

Draft decree approving the Statute for occupational research personnel serving at the health services research institutes of the Balearic Islands

PREAMBLE

I

The health services research institutes are the result of the association of teaching hospitals and researchers of the Spanish National Health System, of universities, public research organizations and other public and private research centres. The purpose of this association is to strengthen health centres as research centres, providing them with the necessary tools to resolve the questions that arise in the relation of health professionals with patients and with the population, and to effectively translate the results into clinical practice, which in turn makes such entities the ideal place to attract talents in the field of biomedical research.

The Balearic Islands Health Research Institute Foundation (*Fundación Instituto de Investigación Sanitaria Illes Balears*, hereinafter IdISBa), is currently the only health research institute in the Autonomous Community of the Balearic Islands. The IdISBa is a non-profit institution of public ownership and institutional nature with a private personification, the patrimony of which is constrained in the long run to the accomplishment of the foundational goals in favour of the general interest establish in its Statutes, which includes, among other activities, to contribute to the promotion and coordination of the implementation and development of scientific research programs in general and, specifically, those applied to biomedicine and health sciences, as well as those that affect the promotion of health and prevention of diseases, improvement of health, social care and rehabilitation.

Currently, the research staff hired by the IdISBa is subject to the general legal regime of the instrumental public sector of the Autonomous Community of the Balearic Islands, which signifies that the peculiarities intrinsically associated with the research task are not taken into account, and moreover, that the existence of a research career, understood as the ordered set of opportunities for promotion and expectation of professional progress in accordance with the principles of equality, merit and ability is not foreseen. This lack of definition regarding research careers and the lack of a specific legal regime for the contracted research staff causes important deficiencies in the way of hiring, the selection systems, and the incentives as well as in monitoring and evaluating the research task. This translates into a precariousness of the workplace of the research staff and the lack of the capacity to attract research talents, facts which contribute to a loss of competitiveness in the research, development and innovation system of the Balearic Islands.

Act 14/2011, of June 1, on science, technology and innovation, expresses the need to define a predictable scientific career which is based on merits and socially recognized. To enable the definition of such scientific career, the same Act has created three new employee figures for research personnel: the pre-doctoral contract, the contract for

access to the science and technology system, and the distinguished researcher contract. The creation of these figures aims to provide greater flexibility to the labour framework and consider the peculiarities of human resources dedicated to scientific and research activity. However, the limited legal regulation of these figures in Act 14/2011, makes it necessary to create a specific legal regime so that the labour research personnel hired at the service of the health research institutes of the Balearic Islands can develop a professional career.

On the other hand, it highlights the need to provide the research career with a structure that fits into the European Framework for research careers designed by the European Commission, to ensure that it presents a similar structure to the existing one at a European level with the aim of eliminating obstacles to professional mobility and international cooperation.

As for the contracting processes, it must be guaranteed that it is an open, transparent process based on merit in order to improve the efficiency of the research system, guarantee equal opportunities and enhance cooperation, and dissemination of knowledge. In addition, it must be ensured that the criteria used to evaluate the research task is based on the real impact of the results obtained, taking into account the diverse nature beyond scientific publications, as recommended by the San Francisco Declaration on Research Assessment.

The definition of a coherent and attractive research career, articulated in successive stages with increased responsibility and remuneration between these stages, which leads to job stability, avoids the precariousness of the working conditions of the research personnel and the legal insecurity as well as promotes equal opportunities, must foster the establishment of a competitive and excellent health research system in the Balearic Islands that shall contribute to the improvement of the national health care system, to the wellbeing of the population and to the creation of wealth.

II

Article 44.2 of the Spanish Constitution establishes that public authorities must promote science and scientific and technical research for the benefit of the general interest.

In this regard, Article 12.3 of the Statute of Autonomy of the Balearic Islands, approved by the Organic Law 1/2007, of February 28, when dealing with the guiding principles of public activity, it establishes, among other things, that the institutions of the Autonomous Community of the Balearic Islands themselves, in order to fulfil their purpose and within the framework of the competences attributed to them by their Statute, must promote, as guiding principles of economic and social policy, scientific and technical progress, in a way that it benefits all citizens [...] and ensures the right to health care [...].

On the other hand, Article 30.44 of the Statute provides that the Autonomous Community of the Balearic Islands has exclusive competence in matters of research,

innovation and scientific and technical development; and can establish its own lines of research, monitoring, control and evolution of the projects.

Article 30.48 of the Statute of Autonomy of the Balearic Islands attributes to the Autonomous Community an exclusive competence in matters of health promotion in all areas within the framework of the foundations and the general coordination of health service; and Article 31.4. attributes to the Autonomous Community the legislative deployment and execution of health services and health matters, within the framework of the basic legislation of the State.

Article 27 of Act 5/2003, of April 4, on health services in the Balearic Islands, establishes that the public health system of the Balearic Islands develops research activities, and Article 33 establishes that the health administration must promote scientific research in order to provide the necessary knowledge to improve the health of the population, and that by exercising such research activities the health administration has to collaborate with other institutions in order to create centres, services or agencies dedicated to give scientific and technical support to the health system, which may be legal entities.

Finally, it is necessary to mention Decree 24/2015, of August 7, decreed by the Presidency of the Balearic Islands, which establishes the competences and the basic organizational structure of the Ministries from the Administration of the Autonomous Community of the Balearic Islands, and which stipulates that the Ministry of Health holds due jurisdiction in the promotion of health research policies, among other powers.

Article 2.2 of the Royal Legislative Decree 5/2015, of October 30, which approves the revised text of the Basic Statute for public employees, provides that to apply the Statute to the research personnel specific rules can be dictated to adapt the Statute to the peculiarities of the research personnel.

Article 88 of Act 14/2007, of July 3, on biomedical research, establishes that the National Health System must collaborate with other institutions and organizations involved in research for joint use of scientific infrastructures and development of research projects.

To this end, it is necessary to promote the configuration of biomedical research institutes within the centres of the National Health System through the association of research groups.

III

The present legislative project has, without any doubt, a series of new points within the Spanish regulatory system of science and the regulation of labour relationships among public employees.

First, it has opted, following the authorization of Article 13 of Act 14/2011, of June 1, to use the employment legal relationship as a means of articulation of the legal relationship between research institutes and their research personnel, leaving aside the statutory or civil servant legal relationship for reasons of practicality, considering the structure and the organizational form of the only existing Research Institute, as well as because the employment regime turns out to be much more flexible and adaptable to the particularities of the research activity without loss of rights or guarantees for the researchers.

