paid. The contribution rates will be those established each year in the corresponding General State Budget Act.

**6.2.2.3 Calculating the Contribution Base for Occupational Contingencies**

The contribution base for these contingencies is calculated in the same way as for common contingencies, although the **amounts paid by way of overtime are added**. The Ministerial Order on Contributions states that "To determine the contribution base corresponding to each month for the contingencies of work-related injuries and occupational diseases, the regulations a) and b) in the previous section (contribution base for common contingencies) shall be applied with the inclusion of the amounts received for overtime. The resulting amount cannot be greater than the maximum limit nor lower than the corresponding minimum limit, regardless of the number of hours worked daily, except in cases in which the legal regulations state otherwise (e.g. part-time contracts)".

**Maximum and Minimum Bases.**

The maximum limit of this contribution base shall be set every year. The minimum limit shall be equivalent to the national minimum wage in force at any given time, increased by the prorating of the due benefits that are greater than the monthly prorating received by the worker. This may not be lower than the amount set annually.

**Contribution rate.**

For the contingencies of work-related injuries and occupational diseases the percentages of the table of premiums established in current legislation shall be applied. The contribution rate applicable shall be that corresponding to the main economic activity performed by the company, according to the National Classification of Economic Activities, and the codes therein relating to each activity.

These premiums are not the same; on the one hand there will be specific contributions according to the economic activity of the company and, on the other, they may be reduced for companies that use effective prevention measures and, as the case may be, increased for companies which do not fulfil their obligations regarding health and safety in the workplace. All of the foregoing is under the circumstances and conditions specified by the Ministry of Employment and Social Security.

### 6.2.2.4 Additional Contributions for Overtime

Overtime is understood to be each effective hour of work performed in excess of the maximum duration of the ordinary working day, established legally or agreed in a collective agreement or employment contract. The additional contributions for overtime are determined by the application of the corresponding rate (%), depending on the nature of these hours (force majeure and the other overtime not classed as due to force majeure), by the total remuneration received by the worker for this concept and without maximum or minimum limits.

### 6.2.2.5 Contribution Base for Unemployment, Wage Guarantee Fund and Occupational Training

The contribution base for these situations corresponds to **the contribution base calculated for occupational contingencies**.

The contribution rates for unemployment, the wage guarantee fund and occupational training are determined annually.

## 6.2.3 Contribution Deductions

These are deductions in payments, resulting from the application of certain percentages or set amounts in order to reduce the Social Security costs for companies and maximise the access of certain groups to the employment market as a way of boosting employment.

The formulas used are **reductions and allowances** in contributions. Although both coincide in that they reduce the employer contribution, they are different in that the reductions are taken from the budget of the Social Security System, while the allowances are taken from the budget of the Public State Employment Service.

As an example we can highlight some of the groups whose contracts have received allowances in the successive programmes to boost employment: Women, young people, older people, people with disabilities, the long-term unemployed, people in a situation of social and general exclusion, in specific economic activities and geographical areas.

## 6.2.4 Period for Paying-In Contributions

This is the reference period for the contribution bases and rates when calculating the contribution to be paid for the purposes of payment or compliance. Except when payments for longer or shorter periods are established or expressly authorised in the terms and conditions determined by the Ministry of Employment and Social Security, the payment periods will refer to **full calendar months**, although the earnings for them and/or their payment is made in periods other than months.

Payments for contributions corresponding to remuneration concepts included in the contribution base but accrued for periods of more than one month that are not periodic and are paid within the corresponding financial year will be distributed proportionally among the monthly payments for that year (e.g. extra payments). Similarly, if applicable, payments that cannot be fully or partially quantified in advance, for the purposes of prorating, shall be settled.

The remuneration concepts received retroactively will be supplementary payments, listing the contribution bases for each month separately, according to the bases, the rates and other terms in force in the months to which the wages correspond.

All Social Security contributions and other items that are collected along with them **shall be paid within the month following** that in which they were accrued.

### 6.2.5 Special Contribution Circumstances and Situations

What has been stated up to now on contributions in the General Scheme constitutes general principles, nevertheless, they can be adapted in certain situations:

- Contributions during situations of **Temporary Disability (TD), Risk During Pregnancy, Risk During Breastfeeding, Maternity and Paternity.**

The obligation to make contributions remains throughout these situations. The contract is suspended (wages are not received, replacement benefits are incompatible with them), nevertheless, the requirement to pay contributions during the specified periods will no longer remain for workers whose employment relationship has been terminated (end of employment contract) during said situations irrespective of the maintenance, where appropriate, of the right to the corresponding benefits until the legal expiry thereof.

In the situations of temporary disability, risk during pregnancy, risk during breastfeeding, maternity and paternity, the applicable contribution base, for the purposes of common and occupational contingencies, will be that corresponding to the month prior to the date on which said benefits begin, with the exception that overtime to be taken into account for the contribution base for occupational contingencies will be that actually performed and contributed during the year immediately prior to the date this situation commenced. For this purpose, the total amount of those hours will be divided by 12 or 365, according whether they were remunerated monthly or daily.

- **Unpaid leave** (without extended leave of absence).

In these situations and while the worker still has active contributor status and the obligation to pay contributions remains, without receiving eligible remuneration, the contribution base for the purposes of common contingencies shall be the minimum corresponding to the professional category. Regarding the contributions for work-related injuries and occupational diseases the established minimum contribution limit shall be applied.

- **Training Contracts.**

The aim is to provide professional qualifications to workers between 16 and 25 years old, in a system alternating paid work in a company and training received within the framework of the vocational training system for employment or the education system.

The contributions will consist of a single monthly payment, regardless of the number of days the worker has active contributor status in the month and the wages received.

The protective action of the Social Security System includes all the contingencies, protected situations and benefits, including unemployment. Similarly, it provides the right to coverage from the Wage Guarantee Fund (Fogasa).

