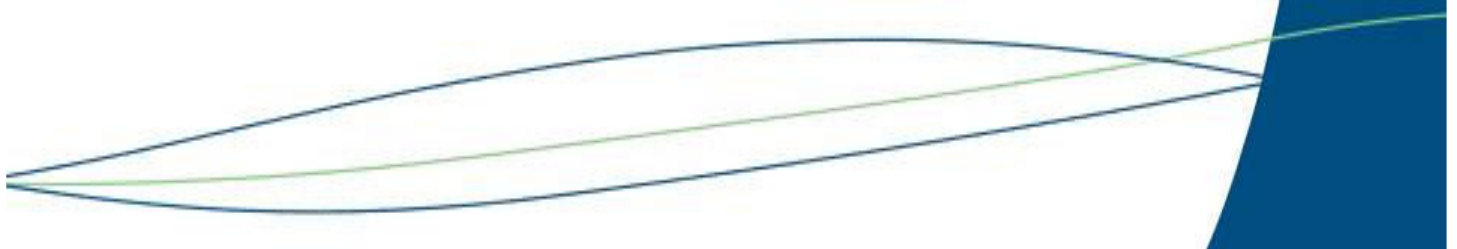


Labour Reform



February 2012



LABOUR REFORM 2012

On February 11th, 2012 the BOE (Official State Bulletin) published **Royal Decree 3/2012**, of February 10th, with urgent measures to carry out the **Spanish labour reform**. The Royal Decree came into effect February 11th, 2012.

The labour reform stipulates several measures in order to reach the following objectives:

1. Stimulate employment amongst employees
2. Stimulate employment
3. Improve internal flexibility of companies
4. Improve the efficiency of the work market

1. Measures to stimulate employment amongst employees

- ✓ Authorise ETT (Temporal Work Companies) to act as private agencies.
- ✓ Promote the creation of training contracts in a regime of alternation of professional qualification and paid employment.
- ✓ Employees with a 1 year old contract in a company have the right to take a paid permit of 20 hours annually for training sessions that are related to its work. These hours can be accumulated for up to 3 years.
- ✓ Employment of unemployed workers, for training, have a deduction on the company's social security contributions of 100% if the contract is done by companies with less that 250 employees. For companies with more than 250 employees the deduction would be of 75%.
- ✓ Companies that change training contracts into indefinite contracts will have a deduction on their contribution to the social security of € 1,500 or € 1,800.

2. Measures to stimulate employment

- ✓ A new contract for indefinite employment is created to support companies with less than 50 employees. The contract includes a test period of 1 year and affects people under 30 years old and the unemployed. In this case, companies will receive tax incentives and bonuses.
- ✓ Part-time contracts can carry out extra-hours in proportion to the work hours agreed.
- ✓ Work carried out outside the office (home-workers) is regulated.
- ✓ Bonuses, of € 500 - €700, are established for companies with less than 50 employees and autonomous that change training/replacement/reshuffle contracts into indefinite contracts.

3. Measures to improve internal flexibility of companies

- ✓ Elimination of the definition of the equivalent professional category. The only reference to professional category appears when referring to the professional group.
- ✓ The company can distribute, in an irregular manner, along the year 5% of the working hours.
- ✓ Simplification of functional mobility to carry out superior or inferior tasks. The company has to communicate the decision and its reasons to the workers' representative.
- ✓ The application of geographical mobility depends on reasons related to competitiveness, productivity, and technical or other type of change in the organization of the company.
- ✓ Substantial modification of work conditions can be carried out by the company for the same reasons that apply to geographical mobility. The possibility to modify the salary is included. Decision related to the modification of collective working conditions will be notified by the company to the employees once the consultation period has finished and will take effect within 7 days. In the individual notifications the period is of 15 days.

3. Measures to improve internal flexibility of companies

- ✓ It is established as a cause that the employee can end a contract due to substantial modifications to the employee's working conditions as long as the conditions stipulated for such modification have not been considered by the company.
- ✓ Regulation of the procedure to end a contract or to reduce the working hours without the need of the Administration authorization. Once the consultation period has finished the company will notify its decision to the employees and it will come into effect once it is communicated by the labour authority to the unemployment office.
- ✓ Regulation of the decision taken by the company that chooses not to apply the conditions stipulated in the collective agreement. These conditions include salary amounts and the voluntary improvements of the social security negotiated with the committee:
 - ✓ When there is a negative economic situation: continuous decrease of income or sales during two consecutive quarters.
 - ✓ If there is not a representative of workers in the company, workers will be able to designate a committee of a maximum of 3 employees.
 - ✓ If there is disagreement between the parts the committee can present the case before the Collective Agreement Commission and, afterwards, before the Consultation Commission of Collective Agreements.

4. Measures to improve the efficiency of the work market

- ✓ It is suspended until December 31st, 2012 the application of the measure related to agreeing to produce one contract after the other indefinitely.
- ✓ In the case of objective dismissal due to an employee not going to work without justification the reference to work absenteeism is eliminated.

4. Measures to improve internal flexibility of companies

- ✓ Modification of collective dismissal and elimination of the administrative authorization. The negative economic situation mentioned in point 3 applies here too. Once the consultation period is finished, the company will communicate the results to the labour authority along with the agreement reached. If there is no agreement, the company will notify the worker's representative and the labour authority of its decision and conditions. Afterwards, the company will notify the employees.
- ✓ Compensation for unfair dismissal is set in 33 days of salary per year worked with a maximum of 24 monthly payments. In existing agreements compensation will be of 45 days until the date the labour reform came into effect and 33 days for the rest of the time worked.
- ✓ When the dismissal is unfair and the company chooses to settle the compensation, salaries that might generate during processing will not be considered.

We hope that you find this information of use. If you have any doubts regarding the new labour reform do not hesitate to contact Mr. Javier Lara, Manager of the Labour Department at UHY Fay & Co

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