Another novelty is the creation of a series of categories that allow for the possibility of developing a full career as a research professional. In no event do these categories imply the creation of new labour contracts, since the legal relationship between researchers and their research institute is articulated precisely by means of the labour contractual types created by the State regulations. Only a gradation is created by stages or categories that make up a possible evolution in the professional career of health services or biomedical research.

Another noteworthy aspect is the creation of the research public employment offer, that foresees to include in the annual Finance Act the number of vacancies for the different categories of research personnel which are available, and which will comprise the possibility of including within that offer the future commitment from the autonomic Administration of accepting as permanent research personnel those researchers from the institutes who have excelled and who can apply within the institutes of the Balearic Islands to be a part of the of incorporation programs for principal researchers.

Moreover, such commitment implies the assumption of the existence of a new procedure for accessing to public employment, of limited application, but based on constitutional principles.

Thus, when Article 31 establishes the system to access the professional category of associate researcher, it provides that the ordinary form of access must take place through the selection of the researcher through the development of one of the official programs for the incorporation of researchers, which exist at a national and European Union level. On the other hand, passing such programs would mean for the research personnel which has undertaken them to be recruited in the category of research personnel for an indefinite period under an employment contract as distinguished researcher such as those foreseen in the Articles 20.1 and 23 of Act 14/2011 of June 1.

These programs for the incorporation of principal researchers are advanced training programs which, nowadays, call for the participation of research public institutes at a national level. These calls, which are published in official journals, are open to all researchers who meet the requirements and are equal for all the participants in the initial selection process. After due selection process, a training and research development program is carried out over a period of 5-years, during which the selected principal researcher is subject to continuous monitoring and evaluation, with an intermediate and a final eliminatory test. Finally, if the final evaluation is passed,

the corresponding certificate is obtained (I3 or equivalent, according to the program), and the principal researcher must then be offered a permanent position as an employee.

The solution offered by this legislative project is based on the fact that the programs of incorporation of principal researchers described are authentic selective and formative processes which fully and satisfactorily respond to the selection processes for the personnel at the service of the public administrations as well as to the constitutional principles of the procedures based on equality, merit, capacity and publicity, which are advocated by Article 103 of the Constitution and implemented by public institutions with all the legal guarantees of impartiality and excellence in research, and which in turn are perfectly acceptable as normative processes for the selection of employed personnel.

They are, on the other hand, selective processes that, without any doubt, address one of the specific characteristics of current research personnel susceptible to regulation in accordance with Article 2.2 of the Royal Legislative Decree 5/2015, of October 30.

Finally, the present system, combined with the terms in which it is foreseen to define the future offer of public research employment (with the inclusion of the potential future incorporation of personnel within 4 or 5 years as defined above), allows to build this system for accessing such positions within the legal framework required by law and subject to budgetary availability.

IV

This legislative initiative has the aim of synthesizing in a regulation considered as a decree, the essential aspects related to the regime of the research personnel of the IdISBa and other health research institutes that may be created within the Autonomous Community of the Balearic Islands, in order to increase legal security and to provide health research within a regulatory framework that favours the recruitment and retention of research talents.

The purpose of the present regulation is to establish the legal and contracting regime for the research personnel of the health research institutes of the Balearic Islands and the structure of their research career, as well as the selection and evaluation processes, the rights and obligations and the regime for the termination of the contract.

V

With regard to the adjustment to the principles of good regulation, it must be mentioned that under the principles of need and effectiveness (Article 129.2 of Act 39/2015, of October 1, of the common administrative procedure for public administrations), the objectives to be achieved have been clearly identified; which are to establish the legal and recruitment regime for the research personnel of the health research institutes of the Balearic Islands, integrated into the instrumental public

sector of the Autonomous Community of the Balearic Islands, to establish the structure of the research career and the selection and evaluation processes, the rights and obligations, and the termination of the contract, as expressed in Act 14/2011, of June 1, on science, technology and innovation. This responds to the general interest of promoting a science and technology system in the field of health in the Balearic Islands as a tool to diversify the economic model and improve the quality of health care.

The instrument of regulation by which it has been decided to define these aspects related to the professional practice of the research personnel in the health research institutes is the present decree, given that it is the most appropriate solution to respond to the present need to develop.

Under the principle of proportionality (Article 129.3), the regulation is proportional to the complexity of the subject that must be regulated. The creation of professional categories, the establishment of legal relationships with publicly owned bodies or the regulation of procedures for access to public employment, in the development of legal regulations, requires a regulation of regulatory standing.

To guarantee the principle of legal certainty (Article 129.4), this draft decree follows the recommendations of the European Commission regarding the definition of a comparable structure of the research career in the European Research Area, as well as the recommendations related to the establishment of an open, transparent and merit-based recruitment system for the research personnel.

In application of the principle of transparency (Article 129.5), first, this regulatory initiative has been included in the Annual Regulatory Plan of the Ministry of Health for the year 2018, which was communicated to the General Directorate of Relations with the Parliament of the Ministry of the Presidency and has been published in the Transparency Portal of the Government of the Balearic Islands.

Secondly, the previous public consultation has been published in the Portal of Transparency of the Ministry of the Presidency, which allows the citizens of the Balearic Islands and the entities that may be affected by the future regulation to contribute to the considerations they deem pertinent to the proposal of the elaboration of mentioned regulations.

Thirdly, by virtue of this principle, the project must be submitted to public hearing and public information procedures provided for in articles 43 to 45 of Act 4/2001, of March 14, of the Government of the Balearic Islands, moreover, it has been justified in the preamble above the need to adapt the rules to the principles of Article 129 of Act 39/2015, of October 1, of the common administrative procedure of the public administrations.

In application of the principle of efficiency (Article 129.6), the study of the possible administrative burdens involved in the approval of this Draft Decree is made in section J of the Impact Analysis Report on Regulation.

The approval of this project complies with the requirements of avoiding that administrative procedures be a hindrance when it comes to achieving the purposes and the objects that are intended herein.

In addition, the approval of this project does not compromise in any case the budgetary stability nor the financial sustainability of the Autonomous Community of the Balearic Islands, since the approval of the offer for public employment in the health research institutes will be subject to the defined endowments in the laws of annual budgets.

