

**EMPLOYMENT CONTINGENCY MEASURES IN SPAIN
IN THE EVENT OF A NO-DEAL BREXIT**

The Spanish Government has recently approved the Royal Decree Law 5/2019, of 1 March 2019 (hereinafter, “**RDL 5/2019**”), which contains contingency measures that will only apply in the event that the United Kingdom of Great Britain and Northern Ireland exits the European Union without reaching an agreement with the EU under Article 50.2 of the Treaty of the European Union.

RDL 5/2019 sets out temporary rules regarding, among others, residence, employment and social security rights for UK citizens in Spain. These are minimum rules, which will be subject to further development after March 29th 2019 (hereinafter, “Brexit Date”) and can be suspended if the UK does not grant, in reciprocity, equivalent rights for Spanish companies in the UK and Spanish citizens living or working in its territory, within two months after the UK leaves the EU without an agreement.

From an employment and immigration perspective, the most relevant measures introduced by RDL 5/2019 for UK companies and citizens are the following:

<p>Residence and work</p>	<ul style="list-style-type: none"> • UK citizens and their family members living in Spain prior to Brexit Date must request <u>an “identification document” regarding their new status within 21 months after Brexit Date</u>. The rights and conditions of this new status are yet to be determined. While the “identification document” is processed, they will continue to be legal residents in Spain. • If the UK citizen has <u>lived in Spain for a continuous period of at least 5 years, he/she can obtain a long-term residence permit</u>, allowing him/her to work and live in Spain for an unlimited period time in the same conditions as a Spanish citizen. The requirements for this long-term residence permit have been adapted to facilitate and speed up the process for UK citizens that comply with this requirement. • <u>Cross-border employees or self-employed individuals that rendered services in Spain prior to Brexit Date can continue to render services as they did before</u>, provided that they obtain a specific “identification document” recognizing their condition as cross-border employees or self-employed individuals.
<p>Professional services</p>	<ul style="list-style-type: none"> • UK citizens living in Spain prior to Brexit Date that rendered <u>services for which mandatory qualifications are required, can continue to render such services even if their qualifications were obtained in the UK</u>. • <u>The recognition of professional qualifications obtained in the UK</u> will continue to be subject to the rules applicable to the qualifications of EU countries, provided that the study program began prior to Brexit Date and that the recognition is requested within 5 years after Brexit Date.

<p>Employment regulations</p>	<ul style="list-style-type: none"> • <u>Spanish companies that have posted employees in the UK</u> can continue to apply Spanish employment law during the period of posting, provided that they comply with the minimum requirements applicable in the UK under Directive EC/96/71. • <u>European Works Councils</u> of companies that have their main location in Spanish territory will maintain the representatives from the UK and UK companies if the Works Council existed prior to Brexit Date.
<p>Social Security</p>	<ul style="list-style-type: none"> • UK citizens working in Spain prior to the Brexit Date <u>will continue to contribute to the Spanish Social Security and have the same benefits as Spanish citizens.</u> • Employees posted in Spain by UK companies prior to Brexit Date will continue contribute to the UK Social Security until the posting period expires in the terms provided by Regulation No. 883/2004.
<p>Professional Services Firms</p>	<ul style="list-style-type: none"> • Professional services firms that have their main domicile, central management or main activity in the UK or Gibraltar can <u>continue to render services in Spain for a year after Brexit Date</u>, provided that they comply with the Spanish regulations for professional service firms.

Jordi Ruiz de Villa, Partner at Fieldfisher JAUSAS Department of Distribution and Franchise
Jordi.RuizdeVilla@fieldfisher.com