

Conditions of reopening for the Retail sector



Order SND/399/2020 of 9th May concerning the relaxation of certain restrictions in application of Phase 1 of the Plan for the transition to a new normality

Last Saturday Order SND/399/2020 of 9th May concerning the relaxation of certain restrictions in application of Phase 1 of the Plan for the transition to a new normality ("Order 399") was published in the Spanish Official State Gazette (BOE).

Among other issues, Order 399 establishes the conditions for the reopening of retail establishments and commercial premises and the provision of assimilated services in the territories listed in its annex (for the time being, Madrid and Barcelona are not included in that annex), and will be applicable as of 11th May 2020.

The supervision of compliance with these measures is widely attributed to the municipal, regional or special police inspection services and it is stipulated that these will be the competent authorities for the investigation of the relevant administrative sanctioning procedures. However, Order 399 lacks any specific provisions on the applicable infringements and penalties, but refers to the applicable sectoral legislation. Therefore, we understand that these will depend on the relevant (local, regional, state) sanctioning body and the sectorial regulation that is applied (for example, with regard to health, commerce and consumption or prevention of occupational risks).

Retail and professional service establishments and premises whose activity has been suspended by virtue of the provisions of Royal Decree 463/2020 of 14 March, declaring the state of alarm (except for those with a surface area of more than 400 square meters, as well as those that have the character of a shopping center or commercial park, or that are located within the latter and that do not have a direct and independent access from the outside), may open if they are located within the territories indicated in Annex 1 and comply with a series of requirements.

Requirements:

- To have a usable exhibition and sales area of 400 square meters or less.
- To limit the capacity of the commercial premises to 30 %. In establishments with several floors, the same proportion should be maintained on each floor.
- To guarantee a minimum distance of two meters between customers. In establishments where it is not possible to maintain such distance, only one customer at a time shall be allowed to access the premises.
- To contemplate and implement a series of hygiene, capacity and protection measures for the employees and the clients.
- To establish preferential opening hours for people over 65 years old.
- Possibility of establishing pick-up systems at the establishments for purchased products, provided that a staggered pick-up is guaranteed in order to avoid agglomerations inside premises or at their entrance.

Automotive dealers, stations for the technical inspection of vehicles (ITV), garden centers and plant nurseries may also reopen to the public although by appointment. Likewise, state-wide public concessionaire entities for state-wide public gambling may reopen to the public, except for those located inside shopping centers or commercial parks, without direct and independent access from the outside.

General requirements for opening

Hygiene measures required of establishments and premises open to the public:

- At least twice a day, the facilities shall be cleaned and disinfected with special attention to the most frequent contact surfaces such as door handles, counters, furniture, handrails, dispensing machines, floors, telephones, hangers, carts and baskets, taps and other elements of similar characteristics, according to the following guidelines: One of the cleanings will be carried out, obligatorily, at the end of the day following the guidelines indicated in Order 399.
- For the said cleaning, a break from the opening may be taken during the day at midday to carry out maintenance, cleaning and replenishment tasks. The closing times for the cleaning will be communicated to the customer by means of visible signs or messages over the loudspeaker.
- Likewise, cleaning and disinfection of the working space will be carried out at each change of shift, with special attention to counters and tables or other elements, screens, keyboards, payment terminals, touch screens, work tools and other elements susceptible to manipulation, paying special attention to those used by more than one employee.
- Cleaning measures shall be extended not only to the commercial area, but also, where appropriate, to the employees' private spaces, such as changing rooms, lockers, toilets, kitchens and rest spaces.
- Uniforms and working clothes (or clothes used by employees in contact with customers) shall be washed and disinfected daily and shall be mechanically washed in 60-90 degree washing cycles.
- Ventilation should be carried out at the premises at least daily and for a period of five minutes.
- Customers shall not use the establishments' toilets, except when strictly necessary. In the latter case, the cleaning of toilets, taps and doorknobs shall be carried out immediately.
- Payment by card or other means that do not involve physical contact between devices will be encouraged. The dataphone will be cleaned and disinfected after each use, as well as the POS terminal if the employee that uses it is not always the same.
- Bins, preferably with a lid and foot pedal, should be available in which any disposable material can be deposited. The latter should be cleaned at least once a day.