## **6.3 Inclusion of the Special Schemes for Domestic Employees and Employed Agricultural Workers in the General Scheme of the Social Security**

### **6.3.1 Special System for Domestic Employees**

- From 1 January 2012, the head of the household for whom the worker carries out domestic tasks must register as an employer with Social Security and give the person working for them active contributor status, regardless of the number of hours, and declaring, among other things, the monthly amount paid to this person.
- The contributions shall be according to the remuneration. In any event, the person responsible for paying in the contributions of both employer and worker shall always be the employer.
- The payment must be made by direct debit.
- The protective action provided by this System, within the General Scheme to which it belongs, does not include that corresponding to unemployment.

### **6.3.2 Special System for Self-Employed Agricultural Workers**

- Employed workers included in the Special Agricultural Scheme on 31 December 2011 and the employers to whom they provide their services are included in this Special System. Employed workers who carry out agricultural, forestry or livestock work or who are supplementary to or assist in these tasks, on farms, as well as the employers to whom they provide their services, shall also be included in the General Scheme of the Social Security.
- The contributions are governed by the current regulations in the General Scheme, distinguishing between working and non-working periods and with the following particular conditions:
  - During the working periods the contributions can be made using daily bases, depending on the actual days worked, or using monthly bases, which is compulsory for agricultural workers with permanent contracts. The employer is responsible for fulfilling the requirement to pay contributions and report the actual days worked. The employer is solely responsible for paying in contributions for occupational contingencies.
  - During non-working periods the contributions shall be paid monthly and shall be paid exclusively by the worker.
  - During periods of temporary disability, risk during pregnancy and risk during breastfeeding, as well as maternity and paternity during working periods, the employer is only responsible for paying the employer contributions. The worker contributions shall be paid by the organisation that is making the direct payment of the benefits for the specified situations.

- The workers included in the Special System shall have right to Social Security Benefits in the same terms and conditions as in the General Scheme, with the specific particular conditions indicated in the following sections:
  - During working periods, they will have right to all benefits established in the General Scheme.
  - Nevertheless, during non-working periods, the protective action will exclusively include economic benefits for maternity, paternity, permanent disability and death and survival arising from common contingencies, and retirement.

## 6.4 Contributions in the Social Security Special Schemes

In this section you can see the aspects of the contributions specific to the Special Schemes.

### 6.4.1 Special Scheme for Self-Employed Workers (RETA)

**The monthly contribution base may be selected** (with certain limitations) by the worker within a scale set by the General State Budgets Act, between minimum and maximum bases that coincide with the maximum limit of the contribution base in the General Scheme. This base can be modified if the worker wishes, selecting another within the minimum and maximum limits applicable in each financial year, provided that it is requested at the Central Treasury for Social Security. Nevertheless self-employed workers aged 50 or over have a lower maximum contribution to avoid a drastic increase in the contribution basis in the years that comprise the regulating base for the purposes of the retirement pension.

The **general contribution rate** applicable to the contribution base selected by the worker is fixed annually. Nevertheless, when the interested party is not covered for temporary disability protection (compulsory contingency except in cases where the worker is already registered in another Scheme of the Social Security System that has this cover), the contribution rate will vary. All contingencies for work-related injuries and occupational diseases are contemplated as a voluntary improvement for which only workers in the RETA that have chosen the financial benefit for temporary disability can opt, and the table of premiums established for this Scheme will be applied to the contribution base. Workers who have not opted for coverage of the contingencies of work-related injuries and occupational diseases will make an additional contribution onto the chosen contribution base, in order to pay for the benefits of risk during pregnancy and risk during breastfeeding in the case of workers included in the Special System for Self-Employed Agricultural Workers.

To benefit some groups when undertaking a professional activity, whether due to youth (up to 30 years old or 35 for women) or returning to work after maternity leave, disability, and in general, in specific economic activities and geographical areas or for having reached 65 years of age and continuing to work, **contribution benefits** have been established (allowances, reductions and exemptions from contributions).

In this Special Scheme the contributions must be paid for complete monthly periods that coincide with calendar months, and the amount is paid **in the month** to which they correspond.

Since 6 November 2010, this Special Scheme has the "out-of-work" benefit for those covered for occupational contingencies and who stop the activity they were carrying out. The benefit is financial and its duration depends on the periods of contributions made.

### 6.4.2 Special Scheme for Sea Workers

**There are three contribution groups:** For the purposes of contributions, the workers covered by this special scheme are divided into three groups, depending on the gross register tonnage (GRT) of the ships on which they provide their services. The first group includes employed workers remunerated with a salary and workers remunerated through a share system that provide their service on ships with a GRT of more than 150, in other words, all workers of the merchant navy and large fishing vessels. The second group includes employed workers remunerated through a share system that provide their services on fishing boats of more than 10 GRT and up to 50 GRT (Group II-A) and on ships of more than 50 GRT and up to 150 GRT (Group II-B). And, finally, the third group covers employed workers remunerated through a share system that provide their service on boats of up to 10 GRT and self-employed workers.

**Correction Coefficients.** For the second and third groups a correction coefficient shall be applied to their contribution base for common contingencies and unemployment, so the contribution to pay is lower. These correction coefficients are  $\frac{2}{3}$  for Group II A,  $\frac{1}{2}$  for Group II B and  $\frac{1}{3}$  for Group III. Nevertheless, for the calculation of Social Security benefits the total base will be taken into consideration, without the application of the correction coefficients.

**Single Contribution Bases:** All contribution bases of workers included in Groups II and III are single and are determined annually depending on the province, fishing method and occupational classifications, based on the average values of remuneration received in the previous year. However, these single bases may not be less than the minimum bases specified for the various occupational classifications.

## 7 Services and Methods for Communicating with the Social Security Administration

### Aims

The aims of this unit are:

- To provide information on the Social Security Administration Support Services, how to contract them and the processes that can be done through them in a clear and educational way.
- To briefly describe the services offered, resources used and quality commitments adopted in the provision of face-to-face support to citizens.

