THE FRENCH SOCIAL MODEL OVERHAUL
A social transformation plan that is unprecedented in scope

36 specific, operational measures for jobs, competitiveness and employees in France

The social model reform presented on 6 June 2017 by the Prime Minister Edouard Philippe and Minister of Labor Muriel Pénicaud links together the labor law reform with an investment plan for skills and vocational training, the apprenticeship reform, the vocational training reform, the overhaul of unemployment insurance, the increase in purchasing power and the pension reform.

Thanks to the consistency of these reforms, the 18 million employees, 3 million businesses and 2.6 million jobseekers will have more freedom, more protection and more equal opportunities.

First and foremost, the social and economic partners must very swiftly be given the necessary means for negotiating rules that take more effective account of both employees’ expectations and companies’ needs. Following intense talks with the social partners—which involved some one hundred meetings and the adoption of an Enabling Act by Parliament – on 31 August 2017 the Government is presenting the reform of the Labor law with 4 overarching aims.

For the first time, priority is given to micro-businesses and SMEs

P.04

Trusting businesses and employees by giving them the ability to anticipate and adapt simply, swiftly and securely

P.08

New rights and new forms of protection for employees

P.14

New guarantees for trade unions and staff representatives that engage in social dialogue

P.18
FOR THE FIRST TIME, PRIORITY IS GIVEN TO MICRO-BUSINESSES AND SMEs

#SocialDialogue
Collective bargaining will be made easier and will be simplified for businesses with fewer than 50 employees thanks to the possibility of negotiating directly with an elected staff representative on any topic.

Negotiating with employees on any subject will be possible, in all businesses with fewer than 20 employees and no elected staff representative.

A clear, accessible and easy-to-understand digital labor code, which addresses issues raised by micro-business/SME managers and their employees (example: severance pay bargained at the sector level), will be set up.

A cap of labor courts’ damages in case of unfair dismissals which provides security and visibility with regard to potential disputes, will be put in place.

Termination rules will be changed to ensure that procedural rules technicalities no longer override substance.

A standard form will be created to prevent procedural errors during a dismissal.

Unworkable red tape in the context of strenuous work (“pénibilité”) declarations will be removed.

Rules governing disputes in cases of work incapacity will be clarified.

Sector-level agreements will need to stipulate provisions that take into consideration micro-businesses/SMEs specific needs.

In micro-businesses/SMEs, wages and travel expenses of employees, who take part in sectoral negotiations, will be financed through collective funding.

When a business does not have its own trade union delegate (which is the case for 96% of SMEs), the staff representative, elected by the employees, will be able to sign a collective agreement on any subject so as to benefit from all the flexibility offered by collective bargaining. In this way, all businesses with employees – irrespective of the number – in France will have easy, direct access to collective bargaining: this is the cornerstone on which our plan is based.

In practice, the employer will be able to consult his or her employees with a view to jointly deciding on the rules governing company life. This already happens in the context of setting up a profit-sharing scheme or of validating one of the employer’s decisions (compensation for working on Sundays for example). Micro-businesses will thus be able to benefit from the same flexibility and capacity to adapt the law as large businesses: pay, working hours, organization of work – it will be possible for all of these issues to be negotiated directly between the company manager and his or her employees.

No company manager – especially in micro-businesses/SMEs – takes on employees with the intention of dismissing them. But uncertainty over the cost of a potential termination can make employers reluctant to hire. Capping the damages provides predictability which will help to clear up this uncertainty and unlock job creation in France in micro-businesses and SMEs. In cases of discrimination, harassment or violations of the employee’s fundamental rights, the courts will be free to decide on the sanction to be imposed.

In practice, as things currently stand, a shopkeeper – with no choice but to cut jobs after seeing his/her turnover plummet because of a new competitor on the scene – can be sanctioned by an labor court if s/he forgets to clarify in the dismissal letter that the job has been cut.

Employees’ rights are entirely preserved, but an employer may no longer be punished for a procedural error when the substance is beyond dispute.

In practice, a craftsperson does not benefit from all the necessary legal assistance when s/he has to lay employees off, and the truth is this is often a difficult experience for him/her too. Seeing the dismissal being challenged solely because s/he did not correctly draft the documents just makes matters more complex which, far from protecting the employee, can sometimes jeopardize the business itself when there are only a few employees and little disposable cash flow. The standard form will remind each party of their rights and duties.

In practice, as things currently stand, a shopkeeper – with no choice but to cut jobs after seeing his/her turnover plummet because of a new competitor on the scene – can be sanctioned by an labor court if s/he forgets to clarify in the dismissal letter that the job has been cut.

Employees’ rights are entirely preserved, but an employer may no longer be punished for a procedural error when the substance is beyond dispute.

In practice, as things currently stand, a shopkeeper – with no choice but to cut jobs after seeing his/her turnover plummet because of a new competitor on the scene – can be sanctioned by an labor court if s/he forgets to clarify in the dismissal letter that the job has been cut.