For all the above, and as proposed by the Minister of Health, and having seen the previous opinion of the Economic and Social Council; in agreement with the Consultative Council, and having the Governing Council considered it in its session of March 15, 2019, the draft decree will include the following,

DECREE

Section I Object and scope

Article 1

Object

The aim of this Statute is to establish the legal regime for the research personnel of the health research institutes of the Balearic Islands which are integrated in the instrumental public sector of the Autonomous Community of the Balearic Islands, specifically regarding the structure of categories for research personnel and their research careers, the selection and hiring process, the evaluation system, as well as their rights and obligations and the regime for the termination of contract.

Article 2

Area of application

1. This Statute is applicable to the occupational research personnel of the health research institutes of the Balearic Islands which are part of the instrumental public sector of the Autonomous Community of the Balearic Islands.

2. The research personnel hired by the health research institutes of the Balearic Islands is governed by the provisions of the Consolidated Text of the Law on the Statute of Workers, approved by the Royal Legislative Decree 2/2015, of October 23; the development of regulations and collective agreements that apply to them; Act 14/2011, of June 1, on science, technology and innovation; the Royal Legislative Decree 5/2015, of October 30, which approves the revised text of the Basic Statute of public employees; and by Act 3/2007, of March 27, on public function of the CAIB; and by what this Decree provides.

Article 3

Research personnel concept

Research personnel is considered, as defined by Act 14/2011, of June 1, a person who, whilst holding the corresponding degree, carries out a research activity which is understood as the creative work undertaken in a systematic way to increase the volume of research knowledge, including the research related to human beings, culture and society, and to use this knowledge to create new applications, their transfer and dissemination.

Article 4

Access and internal promotion of research personnel

1. The selective system of entry for research personnel in the health research institutes of the Balearic Islands, be it career or temporary personnel, must be done through a selective process which guarantees compliance with the constitutional principles of equality, merit and ability, as well as those provided for in Article 55.2 of Royal Legislative Decree 5/2015, of October 30.
2. Professional careers and entry into higher research categories are guaranteed during the internal promotion period by the procedures established in this Decree.
3. The public employment offer of the health research institutes of the Balearic Islands must be defined annually, with a favourable preliminary report from the General Directorate of Budgets and Financing.

Article 5

Incompatibility regime

The research personnel hired under any of the aforementioned modalities must be adjusted to the general regime of incompatibilities of the personnel at the service of public administrations, with the particularities established in Article 18 of Act 14/2011, of June 1, on science, technology and innovation.

Section II

Research career personnel categories

Chapter I

In training research personnel categories

Article 6

The concept of research personnel in training

For the purposes of this Decree, research personnel in training (*Personal Investigador en Formación*, hereinafter PIF), comply with the following descriptions:

a) Any person with a university degree who benefits from any training program for research personnel in accordance with Act 14/2011 on science, technology and innovation and who exercises their activity under supervision within one of the research facilities of the health research institutes of the Balearic Islands with the aim of doing a doctoral thesis.

b) Those with university qualifications hired by the health research institutes of the Balearic Islands under the modality of a pre-doctoral researcher contract established in Article 21 of Act 14/2011 on science, technology and innovation.

c) Those with university qualifications hired by the health research institutes through other contractual modalities but who meet the requirements for enrolment in a doctoral and supervision program as part of the training program leading to the completion of a doctoral thesis by researchers hired or ascribed to a health research institute in the Balearic Islands.

Article 7

Access requirements

1. To have been admitted to a doctoral program.
2. To fulfil the specific requirements defined by the institute placing the call, as well as those required for the resolution of the grant awarded for the financing of the research project or for contracting the PIF.

Article 8

Monitoring and evaluation system

1. The monitoring and evaluation system is the one that determines the regulations of the university in which the doctoral degree is carried out by the corresponding research personnel.
2. The health research institutes of the Balearic Islands can establish their own regulations regarding the training and monitoring program of their research personnel in training.

Article 9

Duration of the stage

1. The PIF stage is necessarily a transitory one, with a maximum recommended duration of 6 years. In no case may such contracts, should this stage be articulated through work contracts of pre-doctoral research, exceed the substantive and temporary limits of the duration established by Act 14/2011, of November 8.
2. The granting of the PhD. implies the automatic termination of being considered a PIF.

Article 10

Rights and duties of research personnel in training

The health research institutes have to promote the definition of their own regulation which shall establish the specific rights and duties for their research personnel in training.

Chapter II

Professional research personnel categories

Section 1

Postdoctoral research personnel

Article 11

Definition of post-doctoral research personnel

Post-doctoral research personnel fulfil the following criteria:

- a) The beneficiaries of programs of incorporation of doctors or contracted doctors for the development of research activities, innovation and scientific specialization in a line of research that is under the leadership of another researcher.

- b) The beneficiaries of calls for the development of research activities and scientific specialization in a line of research that is under the leadership of another researcher, in charge of projects, agreements and research contracts with the health research institutes of the Balearic Islands, which are intended for people with university degrees who are in possession of a Phd.

Article 12

Access requirements

To qualify for a post-doctoral research personnel position, a PhD degree is required at the time in which the contract is formalized.

In accordance with the law it is also necessary to meet the specific additional requirements established by the institute issuing the call; in addition to, if applicable, the ones required to obtain the aid granted for the financing of the research project or, if applicable, the requirements for the program for the incorporation of doctors.

Article 13

Monitoring and evaluation system

For the research personnel that provides for Article 11 a, it is necessary to adjust to what the call indicates.

For the personnel referred to in Article 11 b, the responsible researcher must carry out the evaluation.

Article 14

Duration of the stage

The condition of postdoctoral research personnel is transitory in nature. Ordinarily, it has a maximum duration of 5 years for each doctoral study carried out.

In exceptional cases, this professional stage may be extended indefinitely.

Article 15

The concept of associated research personnel

The associated research personnel are the beneficiaries of programs for the incorporation of doctors, beneficiaries of external research financing agencies within the health research institutes of the Balearic Islands, or the beneficiaries of promotion schemes for their own research, who are contracted by the health research institutes of the Balearic Islands for the development of research activities and scientific specialization in a line of research that is under its leadership.