### Content

- List of services provided.
- Methods of communicating with the Social Security Administration.
- Quality in services and the involvement of citizens in improving them.

### We remind you that...

- Service to citizens is the basic principle that justifies the existence of the Civil Service and, therefore, the Social Security. This principle must guide all of its work, the foundations of which are principles of transparency and participation.
- The Social Security has enormous experience in citizen support services that are provided through three channels; online, telephone and face-to-face, all of which are fully established.
- These services are within the reach of all citizens, since they are accessible and easy to use.
- The Social Security is an accessible and modern organisation that promotes innovation and the latest technologies to provide better service to citizens.
- It is a proactive organisation that tries to anticipate the needs of society.
- There is an online process, the RED System, which has established itself as the leading exponent of online services to companies.
- The Social Security Administration sets out quality commitments for its services through the Lists of Services and measures the level of satisfaction of its customers through evaluation questionnaires and complaints and suggestions.

### 7.1 Catalogue of Services

Citizens can go to the Social Security Administration to receive the following services:

- TGSS Specific Services.
- INSS Specific Services.
- ISM Specific Services.

### 7.1.1 Specific Services of the General Treasury of the Social Security

- Registration of companies and assignment of Main and Secondary Contribution Account Codes.
- Opening, changing and terminating Contribution Account Codes.
- Changes of details and termination of registration of employers.
- Option to cover work-related injuries and occupational diseases, if this is done with the National Institute of the Social Security, as well as, where appropriate, the option to cover temporary disability with the same organisation.
- Management of collaboration in the financial benefit for temporary disability.
- Assignment of a Social Security Number.
- Acquisition and termination of active contributor status, and changes of details for workers in the various schemes that make up the Social Security System.
- Option to cover temporary disability and/or work-related injuries and occupational diseases for self-employed workers who are allowed to so.
- Telephone Number and E-Mail of Employer.
- Management of workers posted to work in another country.
- Processing and resolution of the different types of Special Agreements, with the aim of maintaining Social Security coverage according to the different benefits covered by these agreements.
- Working life reports and status reports for workers, by the established method.
- Company working life reports for those that request them, by the established method.
- Filling in contribution forms for those companies, with fewer than 10 workers, that request them.
- Management of payments that produce a positive credit balance for the individuals liable to make contributions, due to having received the compensation or deductions to which they were entitled, and which can be submitted online or in person at the Social Security Administrative Offices.
- Reimbursement of undue payments: Information to companies and workers on filling in applications and the documents to be provided, checking the undue payments and reimbursing them.
- Processing of applications for deferment of payment of debts to the General Treasury of the Social Security, when the individuals liable to make contributions cannot make the necessary payment, as well as tracking payments of granted deferments.
- Generation, issuance and notification of debt claims and enforcement orders that initiate enforcement proceedings, as well as the tracking of these until their collection, cancellation or expiry.
- Collection management proceedings for settlement records and infringement records.
- Issuing of contribution base reports on an annual basis to workers in the General Scheme and the Special Scheme for Sea Workers with the contribution bases declared by the companies in which they provide their services during the previous tax year.
- Annual sending of the contribution bases of the last 15 years to workers aged 60 years or over.
- Issuing of contribution status reports and certificates.
- Issuing of certificates of contributions paid over the financial year.
- Changes in contribution details of workers.
- Applications for distribution of contribution limits for multiple employment.
- Resolution of pleadings and appeals regarding debt claims and enforcement orders.

### 7.1.2 Specific Services of the National Institute of the Social Security

- Management, processing, resolution and organisation of payment of the following pensions: Retirement, Permanent Disability, Widowhood, Orphan's and Family Members Pensions.
- Management, processing, resolution and organisation of pension payments in accordance with international regulations.
- Management, processing, resolution and organisation of payment of the following benefits: temporary disability due to common or occupational diseases, non-work related and work-related injuries, maternity, including the special benefit for multiple adoptions or births, paternity, risk during pregnancy and breastfeeding, family benefits for dependent foster children and the death grant.
- Processing of compensation: Non-disabling permanent injuries due to work-related accidents and occupational diseases. Partial permanent disability. Death due to work-related injuries and occupational diseases.
- Management, processing, resolution and organisation of payment of School Insurance.
- Management, processing and organisation of the payment of benefits arising from toxic shock syndrome.
- Receipt of the medical discharge and sick leave certificates when workers have TD status and the INSS is responsible for covering the risk.
- Medical assessments to decide on the extension of temporary disability, contingency decisions, risk during pregnancy, etc.
- Processing of surcharges due to lack of health and safety measures in the workplace.
- Resolution of pension and benefit claims.
- Processing of information dossiers prior to retirement.
- Issuing of European Health Insurance Cards
- Receipt and checking of requests, changes and incidents that affect pensioners and benefit recipients.
- Issuing of pension and benefit certificates.
- Issuing and renewal of digital certificates.
- General information on Social Security benefits and their procedures.
- Management of all types of requests, changes and incidents affecting pensioners.
- Management of requests, changes and incidents affecting benefit recipients.
- Management and issuing of forms granting entitlement to travel to countries with which Spain has entered into bilateral health care agreements.
- Receipt and processing of complaints and suggestions.
- Automated processing of pensions in accordance with the annual revaluation in line with the forecasted CPI.
- Home delivery of notifications on pension revaluations, and cancellation or amendment of the amount of allocations for dependent foster children.
- Issuing of certificates for withholdings on account for Personal Income Tax (IRPF).
- International billing of health care expenses arising from insured persons from other countries who are temporarily staying in Spain.
- Image showing the evolution of the Social Security Website from 1995 up to the present day.

### 7.1.3 Specific Services of the Social Marine Institute

- Management of the Special Scheme for Sea Workers.
- Health care on-board ships and abroad through: the Radio-Medical Centre, Database, Overseas Centres and Hospital Ships.