Employees’ rights are entirely preserved, but an employer may no longer be punished for a procedural error when the substance is beyond dispute.
TRUSTING BUSINESSES AND EMPLOYEES BY GIVING THEM THE ABILITY TO ANTICIPATE AND ADAPT SIMPLY, SWIFTLY AND SECURELY

#SocialDialogue
Better anticipating and adapting swiftly to upward or downward market trends via simplified majority agreements on working hours, pay and mobility will be made possible.

Companies will have much more room for negotiation, for example on bonuses or travel expenses, which are currently negotiated at the sector level. It is only if there is no company level agreement that the sectoral agreement will apply.

Social dialogue will be made simpler, more operational through the merger of three information and consultation bodies into one – the social and economic council (CSE).

Setting up (on the basis of a majority agreement) a works council bringing together all of the staff representation duties (information, consultation, negotiation) will be possible. This brings greater possibility for promoting social and economic dialogue and jointly designing strategy with the employees and their representatives.

A contractual termination scheme by mutual consent at collective level will be established.

Expert appraisals will be regulated by introducing a fixed-rate financial participation of 20% of the cost of expert appraisals by the social and economic council for ad hoc expert appraisals.
17/ Rules governing fixed-term contracts (CDDs) need to correspond to the specificities of each sector. Those will be negotiated at the sector level. For example, this will enable more flexibility in businesses where consumers’ demand is fluctuating, like catering or tourism.

18/ Accessing project-based contracts through sector-level negotiations that set the rules for being able to sign this type of contract will be possible.

19/ Economic difficulties, justifying job cuts, will be assessed at national level, as most of other European countries do.

20/ Illogical and contentious obligations will be scrapped and redeployment procedures will be simplified.

21/ In the event of a dispute over a contract of employment termination, the deadline for recourse to the court will be harmonized to one-year time-limits (for the time being, the deadline is one year in case of economic grounds and two years for individual dismissal).

The project-based contract ("Contrat de chantier") gives employees the same rights and protection as a open-ended contract especially in terms of training, and an employment guarantee that is generally longer than the maximum term of a short term contract, as well as compensation when the project comes to an end.

The project-based contract also gives businesses sufficient time to invest in their employees who, once the project has finished, may be assigned to other projects or hired on a permanent basis if the economic conditions are right.
NEW RIGHTS
AND NEW FORMS OF
PROTECTION FOR
EMPLOYEES

#SocialDialogue
22/ Set up French-style co-determination process on vocational training or gender equality in particular, in businesses that set up the works council by majority agreement.

23/ Enterprise-level agreements will become majority agreements (signed by unions representing at least 50% of employees) from 1st of May 2018.

24/ Rules on telework will be more secure and flexible for a better work-life balance.

25/ Legal termination compensations will increase by 25%.

26/ Disputes with an employer will be made more predictable, fairer and more protective, thanks to a new upper and lower limit for court damages and a standard form setting out each party’s rights and duties in the event of termination.
An extra 100 training hours will be given to the employee, financed by the employer, should the employee refuse a majority agreement signed by the trade unions on working hours or pay.

Sectors’ remit will be extended to ensure greater fairness between employees in the same sector.

Redeployment procedures will be fairer and more transparent through access to all of the jobs available in the company.

In practice, sectors will guarantee the same rights and guarantees for all disabled employees in the same sector—which should be greater than those laid down by the law.

Their remit will be extended in terms of job quality and management, for example on the subject of the use of short contracts or project-based permanent contracts.

A digital labour code making the law easier to understand, including for disabled employees.
NEW GUARANTEES FOR TRADE UNIONS AND STAFF REPRESENTATIVES WHO ENGAGE IN SOCIAL DIALOGUE

#SocialDialogue
Thanks to the mission the Minister of Labour, Muriel Pénicaud gave to Jean-Dominique Simonpoli, it has been possible to identify some of the most innovative and cutting-edge practices at sector and enterprise level in terms of trade union experience.

The reform include these proposals and turn them into practical, operational measures so that the skills acquired by trade union delegates and elected staff representatives while exercising their mandates are more fully recognised. The reform also foresees additional means or the training of employee representatives.

31/ Additional means will be guaranteed and training for exercising union mandates will be strengthened.

32/ Access to vocational training and skills assessment so as to be able to combine trade union involvement with professional development will be improved.

33/ Trade unions will have more flexibility to designate their representatives.

34/ An Observatory on Collective Bargaining will be created.

35/ Career opportunities for elected staff and trade union representatives will be strengthened.

36/ A network of universities and grandes écoles (prestigious higher education institutions) will be called on to train trade union activists every year.
Retrouvez sur le site : www.travail-emploi.gouv.fr une carte interactive recensant plus de 100 exemples d’accords collectifs en France.

Secrétariat presse
sec.presse.travail@cab.travail.gouv.fr
01 49 55 32 21