Article 16

Requirements for the status of associated research personnel

1. To hold a doctoral degree or equivalent.
2. To have access to official programs for the incorporation of leading national or international researchers external to the health research institutions of the Balearic Islands listed in Annex 3 of this Decree, or to have access to scientific research programs for the incorporation of principal researchers in promotion schemes for researching in the health research institutes of the Balearic Islands through the selective and continuous evaluation processes established in these calls.

Article 17

Monitoring and evaluation system

The evaluation of the associated research personnel must be adjusted to the requirements of the external public calls or, if applicable, to the requirements established in the promotion schemes for research in the health research institutes from the Balearic Islands. Such evaluation must be undertaken by the institutions managing the program in question.

Article 18

Maximum duration of the term

1. The duration of the term during which a researcher can be classified in the category of associate research personnel is subject to the conditions of the call -European, national or regional- which finances the hiring costs of the associated research

personnel, under the modalities and within the time limits and methods foreseen by Act 14/2011, of June 1.

2. The calls for the stimulation of research programs by the health research institutes of the Balearic Islands must necessarily provide the possibility of a suspension or extension of the duration for reasons of reconciliation of family life and work, for a period equivalent to maternity or paternity leave for each child.

Section 3 **Full research personnel**

Article 19

The concept of full research personnel

Full research personnel comply with the following criteria:

a) Full research personnel hired by the research institutes of the Balearic Islands who hold a PhD and the I3 certificate, the Miguel Servet type II program or an external and independent scientific evaluation that the governing body of the health research institute considers equivalent.

b) Research personnel holding a PhD with more than five years of scientific independence, who have accessed positions which appeared in the list of jobs and which were classified as positions of full researcher, and who have complied with the previous selective procedures provided by this Decree.

Article 20

Access requirements

1. In the case of researchers who access this stage through the stabilization program, candidates must have the I3 certificate, have obtained the concession of a Miguel Servet type II contract, or have a satisfactory external and independent evaluation of the scientific activity developed by an entity evaluating the research, in accordance with what is established by the governing bodies of the health research institute.

2. In the case of section b of the previous article, the personnel must be doctors with a post-doctoral research experience of at least 5 years, in addition to meeting the requirements established therein.

Article 21

Permanence in the category, monitoring and evaluation systems

1. Permanence in the category of full researcher is not subject to temporary maximum limits, and participation in procedures for access to higher research categories is optional for the researcher.

2. Without prejudice to what has been stated in the preceding section, the research personnel must undergo a five-year scientific and technical evaluation, in accordance with the effects established in Section VI of this Decree.

Section 4 Of the research professors

Article 22 The concept of research professor

Research professors are required to be accredited for their contributions to their line of research at an international level, to have a minimum experience of 5 years of scientific independence and a minimum of 2 years of experience fulfilling the category of senior researcher (or equivalent), in a research centre or university, and must present very relevant merits in their area of research, in accordance with what is established in each call.

Article 23 Access requirements

1. To be working as a researcher and have obtained recognized prestige in the scientific and technical fields.
2. To be in possession of a PhD., or equivalent.
3. Have a minimum of 2 years of experience as senior researcher (or equivalent), in a research centre or university.

Article 24 Permanence in the position, monitoring and evaluation systems

1. Permanence holding the position of research professor is not subject to temporary maximum limits.
2. Without prejudice to what has been stated in the preceding section, the research professors must undergo a five-year scientific and technical evaluation in accordance with what is established in Section VI of this Decree.

Section III Access and promotion within the research career

Chapter I General principles

Article 25 Principles and selection systems

1. Through the selection processes, direct access to the different categories of research personnel can be achieved, as well as the internal promotion of the research personnel among these categories.

2. For the selection of research personnel, the principles of equality, merit, capacity and publicity must be applied in all categories.

3. The evaluation of the research work must adapt to the recommendations of the San Francisco Declaration on evaluation of research. In particular, the evaluation criteria must respect the following principles:

a) When possible, alternatives must be sought to the use of metrics based on scientific journals, such as impact factor indexes, subrogated measures of the quality of individual research articles to evaluate the contributions from a researcher, or competitive selection, promotion, or financing processes.

b) In the processes for evaluation of the research, the maximum possible value and impact of research products must be considered – taking into consideration the circumstances of the process - (including, among others, databases and software), in addition to the scientific publications. Broad-spectrum impact indicators, including qualitative indicators, such as influence on policies and clinical practice must also be considered.

c) The criteria used for the evaluation of research in selection, stabilization and promotion processes must be explicit.

d) The evaluation of the quality of scientific publications must seek to be based on scientific content.

1. The selection must be carried out in accordance with the competitive and merit examinations. Its configuration results from Article 61 of Royal Legislative Decree 5/2015, of October 30.

2. Access to the categories of associate researcher and full researcher can also take place through the selective and continuous assessment processes established to access and develop national or international scientific research programs, external to health research institutions of the Balearic Islands; as well as through the selective and continuous evaluation processes established to access and develop scientific research programs established by the competent bodies of the health research institutions of the Balearic Islands.

1. In addition, the selection bodies must ensure compliance with the principle of equal gender opportunity.

Article 26

Research public employment offer

1. The General Finance Laws of the autonomous community of the Balearic Islands must annually include the offer of public employment of the health research institutions of the Balearic Islands, together with the favourable preliminary report of the General Directorate of Budgets and Financing. This measure binds the bodies of the competent aforementioned institutions to approve them.

2. This offer must define the number of seats reserved for each category that is eligible to be called for in the selection process, as well as the number of seats reserved through the procedures referred to in section 5 of the previous article.

3. In the latter case, the public offer implies that the Administration commits to hire as permanent personnel, without interruption and without other evaluations, those researchers who have been selected by the programs of incorporation of principal researchers and have successfully conclude them.

4. The public employment offer of the health research institutions of the Balearic Islands must include the corresponding gender impact report attached, in accordance with the provisions of Article 43.3 of Act 11/2016, of July 28, on equality between men and women.

Article 27

Calls

1. For the selection of research personnel, both for access to any of the categories of research personnel and for the promotion of research personnel to higher categories than those exercised, the health research institutes of the Balearic Islands must launch the corresponding calls, establish their bases and content, and publish them.