- Health care training through the On-Board Health Guide, Medical Examinations for Sea Service, inspection and control of on-board health care resources, etc.
- Training and professional development given at its two National Maritime Training Centres and at the Provincial Directorates.
- Training Programmes and International Technical Cooperation.
- Assistance to workers on-board or at port (national or abroad) in compliance with Convention 163 and Recommendations 138 and 173 of the International Labour Organization (ILO).
- In compliance with Convention 9 of the ILO, the actions for which the Public Employment Service is responsible in the sea sector.

### 7.1.3.1 Other ISM Services

The Social Marine Institute is a public law entity, with its own legal personality, of national scope, within the Secretary of State for Social Security of Ministry of Employment and Social Security, with the dual aim of protecting and dealing with the social problems of the maritime and fishing sector, and managing the Special Scheme for Sea Workers of the Social Security System.

Sea workers are different from other production sectors due to the conditions of isolation, danger and mobility, that basically stems from the nature of working at sea and the boat itself, where working life consists entirely of long periods of work, except for the majority of the fishing fleet.

**Isolation:** the worker carries out all personal, professional and social activities on the boat. The boat is a small, isolated space, in which the people, disconnected from their social environment and isolated from their family surroundings for prolonged periods of time, are immersed in an imposed coexistence, not freely chosen, without a defined work schedule, and subject to a disciplinary system 24 hours a day.

**Danger:** during the working period the workers are subject to a high risk as a result of the permanent exposure to the dangers of the sea and to the harshness of the conditions of life on board: long working hours, sea conditions, shifts, inclement weather, exposure to high levels of noise...

**Mobility:** the fact that the boat as a workplace is mobile, varying according to the size and the needs of the operation, exposes the sea workers to biological synchronisation disorders due to the continuous changes of latitude and longitude (sleep/wakefulness and eating habits); finding special dangers or difficulties in ports, especially abroad; and in extreme cases to the risk of abandonment for various reasons: end of contract, illness, abandoning the ship, shipwreck, etc.

These contingencies and specific situations that surround maritime workers determine that, regardless of the management of the Special Scheme for Sea workers of the Social Security System, The Social Marine Institute deploys a number of operations that guarantee the protection of sea workers, and that fall within the following areas:

#### **Health at Sea**

Its purpose is to guarantee health and provide health care to sea workers on-board and abroad. The singular nature of the sector determines the differences that characterise the provision of the Health at Sea service, which is based on two basic pillars of operation: disease prevention and medical care.

The preventive level including four basic actions: medical examinations prior to embarkation, health training, prevention campaigns, and medical support for monitoring health and hygiene conditions and first-aid boxes.

The medical examination prior to embarkation deserves a special mention because it must be passed before working on board the vessel.

These free examinations are carried out by the Social Marine Institute according to the post, regularity and continuity. They must guarantee that the worker does not suffer any illness that may be aggravated by being at sea, that could incapacitate him or her for service, or that represents a health risk for the rest of the crew. Through computer terminals, connected to a single data bank in the Central Services of Social Marine Institute, the information from the medical records is entered, and can be consulted in the health care units.

Health care training is the other fundamental activity for the implementation of the programme, as it trains all the crew on first aid and the ship health coordinators on the correct use of the medicine chest and the "On-Board Health Care Guide", which is essential for communicating with the Radio-Medical Centre clearly and effectively.

The health care is provided by the following operational units:

The Radio-Medical Centre, which provides a health care service by radio. A doctor, specially trained in this subject and with extensive knowledge of the maritime world, issues a medical diagnosis in response to the query from anywhere in the world. They attend to queries 24 hours a day, 365 days a year, and have direct access to the database which holds the medical records of the workers. This means they have access to the medical histories of the crew members so as to be able to provide the appropriate care. Their work does not end until the patient is discharged from medical care or admitted to hospital. If the hospital is outside of Spain, they will monitor the case until the patient is repatriated.

As a possible emergency centre, it is connected to the National Sea Rescue Co-ordination Centre of the State Sea Rescue Association in case of events requiring rescue operations to evacuate the sick or injured.

The Hospital and Logistics Support Ships "ESPERANZA DEL MAR" and "JUAN DE LA COSA" are designed as health care ships set up to be hospitals, which occupy a whole deck from the bow and have direct access to the heliport, to facilitate patient transport. Equipped with latest technological advances, with an operating theatre, laboratory, X-ray room, intensive care, isolation room and area for shipwrecked people.

The health care support provided by these two boats -one in the maritime area corresponding to the west coast of Africa up to the waters of Mauritania and Senegal, and the other in the North Atlantic between the Azores and the Bay of Biscay- has different ways of dealing with patients, depending on the pathologies that arise at any time. Medical consultations can be made by radio and outpatient consultations on board, a health care unit can be sent to ships that request it, people can be admitted to hospital on the on-board clinic and evacuations for health reasons can be made should the situation require it.

Independently of these health care activities, both ships carry out logistic support to ships that need it when their safety is affected, and provide towing and supply services, diver support and emergency repairs.

The health care centres abroad, in the geographical areas with greatest confluence of the fleets: NOUADHIBOU (Mauritania), DAKAR (Senegal), WALVIS BAY (South African) and the ÍNDICO Centre with temporary bases in PORT VICTORIA (Seychelles), MOMBASA (Kenya), DIEGO SUAREZ (Madagascar) carry out health and social care with Spanish doctors and professionals.

### **Social Services**

Once the social services and functions that the Social Marine Institute carries out have been transferred to the Autonomous Communities, which has almost been completed, their sphere of activity will be limited to attending to sea workers, who while performing professional duties are separated from their social and family surroundings, by contributing to their personal development, with tools that alleviate their distance from the cultural networks, and educational environments for professional promotion and participation in political, social and community life.