Hygiene measures required of establishments and premises open to the public

Hygiene and/or prevention measures for employees rendering services in establishments and premises open to the public:

- The proprietor must, in any case, comply with the risk prevention obligations established in current legislation, both in general and specifically to prevent the spread of COVID-19.
- The proprietor shall ensure that all employees have personal protective equipment appropriate to the level of risk and that hydroalcoholic gels with virucide activity authorized and registered by the Health Ministry to clean their hands is permanently at their disposal , or when this is not possible, that water and soap is provided.
- The use of masks will be mandatory when the interpersonal safety distance of approximately 2 meters between the employee and the client or between the employees themselves cannot be guaranteed.
- All employees must be trained and informed about the correct use of the above-mentioned protective equipment.
- The above shall also apply to all employees of third parties who provide services on the premises or establishment, whether on a regular basis or on a one-off basis.
- Fingerprinting shall be replaced by any time schedule control system that guarantees the hygienic measures, or the device shall be disinfected before and after each use, cautioning employees on this measure.
- The layout of the working spaces, the organization of the shifts and the rest of the working conditions will be modified to guarantee a minimum interpersonal safety distance of 2 meters between each employee, this being the responsibility of the proprietor of the economic activity or the person to whom the proprietor delegates. The distance between employee and client during the whole customer service process will be at least 1 meter when protective elements or barriers are present, or approximately 2 meters without these elements.
- Likewise, the distance measures forest forth in this order must be complied with, where appropriate, in the employees' changing rooms, lockers and toilets, as well as in the rest spaces, dining rooms, kitchens and any other spaces of common use.

Hygiene measures applicable to customers, inside establishments and premises:

- The amount of time spent in the establishments will be the time strictly necessary for customers to make their purchases or receive their service.

Hygiene and/or prevention measures for employees rendering services in establishments and premises open to the public

- In establishments where it is possible to provide personalized services to more than one customer at the same time, the two-meter interpersonal safety distance between customers must be clearly indicated, with markings on the floor, or through the use of markers, signs and signals. In any case, customers may not be attended simultaneously by the same employee.
- Establishments must make available to the public dispensers of hydroalcoholic gels with virucide activity authorized and registered by the Health Ministry, at the entrance to the premises, and the latter must always be in working order.
- In establishments and premises with self-service areas, the service must be provided by an employee of the establishment, in order to avoid direct handling of the products by the customers.
- Test products not intended for sale such as cosmetics, perfume products, and similar products involving direct handling by successive customers may not be made available to customers.
- In establishments of the commercial textile sector, clothing repair and similar sectors, changing rooms should be used by one person only and must be cleaned and disinfected after each use.
- In the event that a customer tries on a garment that he does not subsequently purchase, the owner of the establishment shall implement measures to have the garment sanitized before it is made available to other customers. This measure shall also apply to the return of garments made by customers.

Measures regarding space capacity for establishments and premises open to the public:

- The maximum capacity of people for each establishment must be displayed to the public and this capacity, as well as the two-meter interpersonal safety distance, must be respected inside the premises, by means of systems that allow the counting and the control of the capacity, that must include also the employees.
- The organization of the movement of persons and the distribution of spaces must be modified, where necessary, to ensure safety distances.
- Preferably, whenever a room has two or more doors, a differentiated use can be established for the entry and the exit.