Calls must include at least the following information:

- a) The purpose of the call and the number of vacancies.
- b) The conditions and requirements that applicants must meet.
- c) The type and description of the selection system, with the indication, if applicable, of the structure, order and content of the tests that have to be done; the agenda to which one has to respond; the basic evaluation criteria; the scale of merits for the merit examination or, if necessary, the competition phases of the procedure; the composition of the selection body; the regime for formulating and resolving allegations for provisional and definitive results; and the system for contesting the call or its results.
- d) The maximum term to settle the call.
- e) The application model and the documentation that must be submitted.
- f) The deadline for submitting applications.
- g) The body to which applications must be addressed.
- h) The places where the different resolutions that are generated throughout the process shall be published.

1. The selection system through a merit assessment examination may consist of two phases:

a) A first phase, of eliminatory nature, the purpose of which is the verification and qualification of the merits of the applicants, and which must take place in the terms established in the call.

b) A second phase, in which all candidates who have passed the previous phase will participate, which will consist of an oral and public presentation of the research lines and the project that the applicant has must develop in the health research institute. The test must be developed in the terms indicated in the call.

1. Calls for career research personnel must be at least published in the BOIB and the website of the health research institutes of the Balearic Islands.

2. The health research institutes of the Balearic Islands must ensure the maximum national and international dissemination of the work calls for research personnel.

3. What is provided in point 1 c of this Article is not applicable to the selective and continuous evaluation processes established to access scientific research programs referred to in Article 16 of this Decree, which are governed by the regulations of the program.

4. Employment offers, calls and, where appropriate, the syllabus for the examinations to access the status of research personnel of the health research institutes of the Balearic Islands must comply with the provisions of Article 43 of Act 11/2016, of July 28, on equality of men and women.

Article 28

Selection body

1. Each call must have a selection committee. The competent body of the health research institute must carry out its designation. The process for appointing the selection committee must be transparent and public.

2. The committees must be composed of a minimum of three people and must be equal, and cannot have less than one third of one gender represented in its composition.

3. For vacancies of indefinite duration, selection committees must include research personnel of recognized international trajectory outside the health research institutes of the Balearic Islands. The members of the committee cannot have conflict of interests regarding the call in question.

4. Selection committees for temporary personnel may also include external research personnel in the health research institutes of the Balearic Islands.

5. For purposes of abstention and recusal of the members of the commission, it is necessary to comply with the provisions of articles 23 and 24 of Act 40/2015, of October 1, of the legal regime of the public sector.

6. The committee as a whole must have the level of professional experience, qualifications and adequate competencies necessary to evaluate the candidate.

Chapter II

Selection of the research personnel in training

Article 29

Selective system

1. The selective system for research personnel in training whom benefit from training programs for research personnel in accordance with Act 14/2011, is established by each reference call, ordinarily by merit examination, but without prejudice to the fact that in certain circumstances it may be considered appropriate to include a phase for the validation of professional knowledge.

2. For the selection of the rest of the research personnel in training, this must be done by public call and merit examination.

3. Apart from the general requirements of any call, it must define the purpose of the position, identify the direction to which the position is subject, the functions that the researcher must perform and the type of work scheme, which may be full-time or part-time, and the corresponding emolument.

4. The provisions in Chapter 1 of this Section are applicable to this selective process whilst the scale of the contest is governed by the terms defined in Annex 1 of this Decree.

Chapter III

Access to the professional research career

Section 1

Selection system for post-doctoral research personnel and associated research personnel

Article 30

Selection of postdoctoral research personnel

1. For the research personnel, as provided for in Article 11 a, it is necessary to follow what is established in the call.

2. The selection of research personnel referred to in Article 11 b must be made by public call. The call must define the purpose of the vacancy, identify the person responsible, the requirements and merits to be assessed, the functions that the

research personnel must perform and the work scheme, which may be full-time or part-time. The selection of candidates must be done by an evaluation committee composed by a minimum of three researchers with a PhD. who belong to the health research institutes of the Balearic Islands. The composition of the evaluation panel must be adjusted to the principle of impartiality and professionalism of its members and the composition must be equal between men and women.

3. The provisions of Chapter 1 of the present section are applicable to the abovementioned selective process, and the scale of the call must be governed by the terms of Annex 2 of this Decree.

Article 31

Selection of the associated research personnel

1. The selection of career research personnel for the health research institutes of the Balearic Islands is governed by the principles of equality, merit, ability and publicity. These principles must be proved by one of the following procedures:

a) Personnel previously selected within the framework of programs of incorporation of leading research personnel of national or international scope, as for example - including but not limited- the Miguel Servet, Ramón y Cajal programs, who have adhered to develop their initial training processes within the framework of public employment offers for research personnel which have been approved by the Administration of the Autonomous Community of the Balearic Islands for the health research institutes, and which are open to personnel admitted within these training programs.

Should the number of personnel selected for these programs who have been accepted to carry out their training in the health research institutes of the Balearic Islands exceed the number of public employment vacancies available for research personnel, the following criteria must be applied for a second selection phase:

- Better score obtained.
- Possibility of integration of the research projects presented within the strategic lines of research of the institution.

a) Personnel selected within the framework of programs for the incorporation of regional research personnel, for positions financed with the resources of the Administration of the Autonomous Community of the Balearic Islands included in the public employment offers for research personnel and approved by the Administration of the Autonomous Community of the Balearic Islands for its health research institutes of the Balearic Islands. These calls can also be financed with the funds which derive from the benefits of the health research institutes of the Balearic Islands.

1. The selection of the personnel referred to in sub-sections a and b of section 1 of this Article implies that, once the program of incorporation of doctorates has been completed, and the final evaluation passed or, in the event that there is

no final evaluation, an external and independent evaluation is undertaken which will evaluate the research in accordance with what is established by the governing body of the health research institute, the doctorates will be employed indefinitely on a fixed basis as research personnel under the contract modality of distinguished researcher, within the category of principal researcher.

Section 2

Selection system for research personnel and research professors

Article 32

Procedures to access the position of research personnel

1. In accordance with the provisions of Article 31.2 of this Decree, the positions for research personnel created and previously endowed in the health research institutes of the Balearic Islands may be covered by personnel who previously held the category of associate researcher.
2. In addition, the health institutes, based on the needs identified for the development of strategic research activities, may call for selection procedures for the provision of positions in the category of research personnel.