To meet the social objectives within the new framework work is being undertaken to update the existing social services and define new operations, considering the particular conditions for the sector, especially regarding isolation and mobility.

Along these lines the following services have been updated:

- Assistance abroad for sea workers in cases of abandonment by bankrupt companies or due to capture, shipwrecks and other similar situations, supporting them and returning them home.
- Attendance in Spain for domestic sea workers and foreign non-residents, who as a consequence of shipwrecks, accidents or any other just cause, may require urgent attention.

The creation of "Port Welfare Boards" is still being promoted and we are collaborating with those that already exist. "Port Guides" are published periodically with information on the port and the city for arriving workers.

We are working on starting up new services, of which the radio social assistance centre is worth noting.

Complementing the protective action of the Social Security System, The Social Marine Institute provides assistance to attend to the following specific situations of working at sea:

- The loss of personal equipment due to a shipwreck or accident at sea.
- On-board death or disappearance.
- Transportation of dead bodies.

### **Training**

The Social Marine Institute offers sea workers the training necessary to ensure their level of competence, to reinforce job security and provide ships with skilled crews. This training is given in compliance with the International Regulations and Agreements regarding maritime safety and the prevention of pollution, as an effective medium for avoiding accidents at sea and pollution.

The priority training in updating the workers focuses on safety during life at sea and occupational health when working at sea; in the prevention and fight against pollution of the marine environment; in the technology of the ship, the cold, heating, electricity and electronics; in the maintenance of the ship and machinery; in information technology and in professional qualifications.

The isolated nature of maritime work makes practical training necessary for the acquisition of skills in areas where in other land-based production sectors have specific professionals, such as fire-fighting.

The National Maritime Training Centres of Bamio (Villagarcia Provincial Directorate) and Isla Cristina (Huelva Provincial Directorate) that have student residences and have technology, simulators, facilities and training resources to meet domestic demand, that due to their complexity or need for resources and facilities, cannot be imparted in the Provincial Directorate.

The training and international cooperation technical programs have a special scope, of which those referring to Africa and Latin America in collaboration with the International Labour Organisation and the Spanish Agency of International Cooperation stand out.

### **Unemployment**

Once the active policies of employment in the marine sector have been transferred to the Autonomous Communities, in collaboration with the Public State Employment Service, the Social Marine Institute manages unemployment benefits for sea workers.

In collaboration with the Ministry of the Agriculture, Food and Environment manages and processes the aid due to fishing moratoria or the suspension of fishing for certain species.

## **7.2 Methods for Communicating with Citizens**

### **7.2.1 Online Support**

#### **7.2.1.1 The Social Security Portal**

Over recent years the Social Security has also adapted to the emergence of new technologies and the increase of telematic services, with the launch, in March 2002, and subsequent development of its website [www.seg-social.es](http://www.seg-social.es), as well as the constant inclusion and optimisation of internet-based services, having received several acknowledgements and international awards.

The website is structured around three fundamental axes: Workers, Pensioners and Employers.

It also has a "Forms" section, containing the necessary forms for citizens when dealing with Social Security, and among others, a section where all the relevant information on "Processes and Procedures" is presented in a simple and organised manner.

The citizens can formulate requests for general information using the "Enquiries / Enquires Mailbox" section.

### Accessibility

The website can be consulted in all the official State languages, as well as in English and French. It also has all the accessibility requirements, as certified by the Info-Accessibility Observatory Discapnet, and the TAW Website Accessibility Award, granted in 2005, for the effort made to guarantee the access of all users, regardless of whether they have some kind of physical or mental disability.

### Electronic Office

Within the website, there are also links to the "ELECTRONIC OFFICE", [www.sede.seg-social.gob.es](http://www.sede.seg-social.gob.es), an access point for the personal processes of citizens, as well as for customer service through which the citizens, companies and employees of the social Security System can obtain information and access online services that they had been doing on-site. Access to Electronic Registration has also been added. This allows citizens to electronically submit applications, documents and communications related to the procedures currently available in the Office. In addition, as published on the Social Security Bulletin and Notice Board, the Secure Electronic Notification Service has been activated to manage electronic notifications between Social Security bodies and organisations, companies and citizens. You can access the RED System services and data transfer for Civil Service departments from the website.

To use these services it is necessary in some cases to have a digital certificate or electronic DNI, and in others you may make the application without a digital certificate for which it is necessary to fill in an application form for the desired report and so that the data recorded on the form coincides with the database of the General Treasury for Social Security.

Reports requested without a digital certificate will be sent to the address included in the Social Security database.

If citizens use a digital certificate they will access the information directly on the screen and can print it using their own printer.

**A digital certificate** authenticates and guarantees the confidentiality of communications between individuals and companies or public institutions over open communication networks. It guarantees that only the individual can access the information and prevents impersonations.

All the information for obtaining a digital certificate can be found on the Social Security Website and the Electronic Office, in the "Digital Certificates" section.

As Electronic DNI cards are issued these digital certificates no longer be necessary, as the DNI-e incorporates a digital certificate. The Electronic National Identity Document (DNI-e) is the document that proves the personal identity of its owner physically and digitally.

Its main advantage is that, as well as identifying the user to third parties, it allows the use of an electronic signature. The new eID means security, speed, ease of use and the immediate realisation of administrative and business procedures online.

