

New requirements for terminating employment agreements due to permanent incapacity

Act 2/2025 abolishes automatic employment agreement terminations due to permanent incapacity and requires companies to try to preserve employment

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Key changes

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Act 2/2025, in force since May 1, 2025, introduces significant changes in the regulation in Spain of employment agreement terminations due to the permanent incapacity of workers. This act is aimed at ensuring that employers make reasonable adjustments to facilitate continuity in their work to employees with disabilities, before considering terminating their agreements.

Justification and amended regulations

- Act 2/2025 amends the Spanish Workers Statute (“WS”), the Spanish Social Security Act and the Spanish Labor Procedure Act to align them with [European Directive 2000/78/EC](#) and [CJEU judgment of January 18, 2024, C-631/22](#) (CA NA NEGRETA case).
- Under new article 49.1.n) WS, employers must now try to maintain the employment agreements of any employees confirmed to have permanent incapacity for work by making reasonable adjustments in their job positions or offering them alternative jobs.

Conditions for valid termination

Termination is only possible in the following cases:

- Employees do not express their desire to continue working within 10 days of the notification of the resolution confirming permanent incapacity.
- It is not possible for the employer to make reasonable adjustments in the same job position due to incompatibility with the permanent incapacity or due to being an excessive burden for the company, or there is no suitable vacancy available.
- Employees reject the adjustments proposed or the alternative job position.

Employee decision

Employees have 10 calendar days to notify their employer in writing if they want to continue working after their permanent incapacity is declared.

Deadline for employers and agreement suspension

- Employers have three months to assess the possibility of maintaining the employment relationship with such employees by making reasonable adjustments to the job position or transferring them to a suitable job.
- During this period, the employment agreement will be suspended and the job position reserved.

Role of prevention service and of employees’ representatives

- The company’s prevention service must carry out medical and risk checks to establish the necessary adjustments and to identify any vacancies compatible with the permanent incapacity.
- The employees’ representatives specialized in prevention of occupational risks (health and safety officers, and safety and security committee) must be consulted about the proposed adjustments.

Reasonable adjustments or transfer

- Employers must first consider the reasonable adjustments to the current job. If adjustments are not viable, they must look for a suitable vacancy.



- The cost of the adjustments must not entail an excessive burden for the employer, considering the public financing available and the company's size and resources.

Impact on permanent incapacity allowance

If employees continue to work with adjustments or in a new job position, the allowance will be suspended.

Continuity or termination of employment

- If the adjustments or transfer are possible, and employees accept this, the employment will continue.
- If employees reject the changes or there is no suitable job position, the employer can terminate the agreement.



For additional information, please contact our **Knowledge and Innovation Group** lawyers or your regular contact person at Cuatrecasas.

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