



COVID-19 MORTGAGE MORATORIUM

APPLYING FOR THE MORTGAGE PAYMENT MORATORIUM

This article focuses on the rules concerning the emergency measures to assist people during the Covid-19 crisis, in particular the rules that enable people to benefit from the mortgage payment moratorium.

This measure was incorporated into the Law 8/2020 of 17th March, which introduced urgent and extraordinary measures to support the economy to face the impact of Covid-19.

Mortgage loans taken out to purchase the habitual dwelling are subject to moratorium in the case that an individual is in a "vulnerable economic situation".

Unemployed and self-employed may apply for the moratorium

A monthly income of less than 1.613,52 entitled to claim

The disabled have more generous income limits

Having children or other dependants increases the limits

Mortgage and fixed costs must exceed 35% of income

Definition of "vulnerable economic situation"

1. That the individual:
 - a. Has become unemployed, or
 - b. In the case of a self-employed individual, has suffered a substantial loss in income or sales. A "substantial loss of income or sales" is defined as a reduction of at least 40%.
2. That the income of the family unit (all spouses and children and grandparents cohabiting) for the month immediately preceding the moratorium application is less than 1.613,52€. But:
 - a. In the case that the family unit includes a disabled person whose mental or physical disability is recognised as 33% or more, resulting in an accredited inability to be employed, the limit is increased to 2.151,36€.
 - b. In the case that the mortgage debtor is an individual with cerebral paralysis, mental illness or intellectual disability with a degree of disability equal to or greater than 33%, or physical or sensorial disability equal to or greater than 65%, or an illness that is accredited to incapacitate the individual or their carer, the limit is increased to 2.689,20€.
3. And, the limit defined in 2. is increased by:
 - a. 53,78€ for each child or 80,68€ in the case of single parent families.
 - b. 53,78€ for each person over 65 years old living with the family.
4. That the monthly cost of the mortgage plus essential services (water, electricity, gas, community fees, internet supply) is equal to or greater than 35% of the net monthly income of the family unit.
5. That the percentage of the mortgage payment compared to total income of

Miembro de


Asociación Española de
Asesores Fiscales

Spence Clarke & Co., Chartered Accountants, Tax and Legal Consultants
Edificio Los Pinos L1, Calle Jacinto Benavente 32, 29601 Marbella, Málaga, Spain
www.spenceclarke.com Tel: (+34) 952 82 29 43 Email: website@spenceclarke.com

ICAEW
CHARTERED
ACCOUNTANTS





COVID-19 MORTGAGE MORATORIUM

APPLYING FOR THE MORTGAGE PAYMENT MORATORIUM

the family unit has increased by more than 1,3 times. Example: Mortgage of 450€, pre-crisis income of 1.500€ so percentage of mortgage to income is 30%. Post-crisis family income is 900€ and so mortgage percentage becomes 50% of income. The limit is $30\% \times 1,3 = 39\%$, therefore the post-crisis mortgage proportion of 50% exceeds the 39% limit and so the family qualifies for the moratorium.

To whom must the moratorium application be made and how long does it take to confirm?

The application is made to the bank with the following documents:

Note: There has been much protest at these requirements given that people who have been confined to their homes do not have the facilities to scan the number of pages that some of the documents represent. It is possible that these requirements will change but at present these are:

1. In the case of being unemployed, a certificate issued by the organisation that is paying benefits, disclosing the amounts paid.
2. In the case of the cessation of activity by a self-employed person, a certificate from the tax office confirming the cessation of activity.
3. Family book that details all the members of the family or a document that accredits a common law partnership.
4. Certificate of empadronamiento from the town hall (*to prove your home*).
5. If claiming the higher income limits, a declaration of disability, dependency or permanent incapacity.
6. Certificate (nota simple) from the Property Registry of all the family unit members.
7. Deed of home purchase and mortgage deed. (*This is especially odd, given that the bank already has these. Also scanning such documents, even if they have them in their possession, is a significant problem for people in lock down at home*).
8. Declaration made by the loan debtor individual(s) stating that they comply with the income limitations and qualify for the moratorium. (*What this means is that the loan debtors will not have to prove the loss of income, just state that they qualify*)

Application must be made to bank, accompanied by many documents

Declaration must be made that that criteria is met. No actual proof required.

Miembro de


Asociación Española de
Asesores Fiscales

Spence Clarke & Co., Chartered Accountants, Tax and Legal Consultants
Edificio Los Pinos L1, Calle Jacinto Benavente 32, 29601 Marbella, Málaga, Spain
www.spenceclarke.com Tel: (+34) 952 82 29 43 Email: website@spenceclarke.com

**ICAEW
CHARTERED
ACCOUNTANTS**





COVID-19 MORTGAGE MORATORIUM

APPLYING FOR THE MORTGAGE PAYMENT MORATORIUM

The application is made to the bank which must give a decision and apply the moratorium within 15 days.

Sanctions for falsely claiming the moratorium

The loan debtor(s) will be responsible for any damages, losses and costs incurred by the bank, without limiting the bank's right to make other claims that it can justify.

When must the application be made?

At any time from the date of approval of the Law 8/2020 of 17th March, the deadline being 15 days after this Law expires. At the time of writing this article, in effect, this means that the application must be made no later than 1 May 2020.

What is the effect of the moratorium?

- The mortgage loan is suspended
- Any clause in the loan agreement concerning the repayment of the loan is suspended
- No mortgage repayments may be demanded
- No interest will accrue on the loan
- No penalty interest will accrue on the loan

How long will the moratorium last?

Initially, for the duration of Law 8/2020 of 17th March, i.e. until 16 April. Given that the "State of Alarm" will be extended, we anticipate that the moratorium will be extended too.

Applications can be made up to 1 May

Moratorium should last until crisis is over

Miembro de


Asociación Española de
Asesores Fiscales

Spence Clarke & Co., Chartered Accountants, Tax and Legal Consultants
Edificio Los Pinos L1, Calle Jacinto Benavente 32, 29601 Marbella, Málaga, Spain
www.spenceclarke.com Tel: (+34) 952 82 29 43 Email: website@spenceclarke.com

ICAEW
CHARTERED
ACCOUNTANTS