Article 33

Direct selection system for research personnel

1. The procedure for selecting research personnel is based on merit or on the results of an open competition, having previously been announced as a calls, in which the object of the position must be indicated together with the specific requirements, merits and, if applicable, the scientific program that must be developed, the theoretical and practical tests which it will consist of, the criteria and the scale to be assessed, and lastly, the functions that the doctor must exercise when hired. In all events, the general principles contained in chapter 1 of this section are applicable.
2. In any case, candidates to a permanent research personnel position must publicly defend the merits they have allegedly included in their scientific and research curriculum, as well as their research project, which would be in relation to the activity that they could develop in the event that they would obtain the position.
3. The selection body must be composed by five members appointed by the competent body of the Health Research Institute of the Balearic Islands, and will be formed by the following members:
 - a) The President, who must be in possession of a PhD, must also hold the position of research professor or equivalent, or of university professor within the field of knowledge related to the position.

b) Four members, two of whom at least must come from outside the convening institution. They must be experts in the field of research, highly qualified in the scientific field and with advanced knowledge in the field being dealt with, and also have to be in possession of a PhD and be under the category of university professor or researcher (or similar), in national or international state owned research centre.

1. A member of the health research institute designated by the person holding the management position will act as secretary of the selection body, with voice but without vote.

2. The composition of the selection body must ensure a balanced presence of men and women.

3. The selection body may declare the non-suitability of any or all candidates admitted to the call. This statement must contain the reasons and grounds for which the lack of suitability is declared.

4. The selection body may declare the position on call void if all candidates have been considered unsuitable.

Article 34

Selection system for research professors

1. The positions for research professors created and previously endowed in the health research institutes of the Balearic Islands can be covered by personnel from the same institution who would access them by internal promotion, such personnel will be under the category of full professor, or by open positions to everyone (in Spain such public calls are known as *turno libre*).

2. The procedure for selecting research personnel is based on merit or on the results of an open competition, having previously been announced as a call, in which the object of the vacancy must be indicated as well as the specific requirements, merits and, if applicable, the scientific program that must be developed, the theoretical and practical tests which it will consist of, the criteria and the scale to be assessed, and lastly the functions that the doctor must exercise when hired. In all events, the general principles contained in chapter 1 of this section are applicable, and, in general, all appropriate precautions shall be observed to ensure that the use of this selection procedure does not limit competitive competition, in accordance with what is provided in Article 45 of Act 3/2007, of March 27.

3. In any case, candidates for a permanent research personnel position must publicly defend the merits they have alleged in their scientific and research curriculum, as well as their research project, which must be related to the activity that they could develop in case they would obtain the position.

4. The selection body must be composed by five members appointed by the competent body of the Health Research Institute of the Balearic Islands, and will be formed by the following members:

a) The President, who must be in possession of a PhD and must also hold the position of research professor or equivalent, or of university professor within the field of knowledge related to the position.

b) Four members, two of whom at least must come from outside the convening institution. They must be experts in the field of research, highly qualified in the scientific field and with advanced knowledge in the field being dealt with, and also have to be in possession of a PhD and be employed under the category of university professor or researcher (or similar), in a national or international state owned research centre.

1. A member of the health research institute designated by the person holding the management position will act as secretary of the selection body, with voice but without vote.

2. The composition of the selection body must ensure a balanced presence of men and women.

3. The selection body may declare the non-suitability of any or all candidates admitted to the call. This statement must contain the reasons and grounds for which the lack of suitability is declared.

4. The selection body may declare the position on call void if all candidates have been considered unsuitable.

Article 35

Requirements for the selection of research professors

1. Calls for the provision of research professor positions can be carried out by internal promotion among the research personnel of the health research institutes of the Balearic Islands, as long as they have previously held for at least 2 years a position in the convener institution as a senior researcher.

2. The convening and selection system is the one established in the preceding article.

Chapter IV

On hiring the research personnel

Article 36

Contract modalities

1. The health research institutes of the Balearic Islands may employ research personnel once the selective procedures established in this Decree have been carried out, either indefinitely or temporarily, through the different modalities of work contracts specified in Act 14 / 2011 of science, technology and innovation.

2. The health research institutes of the Balearic Islands may also employ personnel after evaluating the circumstances for each case, and by using any of the modalities acceptable in hiring labour force which are included in the Spanish legal system.

3. Researchers who is undertaking a PhD, and who might be in any of the circumstances provided for in Article 6 *a or b* of this Decree, must be employed by the health research institutes of the Balearic Islands through a pre-doctoral work contract as established in Article 21 of Act 14/2011, of June 1, on science, technology and innovation.

The rest of the research personnel who is undertaking a PhD but do not find themselves in any of the categories provided for in Article 6 *a or b* of this Decree must be linked to the health research institutes of the Balearic Islands through any of the employment contracts undertaken for a specific period of time, as established in the Workers' Statute.

4. Research personnel who have completed their doctoral studies and who are in the situations provided for in Article 12 of this Decree must relate, where appropriate, to the health research institutes of the Balearic Islands through any of the forms of a fixed-term work contract provided for in the Workers' Statute. Exceptionally, they can also be related under the modalities of permanent contracts for an indefinite period which is regulated by the Statute of workers.

5. The associated research staff regulated in Article 15 of this Decree will be related to the health research institutes of the Balearic Islands through a work contract for accessing the Spanish system of science, technology and innovation as established by Article 22 of Act 14/2011, of June 1.

6. The research staff and research professors which are regulated by Articles 19 and 22, respectively, of this Decree must be related to the health research institutes of the Balearic Islands in accordance with Article 23 of Act 14 / 2011, of June 1, through a work contract for principal researchers.

7. Exceptionally, the research personnel of the categories of pre-doctoral research personnel, postdoctoral research personnel and associate research personnel can also be employed through the temporary work contract modalities established in the Consolidated Text of the Law on the Statute of Workers' Rights, for the development of specific projects of temporary nature.