The Personal Services currently available in the Electronic Office without a digital certificate, for citizens, are the following:

- Automatic calculation of special agreements
- By appointment
- Consult the status of an application for a report
- Contribution Base Report
- Report on Bases and Contributions Paid
- Status Report on the Contribution/Debt Status of Workers
- Working Life Report
- Claims to Mutual Societies for Social Insurance
- Application for State Retirement (TESOL Retirement)
- Application for state benefits -widowhood pension, orphan's pension and death grant- (TESOL Death and Survival)
- European Health Insurance Card (EHIC) Application
- Do it yourself: retirement pension self-calculation program

The Personal Services currently available in the Electronic Office with a digital certificate, for citizens, are the following:

- The accreditation of self-employed agricultural activities
- Assignment of a Social Security Number
- Provisional Replacement Certificate (CPS)
- By appointment
- How is my benefit doing?
- Providing telephone number and e-mail address
- Payment Return
- Duplicate Affiliation Document
- Information on IRPF Withholdings and Payments on Account.
- Sales of Property Information
- Specifically Dated Employment Affiliation Report
- Contribution Base Report
- Report on Bases and Contributions Paid in the financial year selected
- Personal details and address
- Current Worker Status Report
- Status Report on the Contribution/Debt Status of Workers
- Individual Employer Status Report
- Working Life Report
- Limited Working Life Report
- State Retirement: Electronic Application for State Retirement (TESOL Retirement)
- Maternity and Paternity (TESOL)
- State Death and Survival: digital application for widowhood pension, orphan's pension and death grant (TESOL Death and Survival)
- Collection of State Pensions.
- Revaluation of Pensions
- Tracking Appeals to the TGSS.
- Application to change contribution base - Self-Employed
- Change of Address Application
- Application for Affiliation in the Special Scheme for Self-Employed Workers
- Application for Termination of Affiliation in the Special Scheme for Self-Employed Workers
- Application to change contribution base - Special Agreements
- Application for direct debit

- Application for Registration and Allocation of a CAC for an Individual Employer
- Application to Correct a Working Life Report
- Application to Correct a Contribution Base Report

In addition to these services there are other specific services for companies and professionals, mutual societies and public institutions. In this last case, the objective is the information transfer between administrations, so that documentation that they already have in their possession is not requested of the citizens.

The Law 11/2007 of 22 June, on Citizens' Electronic Access to Public Services, establishes the relationship with the public administrations by electronic means as a right of the citizens, and as a correlative obligation for the administrations, obliging them to adapt their procedures.

Information technology and the communications make it possible to bring the Administration into the living room of the citizens, or the offices of companies and professionals. It enables them to contact them without queues and waiting, valuing their time.

They also provide access to people that have difficulties due to their geographic location, physical conditions of mobility or other factors, taking steps to facilitate, in the same conditions, full integration of these people in public, social, working and cultural life.

Work continues on both the content and the accessibility in order to reach an ever larger number of citizens and it has been pioneering in the use of electronic administration, aiming to be at the forefront of our times, to be able to offer citizens the advantages and possibilities of the information society.

### 7.2.1.2 The RED System

The RED System is a service offered by the TGSS to companies, groups of companies and professionals. Its mission is to enable the exchange of information and documents between the TGSS and users over the internet.

Using this procedure, users can contact the TGSS directly, accessing details on the company and workers, and will submit telematically the contribution and affiliation documents and sick leave certificates, without needing to travel to the offices and at any time of day, also avoiding the use of paper.

The required fields of action are:

- Affiliation: affiliation, termination and data changes for workers, and requesting and consulting reports on workers and companies.
- Contributions: submitting documents (Workers' Payroll Report), processing of balances owed, and paying in contributions by direct debit or electronic payment.
- Sending medical discharge and sick leave certificates for Work-Related Injuries and Occupational Diseases and confirmation of sick leave certificates to the National Institute of Social Security.

The system offers general and specific information for inclusion in the RED System, and theoretical and practical support and training.

A Telephone Support and Management System via a single telephone number at national level, with customised support from 8.00 to 20.00 hours, and the possibility of automatic document transfer 24 hours a day, 365 days a year and online connection to the Social Security System database between the hours of 8.00 to 20.00, on working days.

RED Direct is a service that the General Treasury of the Social Security offers small companies with 15 or fewer workers, via the internet using the Social Security website.

- The aim of the RED Direct System is similar to the normal RED System: To eliminate paper-based administrative management, making the relationship between companies and the TGSS quicker and easier, without having to travel to its offices in person. RED Direct has another advantage: contribution documents for completion are presented using the affiliation data the TGSS already has, thus avoiding errors and maintaining a permanent revision and control of this.

You enter the RED Direct system in different ways, depending on the Digital Certificate that you are going to work with:

- With a Silcon Certificate, you go to RED Direct on the [www.seg-social.es](http://www.seg-social.es) website from the "RED System On-Line" icon under "One click".
- With an electronic ID, you get to RED Direct through the following URL: <https://w2.seg-social.es/fs/indexframes7w.html>.

The TGSS and the user communicate, within this System, by means of messages sent to a personal mailbox to which the user connects directly over the Internet.

Through the RED Direct System you can use the same functions as with the normal RED System, regarding affiliation and contributions, although it is always direct or online. RED Direct allows you to submit sick leave, medical discharge and confirmation of sick leave certificates, arising from common and occupational contingencies, regardless of whether they are covered by the INSS or a Mutual Society.

In this way, the certificates sent over RED Direct and validated and accepted by the INSS, will mean companies no longer have to submit this document on paper format at a CAISS (Social Security Support and Information Centre) or Provincial Directorate of the INSS.

## 7.2.2 Telephone Support

### 7.2.2.1 Telephone Support and Management Services

Telephone Support and Management Services aim to provide the public with information and management regarding the Social Security System by telephone, avoiding the need to travel and unnecessary waits.

Their design aims to respond to the management and information needs and requirements of companies and self-employed workers and the requests for information and documentation of employed workers.

#### General Treasury of the Social Security

In the case of the TGSS telephone access is via a single number, **901 50 20 50**, that offers, when called, the chance to select between 4 options, which can be extended should new needs arise:

- Option 1: Requesting Working Life Reports.

- Option 2: Red System (Automatic Data Transfer).
  - 2.1 Digital certificate, software installation and communications incident.
  - 2.2 Temporary Disability certificate incident.
  - 2.3 Enquiries or information.
- Option 3: General information on the TGSS.
- Option 4: Information or enquiries on Working Life and Contribution Bases Campaigns.