Measures regarding space capacity for establishments and premises open to the public

ANNEX: Territorial Units where Phase 1 of Order 399 applies:

1. In the Autonomous Community of Andalusia: the provinces of Almeria, Cordoba, Cadiz, Huelva, Jaen and Seville
2. In the Autonomous Community of Aragon: the provinces of Huesca, Zaragoza and Teruel.
3. In the Autonomous Community of the Principality of Asturias: the whole province of Asturias.
4. In the Autonomous Community of the Balearic Islands: the islands of Mallorca, Menorca, Ibiza and Formentera.
5. In the Autonomous Community of the Canary Islands: the islands of Tenerife, Gran Canaria, Lanzarote, Fuerteventura, La Palma, La Gomera, El Hierro and La Graciosa.
6. In the Autonomous Community of Cantabria: the whole province of Cantabria.
7. In the Autonomous Community of Castilla y León, the following basic health areas: a) In the province of Ávila, the basic health area of Muñico. b) In the province of Burgos, the basic health areas of Sedano, Valle de Losa, Quintanar de la Sierra, Espinosa de los Monteros, Pampliega and Valle de Mena. (c) In the province of León, the basic health areas of Truchas, Matallana de Torio and Riaño (e) In the province of Salamanca, the basic health areas of Robleda, Aldeadávila de la Ribera, Lumbrerales and Miranda del Castañar (g) In the province of Valladolid, the basic health areas of Alaejos, Mayorga de Campos and Esguevillas de Esgueva. (h) In the province of Zamora, the basic health areas of Alta Sanabria, Carbajales de Alba, Tábara, Santibáñez de Vidriales, Alcañices (Aliste), Corrales del Vino and Villalpando.
8. In the Autonomous Community of Castilla La Mancha: the provinces of Guadalajara and Cuenca.
9. In the Autonomous Community of Catalonia: the health regions of Camp de Tarragona, Alt Pirineu i Aran, and Terres de l'Ebre
10. In the Community of Valencia, the following health departments: a) In the province of Castellón: the department of Vinaròs. b) In the province of Valencia: the departments of Requena, Xàtiva-Ontinyent and Gandia. c) In the province of Alicante: the departments of Alcoi, Dénia, La Marina Baixa, Elda, Orihuela and Torrevieja.
11. In the Autonomous Community of Extremadura: the provinces of Cáceres and Badajoz.
12. In the Autonomous Community of Galicia: the provinces of Lugo, A Coruña, Ourense and Pontevedra

**ANNEX: Territorial Units
where Phase 1 of Order
399 applies**

13. In the Region of Murcia: the whole province of Murcia.

14. In the Comunidad Foral de Navarra: the whole province of Navarra.

15. In the Autonomous Community of the Basque Country: the historical territories of Araba/Álava, Bizkaia and Gipuzkoa.

16. In the Autonomous Community of La Rioja: the whole province of La Rioja.

17. The Autonomous City of Ceuta.

18. The Autonomous City of Melilla.

For the rest of the territories, the conditions for the reopening of retail establishments and commercial premises and the provision of assimilated services are, for the time being, those contained in Order SND/388/2020 of 3rd May which establishes the conditions for the opening to the public of certain establishments and services, and the opening of archives, as well as for the practice of professional and federated sports, applicable to Phase 0.

In any case, any company that decides to resume its activity must first verify the applicable sectorial regulations, as well as follow the recommendations of the Health Ministry and comply with the measures in the field of occupational risk prevention, all under the coordination and in compliance with the indications of the occupational risk prevention services, and must also have a preventive protocol in place for the resumption of the activity depending on the sector of each of the phases of de-escalation.

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**ANNEX: Territorial Units
where Phase 1 of Order
399 applies - II**

Conditions of reopening for the Retail sector

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For further information, please get in touch with our lawyers, all the members of our law firm are available to assist you.

Barcelona -

Aribau, 185
08021
Tel.: +34 934 157 575

Madrid -

Paseo de Recoletos, 16
28001
Tel.: +34 913 100 456

Sevilla -

Balbino Marrón, 3
Planta 5ª-17
(Edificio Viapol)
41018
Tel.: +34 954 657 896

www.marimon-abogados.com

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