Section IV Rights and duties

Article 37

Employed research personnel rights

Without prejudice to the provisions of Article 14 of Act 14/2011, of June 1, the research personnel under contract have the following rights:

- a) To receive the corresponding compensation and benefits from labour rights as well as those related to Social Security which derive from the contract to be formalized with the health research institutes.
- b) To put forward research initiatives for the corresponding entities through the contracting health research institute, and to supervise the scientific and technological execution of the projects in which they appear as the principal researcher.
- c) To determine freely the methods for problem solving within the framework of recognized ethical practices and principles, the applicable regulations on intellectual property, and to maintain their scientific autonomy.
- d) To be recognized and protected in the authorship or co-authorship of the scientific works in which the researcher participates.
- e) To develop their professional career as determined by this Decree, in accordance with the principles of equality, merit and ability, as well as following ongoing training and permanent updating of their knowledge and skills which allow researchers to effectively exercise the tasks and functions of their professional activity
- f) To be provided with, insofar as budgetary availability and the general conditions of the health research institutes permit, the facilities and the appropriate means for the development of their research activity, without prejudice of respecting the principles of effectiveness and efficiency.
- g) To receive the consideration and respect of their research activity and its evaluation in accordance with the objectives of transparency and pre-established public criteria.
- h) To receive information and to participate in matters that affect the operation, organization and management of health research institutes, through the regulatory channels and in accordance with the provisions of their statutes.
- i) To participate, in accordance with what the present regulations establish, in the benefits obtained by the contracting health research institute, as a consequence of the eventual exploitation of the results of the research, development or innovation activity in which the researcher has participated.

The above mentioned participation is never considered part of the remuneration scheme or salary of the researcher.

j) To ensure gender equality in the development of the research functions, in the hiring of personnel and in the development of their professional career.

Article 38

Employed research personnel duties

Without prejudice to the provisions of Article 15 of Act 14/2011, of June 1, the research personnel under contract has to fulfil the following duties:

- a) To comply with the conditions and obligations established in the contract.
- b) To comply at all times with the rules of general order, those of good scientific practice, as well as with the ethical standards included in the various applicable deontological codes, and with the internal rules and regulations established by the institution.
- c) To make public mention of their status as research personnel for the health research institutes in all publications and events in which they participate in due to their professional status.
- d) To participate in the meetings and activities of the governing and management bodies of which the researcher is a member.
- e) To actively participate in the prevention of occupational risks and in the maintenance of equipment and facilities.
- f) To disseminate the results of the researcher's work, in accordance with the provisions of Act 14/2011, of June 1, and promote the dissemination of knowledge and the promotion of scientific culture in society.
- g) To not commit plagiarism or intentional falsehood in the course of their work, and to adopt the necessary measures to prevent others from doing so.
- h) To inform the contracting health research institute of possible delays and redefinitions of the research projects for which the researcher is responsible, as well as to inform of the completion of projects, or of the need to abandon or suspend the projects sooner than expected.
- i) To render accounts about the work undertaken to the health research institute that contracts the researcher and, through the institute, render accounts to the entities that finance or supervise the researcher's activity, and to be responsible for the effective financing of the research project it develops.

Therefore, the researcher must observe the principles of correct, transparent and effective financial management, and cooperate in the audits of its corresponding research in accordance with the applicable regulations.

j) To adopt the necessary measures to comply with applicable regulations regarding data protection and confidentiality.

k) To inform the contracting health research institute of all discoveries and results susceptible of legal protection, and to collaborate in the processes of protection and transfer of the results of the researcher's work.

Section V Working conditions

Article 39

Object

The health research institutes must ensure that the working conditions of the research personnel, including st personnel aff with disabilities, provide the necessary flexibility to guarantee the performance of the research and the reconciliation of family and work life.

Article 40

Working hours, holidays, permits and vacations

1. In accordance with the provisions of Act 14/2011, of June 1, the duration of the working day, schedules, permits and holidays are those set by the clauses of contracts and/or by collective agreements in the terms established by current labour regulations.

2. The health research institutes, within the framework of the existing labour regulations, must provide the personnel who work with measures that facilitate the reconciliation of work and family life, including the possibility of reducing working hours, distance to work and flexibility in working hours.

Article 41

Internships

1. Health research institutes must promote and assess the mobility of their research personnel, both in the national territory and abroad. Thus, and in accordance with what is established in Article 17.5 of Act 14/2011, of June 1, the research personnel under contract can do internships in centres of recognized prestige provided that the sanitary research institute authorizes them.

2. The granting of such authorization is subordinated to the needs of the service and to the strategic interest that the health research institute has in carrying out the studies.

3. The authorization must be granted for the extension of the training which must be directly related to the activity of the researcher's scientific and technical research, to technological development, to transfer or dissemination of knowledge that the

researcher has undertaken for the research institution of origin, or related to activities considered of strategic interest.

4. The personnel who is granted the authorizations above mentioned, is obliged to communicate any variation that may occur in the conditions that led to the concession, and to comply with the provisions of the current regulations and the internal rules which regulate such authorizations.

5. The total duration of the authorizations granted to each researcher every five years cannot exceed two years.

Article 42

Remuneration

1. The remuneration regime of the research personnel is the one established by the state and autonomous regulations applicable to the public employees of the autonomous community of the Balearic Islands, Act 14/2011, the collective agreement applicable to the researcher and the employment contract.

2. The research personnel of the health research institutes may receive performance incentives, generated in the budget spending statements from the financing obtained through income derived from contracts, transfer of industrial or intellectual property rights, specialization courses or through the resources received for the development of scientific or technological projects as a result of competitive public or private calls.

3. The amount and form of perception is subject to the provisions of the basic regulations of the State, annual budget laws and collective bargaining.

Article 43

Research performance complementary income

1. Once the requirements have been fulfilled, and with the previous reports that may be appropriate, the research performance complementary income must be defined. Such income will be linked to the results of the evaluation of the research activity and will be granted for obtaining the bonus or eminens in the evaluation and monitoring procedures established in section VI.

2. The amount and form of perception will be subject to the provisions of the basic regulations of the State, annual budget laws and collective bargaining.

Article 44

Extension of the duration of the contract

The situation of temporary disability, risk during pregnancy, maternity, adoption or foster care, risk during breastfeeding and paternity, may extend the calculation of the duration of the contract, in the terms established by the basic State regulations and collective bargaining.

Article 45

Incorporation to technology-based companies

1. Whenever a technology-based company is created or developed from patents or results are generated by research projects financed totally or partially with public funds and carried out in the health research institutes, the research personnel with a permanent link to the Institutions that claim to have participated in these projects may request authorization to join this company, through a temporary leave of absence.
2. Such leaves of absence can only be granted for a maximum period of five years. During the duration of the leave the researcher will have the right to reserve its position at work and to include such period in the count for labour seniority.
3. If a month prior to the end of the period for which the leave of absence has been granted, the researcher does not request re-entry into active service, the researcher will be declared ex officio in voluntary leave on personal grounds.
4. Between the end of this type of period of leave and the beginning of the next one by the same researcher, a minimum period of two years must elapse.
5. Full-time research personnel who base their participation in research projects, the results of which have led to the creation of a technology-based company, may apply for the part-time dedication regime to make their health research institutes activity compatible with work in the new company. Such research personnel is entitled to return to the full-time dedication regime whenever they request it, within a minimum period of two months at the end of the period for which the part-time dedication regime has been granted.