The opening hours are Monday to Thursday, from 9.00 to 14.00 and 16.00 to 18.00 and Friday from 9.00 to 14.00. Calls made outside of these hours or that are not attended due to overloading, are diverted to an answering service so they can be returned and solved. Therefore, citizens can call 24 hours a day, 365 days a year.

The services offered through the 901 50 20 50 service are listed below, divided into the themed areas used by the telephone support line:

### Campaigns for Working Life Reports and Contribution Bases

- The Treasury General of the Social Security currently sends work information (Working Life Report and Contribution Bases) to everyone who has, at some point in the previous year, been affiliated in any of the Schemes of the Social Security System.
- Through this Telephone Support Service, the citizens can, in addition to receiving general information on this campaign, report incidents and clarify doubts regarding the work information submitted.

### Requesting Working Life Reports.

- Any citizen can request their Working Life Report, and this shall be sent, via ordinary post, to their address. If the citizen's personal details are not up to date, a update details form shall be sent to be filled in and returned to the TGSS. Finally, and once updated, the TGSS will send the corresponding Working Life Report.

### RED System

- It provides support to the RED system users in issues related to authorisation, functions and use of the system.
- Technical and IT-related incidents posed by users are resolved.
- Resolution of doubts and incidents related to processing Temporary Disability and Occupational Disease certificates through the RED System.

### Other information

- General information on subjects related to the TGSS.
- Issue and reissue of certificates and reports.
- Assistance in various processes:

### **National Social Security Institute**

The Telephone Support Service offered via the free telephone number **900 16 65 65**, through which the citizens can obtain general and personal information (after successfully completing the corresponding protocol of identity checks) about the recognition and processing of benefits subject to national legislation, and the protection of international regulations: Community Regulations and Bilateral Agreements on Social Security. Requirements for obtaining the European Health Card. Data for issuing certificates. By appointment...

You can contact us by telephoning 900 16 65 65 free from anywhere within Spain. The opening hours are 9:00 to 20:00, Monday to Friday.

### 7.2.2.2 Confidentiality

Since this is telephone-based support and management, the utmost care is taken to ensure the confidentiality of citizens' personal details and their right to privacy.

The responsibility for maintaining the confidentiality of their details means that all reports and documents are only sent in the name and to the address of the individuals included on the Social Security records. If the specified details do not match those on our databases, a form is sent free of charge to the individual in question, in which, they are able to update them in a simple manner.

Once the identity of the applicant has been ascertained, their request will be dealt with and the relevant documents sent to their address.

## 7.2.3 Face-to-Face Support

### 7.2.3.1 Introduction

The Social Security Administration considers the way it deals with citizens to be of fundamental importance. That importance has meant, with the objective of improving, that the need has arisen to develop a global strategy in the area of face-to-face service so that when citizens visit out offices they have the most positive experience possible. Therefore it is necessary to encourage all elements that help public support centres improve their positive image and establish quality principles that give information on face-to-face service.

In addition, face-to-face service that the Social Security provides to citizens in highly diverse according to each organisation's area of responsibility. It has some very pronounced special features:

- there are a high number of people attended to.
- management procedures are performed (such as claiming debts) that do not immediately benefit the interested parties.
- the information that the personnel dealing with the public work with is highly complex, which tends to require multi-skilled personnel.
- the size and vagueness of the terms with which the Social Security's jurisdiction is identified means that people come to carry out processes that are not managed by the Social Security.

In the current context of adapting the Civil Service to meet the new challenges that are before it, the concepts of quality, improvement of services, modernisation and accessibility to citizens take on huge importance. The Civil Service, and within it, the Social Security, is committed to tackling the challenge of improving the channels of service to the public. In this regard the experience accumulated in face-to-face service shows that the main demands of citizens are:

- immediate service.
- quick service.
- resolution of the issue in a short space of time.

- friendly service.

Face-to-face service at the Social Security is structured through a network of local or regional offices that cover the whole of Spain. As at 1 January 2011 this network was made up of over 1000 public support centres, which are distributed as follows:

- 438 INSS Support and Information Centres (CAISS); of which 111 are in urban areas and 327 are regional.
- 104 Local Offices of the ISM.
- 255 TGSS Administrative Offices and 227 Debt Collection Units that are not integrated into a TGSS Administrative Office.

This broad network means that the principle of accessibility and immediacy in the provision of services as a requirement for excellence is achieved (in the sense of quality management) dealing with the public, on which the existence of Provincial Directorates in each Social Security organisation was based.

### 7.2.3.2 On-Site Services

The local network of the Social Security provides the following summary of services to citizens:

#### TGSS

- Registration and Affiliation:
  - Obtaining the Social Security / Affiliation Number.
  - Registration of employers in the Social Security.
  - Acquisition and termination of active contributor status, and changes of details of workers.
  - Special Agreements.
- Contribution / Collection:
  - Voluntary debt collection and debt enforcement proceedings.
  - Debt deferment.
- Digital Certificates (SILCON/2-CA).

#### INSS

- Benefits / Pensions:
  - Temporary or permanent disability.
  - Maternity or paternity.
  - Risk during pregnancy or breastfeeding.
  - Retirement, widowhood and survival.
  - Family members.
  - School Insurance; SOVI and Health Care.

#### ISM

- Management of the Special Scheme for Sea Workers:
  - Benefits.
  - Registration.
  - Affiliation.
  - Contributions, etc.

- Specific services provided to the sea fishing industry:
  - Maritime Health Care.
  - Training.
  - Social programmes.
  - Employment and unemployment.

### 7.2.3.3 On-Site Support Offices

Over recent years the Social Security has been making a significant effort to modernise its offices, both at the level of Provincial Directorates and the local network. This effort has been funded through the depreciation of property assets owned by the Social Security.

