



THE NEW PROVISIONS GOVERNING EQUALITY PLANS, TRANSPARENCY AND EQUAL PAY

IN DETAIL

1. With regard to enforcing the principle of equal pay for work of equal value: Do the regulations specify the factors that must be considered when carrying out gender-neutral job assessments?

Yes, the regulations stipulate the following elements, among others, as significant: jobs requiring awkward positions and repetitive movements; jobs involving responsibility for individuals' economic and physical wellbeing or providing care to others, which are characteristics of typically "female jobs".

2. Regarding the equal pay register; what are the most relevant new features?

A new feature is the obligation to calculate the average and median pay data broken down by gender; including base salary, wage supplements and non-salary compensations, according to the occupational classification system applicable in the company.

In the case of companies that must carry out pay audits in the context of equality plans, the regulation stipulates that the average and median amounts of the pay data must also be calculated to reflect occupational groups of like value; said calculation will require that the company's job-assessment policy be reviewed in terms of gender first.

The pay register must provide an explanation for any gender pay gap, when such gap is equal to or greater than 25%. The regulations specify that said explanation may not be applied to rule out any evidence that discrimination exists (for the purposes of administrative and judicial protection).

The regulations also highlight employers' obligation to consult the employees' legal representatives at least 10 days before the pay register is issued or amended.

3. Is the pay register obligation applicable to the entire workforce?

Yes, the regulations specify that the pay register must include all staff, including managers and senior executives.

4. Are employees entitled to access the pay register directly, if there are no employee representatives in the company?

Yes, although in these cases the information to be provided by the company will not include the average data calculated from the actual salaries included in the register; just the differences expressed as a percentage.

5. Regarding the pay audit obligation for any company that prepares an equality plan: What is the main change?

The main change is the regulations' specification of what the pay audit will include, which hinges on (i) a diagnosis of the situation, based on the necessary analytical and gender-neutral job assessment, and (ii) the preparation of an action plan to correct wage gaps.



6. In terms of equality plans, are specific rules foreseen on how these are to be negotiated?

Yes, (i) an obligation to negotiate with workers' representatives is expressly provided for, including a diagnosis of the situation; (ii) a provision is made for the possibility to negotiate equality plans within the group of companies or with regard to a specific section of the companies making up the group; (iii) as a new feature, the parties authorised to negotiate equality plans are defined for companies without representative bodies - members of workers' committees and trade unions - in all or some of the work centres, and representation is assigned to an *ad hoc* trade union committee comprising the most widely representative trade unions and those representing the sector the company belongs to or, where appropriate, in a combined manner, including the legal representative bodies of those work centres that have these; (iv) a maximum period of three months is provided for companies to start negotiations and set up the negotiating committee for the equality plans, calculated from the moment the minimum threshold of workers is reached or, where appropriate, from the publication of the collective agreement requiring those companies not legally obliged to do so to draw up equality plans (unless another period is provided for in the collective agreement); and (v) a period of one year from the date of the end of the period for setting up the negotiating committee to have the equality plan negotiated, approved and submitted.

7. Are specific rules foreseen to calculate the threshold of workers that create the employer's obligation to draw up an equality plan?

Yes, the regulation expands on this matter, highlighting the specific rules for calculating workers on fixed-term contracts and including workers provided by temporary employment agencies.

8. Is the right and corresponding business obligation to grant access to the information and documentation necessary to carry out the diagnosis of the situation recognised?

Yes, those on the negotiating committee of the equality plan have the express right to access all documentation and information necessary to carry out the diagnosis of the situation bound by the duty of professional secrecy and the company is obliged to provide this information.

9. Is the minimum material content for the diagnosis of the situation and equality plans specified?

Yes, by highlighting the obligation to draw up a summary of the analysis involved in the diagnosis and the key conclusions and proposals, which must be included in a report to be included in the equality plan.

It is also worth highlighting the obligation for equality plans to include measures to address the unequal representation of a specific gender in some posts or ranks following the diagnosis of the situation, and affirmative action measures may be put in place to eradicate both horizontal and vertical occupational segregation of women.

In addition, one of the measures with the greatest impact in practical terms is that the criteria to be taken into account when drawing up the diagnosis of the situation are set out in detail for each specific area.

10. How long do equality plans last?

The negotiating parties must set the length of time, which may not, in any event, exceed four years, notwithstanding the need to review the equality plans when certain circumstances arise, with particular emphasis on the obligation to review the equality plan when a court ruling finds against the company for direct or indirect gender-based discrimination or when it concludes that the equality plan does not meet legal or regulatory requirements.



11. Is there an obligation to set up a body to oversee and monitor the plan?

Yes, there is an obligation to create a specific body to oversee and monitor the plan, consisting of both company and workers' representatives on an equal basis.

12. In terms of the scope of the equality plans, does it extend to assigned workers hired by temporary employment agencies?

Yes, it is expressly provided that the measures of the user company's equality plan will be extended to temporary workers during their periods of service, thereby bringing in case law interpretation of this particular issue.

13. In terms of registering equality plans, how is this obligation implemented?

Mandatory public registering of equality plans is provided for in the public registers for collective bargaining agreements and equality plans, be they mandatory or voluntary, agreed on or implemented unilaterally.

The application for registration must be accompanied with the corresponding duly completed specific statistical sheet for the equality plan.

In addition, it provides for the voluntary registration of measures that companies that are not obliged to draw up an equality plan have taken to prevent and address discrimination, including sexual or gender-based harassment protocols.