Article 46

Gender equality

1. The health research institutes must have an equality plan and an equality committee which monitors the presence of inequalities in relation to gender within the institute.
2. Parity must be sought in the governing and representation bodies and in the selection, evaluation and advisory committees.

Section VI

Monitoring and evaluation of research activity

Article 47

Object

1. In order to guarantee the ongoing excellence of the research activity, the researchers employed within the categories under the modality of distinguished

research personnel, the categories of research personnel and professor or research professor, are subject to a process of evaluation.

2. The evaluation procedure must take due account of the entire research, innovation and knowledge transfer activity, compliance with deadlines and objectives, leadership, training capacity, and scientific dissemination activity, as well as participation in institutional activities, and must be adapted to the principles numbered in Article 25.3 of this Decree.

Article 48

Evaluation procedure

1. Within the framework of the employment contract in the health research institutes, the researchers employed under the modality of distinguished research personnel, within the categories of research personnel and professor or research professor must be evaluated with a frequency of 5 years based on the following criteria:

- a) Scientific production and its impact: publications and other research results, such as databases, software, reagents, etc.
- b) Fund raising: ability to incorporate public and/or private funds for research.
- c) Research personnel training: tutoring of research personnel in initial stages, direction of doctoral theses, etc.
- d) Transfer of generated knowledge: licenses and patents, collaborative research contracts, professional ongoing education, clinical practice guidelines, white papers, evidence reports, scientific dissemination activities, etc.
- e) Participation in institutional activities and/or management of health research institutes.

1. The evaluation must be external and must be based on a public, objective and self-evaluating system, and can be attributed by means of an agreement to any university quality assessment agency or to higher investigation bodies from a Member State or the European Union.

2. The evaluation process must be scheduled at least 6 months before the expiration of each five-year period.

3. The periodicity of evaluation must be extended in the following cases:

- a) 6 months for the birth of each child within the period to evaluate.
- b) By reduction of working hours for the care of children or a family member, in proportion to the reduction.

Situations of work leave of absence to care for children or a family member, or due to an illness lasting longer than three consecutive months, also imply that the calculation of the period for the evaluation to take place is stopped.

1. Depending on the level of excellence and quality demonstrated, the result of the evaluation is rated as *pauper* (very bad), *malus* (bad), *bonus* (bonus) or *eminens* (very good).

2. The minimum requirements in order to achieve a bonus or eminent evaluation must be approved by the Board of Trustees and must be available to the research personnel employed by the health research institutes at least 12 months in advance prior to the evaluation procedure. If the requirements are modified in the period prior to a specific evaluation in less than 12 months, such evaluation must be carried out according to the requirements prior to the modification.

Article 49

Effects of the evaluation

The evaluations carried out by the health research institutes in accordance with the provisions of the previous Article have the following effects:

- a) A pauper evaluation will cause for termination of the contract.
- b) A first malus evaluation prevents the research personnel from getting any performance complementary income, and establishes the requirement of an intermediate evaluation after two years. A second malus evaluation supposes the rescission of the contract under the same conditions as a pauper evaluation.
- c) The bonus and eminent evaluation entitles the research personnel to perceive the performance complementary income in accordance with what is established in Article 43 of this Decree.

Single additional provision

Personnel Framework

The research personnel who, upon approval of this Decree, are already under an indefinite employment contract for the health research institutes of the Balearic Islands and who meet the requirements to be qualified within the professional category of research personnel without altering their contractual regime at that point in time, will automatically become classified as such.

Single transitory provision

Personnel in stabilization process

The personnel of the IdISBa Foundation, whom upon the entry into force of this Decree is in the situation provided for in Article 31.1 a, if after completing its first training phase and passing the final evaluation and once they obtain the I3 certificate or access the higher level of the corresponding training program, they will be employed by the IdISBa Foundation as research personnel for an indefinite period, under the modality of distinguished researcher contract.

Sole repeal provision

Repeal of rules

All rules of equal or inferior rank to this Decree are repealed in everything that opposes or contradicts it.

First final provision

Modification of the annexes

The programs of incorporation of national or international principal researchers related in Annex 3 can be modified by resolution of the Minister of Health, in response to the changes of denomination or the creation or suppression of these programs by the competent bodies.

Second final provision

Entry into force

This Decree entered into force the day after it was published in the Official Gazette of the Balearic Islands.

Palma, March 13, 2019

The Minister of Health

Patricia Gómez Picard

ANNEX 1

Criteria that must be considered for employing pre-doctoral researchers

Without prejudice to the specification of the value of this call, as well as without prejudice to the specific merits that in each case may be established, the following merits are of necessary consideration in any call:

- a) The mean grade of the academic record of undergraduate, weather architecture, engineering, degrees, diplomas, technical architecture or technical engineering studies, is based on a 1 to 10 scale, calculated in accordance with the Royal Decree 1125/2003, of September 5, by which the European system of credits and the system of qualifications in the officially recognised degrees are established and based on the totality of credits evaluated during the first and second cycles.
- b) Extraordinary diploma, degree or master's degree.
- c) Scientific publications related to the object of the contract.
- d) Other results of scientific activity (patents, computer applications, databases, etc.).
- e) Preferential merits related to the object of the contract: the evaluation panel may agree to carry out an interview in order to better specify the evaluation of the preferred merits.

ANNEX 2

Criteria that must be considered for employing post-doctoral researchers

Without prejudice to the specific value of this call, as well as without prejudice to the specific merits that in each case may be established, the following merits are of necessary consideration in any call:

- a) Scientific production: the publication of scientific articles, books, book chapters and monographs, presentation of papers in scientific meetings and other research results.
- b) Preferential merits related to the object of the contract: the evaluation panel may agree to carry out an interview with the purpose of better specifying the evaluation of the preferred merits.
- c) Participation in competitive research projects.
- d) Participation in knowledge transfer activities.
- e) Postdoctoral stays in other universities and research centres different from the centre for obtaining the doctoral thesis.

ANNEX 3

Training programs included within the terms of Article 32.1 a and b of this Decree

Miguel Servet Program
Ramón y Cajal Program