A result of this renovation is the creation of the Comprehensive Social Security Offices which are a response to the quality standards relating to face-to-face service such as:

- Uniform signage and corporate image.
- Organisation of the office according to the needs of the public (accessibility).
- Improvement of the material resources and hardware.
- Creation of appropriate waiting areas.
- Improvement of occupational risk prevention and safety standards.

### 7.2.3.4 Technological Resources

For the improvement in quality of face-to-face service, three support tools have been added: dynamic face-to-face organisation and management systems, prior appointments and information screens (each one with different levels of implementation and distribution at present). In the local network, the tool with by far the most widespread implementation is the first one.

This dynamic face-to-face management system means that the members of staff can (without leaving their desk) deal with any customer from the different groups that require the service and enables each citizen to be given a number at the entrance, regardless of the process they want to complete and the location of different booths.

This system also allows:

- The presentation of consolidated statistical data from the whole network, providing information on processing volumes and level of fulfilment of the objectives committed to in the Lists of Services.
- The visualisation in real time of all the face-to-face service processes from any position in the network: volume of customers who are waiting to be seen; average and maximum waiting and service times; which standards each member of staff or each service meet.
- The preparation of monthly reports monitoring face-to-face service.

From the point of view of the face-to-face support office and its organisation, the system makes a distinction between service needs that can be dealt with relatively quickly (for example, less than 5 minutes waiting time) and needs that require, because of their nature and content, more time to be dealt with.

Therefore this system has been gradually making progress with the basic indicator in the control, monitoring and establishment of quality commitments and standards of the Social

Security face-to-face service, having been implemented in most of the local offices of the TGSS and the INSS.

One of the basic objectives for achieving good face-to-face service is to reassure citizens/customers, insofar as is possible, that their time is also very important for the Social Security (as a modern and adaptable organisation that aspires to be a benchmark within the Civil Service). Given that within the satisfaction rates of the citizens' perception of quality in face-to-face service, the evaluation of waiting times is of huge importance.

But this commitment is not enough in today's world, instead so-called face-to-face or in-person support must be completed by setting up alternative and supplementary channels for dealing with the public: Comprehensive Telephone Support Service or the Electronic Office over the internet.

### 7.3 The Human Factor

An essential aspect in the quality of service provision of citizens' support services is the people that work in this area.

Providing a quality information service requires a great effort from the point of view of specific knowledge of the subject at hand and also as regards the emotional and social skills they must develop. It is important to note from this point of view the growing importance of team work and ongoing professional training.

### 7.4 Quality of Services

In recent years Social Security has been developing a quality management policy and implementing specific actions, such as the Lists of Services where the entities develop both the commitment to quality they assume regarding the provision of services and the indicators for evaluating quality and their monitoring.

Similarly, the quality of service provided and continuous improvement in all areas of operation are being promoted. This is tackled by the implementation of quality policies and the application, development and deployment of European quality management model (EFQM) through self-evaluation in each of the Entities, according to the EVAM model, and the implementation of ISO standards, all with the aim of starting up the improvement actions that come out of this processes.

All of this involves developing a strategy of adjustment and anticipation towards change and social demand through technological innovation and the improvement of the service, together with participation from and collaboration with other public and private bodies and implementing services based on simple procedures that are easy to understand.

### 7.5 Involvement of Citizens in the Improvement of Services

The citizens can collaborate in the improvement of the services that the Social Security administration offers through:

- The surveys and questionnaires carried out periodically
- The query and suggestion boxes
- Complaints and suggestions

To specify the principles of transparency and participation and to find out the opinion of the citizens regarding the service received, evaluation questionnaires have been implemented. These are located by face-to-face support in the public service area, in a place that is visible and accessible. They can also be sent to the citizen's home address. Comments from citizens are a way of finding out their opinion as to the attention provided to them by Social Security so that the services are offered generically according to the quality commitments set in the Lists of Services.

Opinions and suggestions can be deposited in the mailboxes in the office of the Provincial Directorate and in each face-to-face support office and general information requests can be made using “Enquires / Enquires Mailbox” on the [www.seg-social.es](http://www.seg-social.es) website, although the responses provided through the mailbox will be for informational purposes only and will not have and binding effects for the Administration. For confidentiality purposes, no personal data shall be provided through this box.

The complaints and suggestions system is there to record people's dissatisfaction with the provided services and the quality improvement proposals.

- The complaints and suggestions can be made in person, by post or using an electronic form located in the "Complaints and Suggestions" section of the website and the Social Security Electronic Office.

If the complaints or suggestions are made in person, the user will fill in and sign the established form and can request the help of the workers in the office.

- In the branches and offices of the organisations there is a place where the users can submit their complaints and suggestions that will be clearly signposted and easy to access.
- Once the complaint or suggestion has been filed, the user will receive documentary proof of its submission.
- The unit responsible for processing it must inform the interested party of the action taken and, if relevant, the measures adopted, within the 20 working days following its presentation. This timeframe may be suspended if it is necessary to request clarifications from the interested party in order to resolve it correctly.
- If the interested party does not obtain a response within this time period, he or she may contact the Services Inspectorate of the Ministry of Employment and Social Security, to determine why there has been no response.

The submission of any complaint or suggestion will not be classed as appeals to the ordinary courts, and will not interrupt the periods established in the procedure it may affect, nor will it determine the exercise of the remaining actions or rights of the interested parties.

## **7.6 Measures that Ensure Gender Equality, Facilitate Access and Improve the Conditions of Social Security Service Provision**

Social Security continually adopts measures to ensure gender equality between men and women. To achieve this objective it analyses and corrects the operations and behaviour that impede or limit respect for the principle of equal treatment between men and women. It composes written communications in clear, direct, comprehensible and non-sexist language.

To facilitate access to services for people with limited mobility, it eliminates architectural barriers. The design of its offices is functional, simple and comfortable to use.

Its offices combine the ambient, material and spatial conditions that provide an area suitable for communicating with the citizen.