



MINISTÈRE DU TRAVAIL



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

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

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New rights and new forms of protection for employees

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

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**FOR THE FIRST
TIME, PRIORITY IS GIVEN TO
MICRO-BUSINESSES AND SMEs**

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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.**



1/ 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.



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.



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

3/ 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.



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.



4/ 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.

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



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.



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



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 jeopardise 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.



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

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

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

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



**TRUSTING BUSINESSES
AND EMPLOYEES
BY GIVING THEM
THE ABILITY TO ANTICIPATE
AND ADAPT SIMPLY, SWIFTLY
AND SECURELY**

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In practice, when a business knows that a major contract is due to end or needs to make preparations for taking a new order in hand, it is better to work with the employees' representatives on the organisational arrangements in terms of working hours, wages, the required mobility and so on. The law now allows businesses through collective bargaining to go out and secure new contracts, or to avoid losing one, by helping them to act with more agility. This measure will allow all companies, no matter how big or small, to adapt more swiftly to the market.



11/ 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.

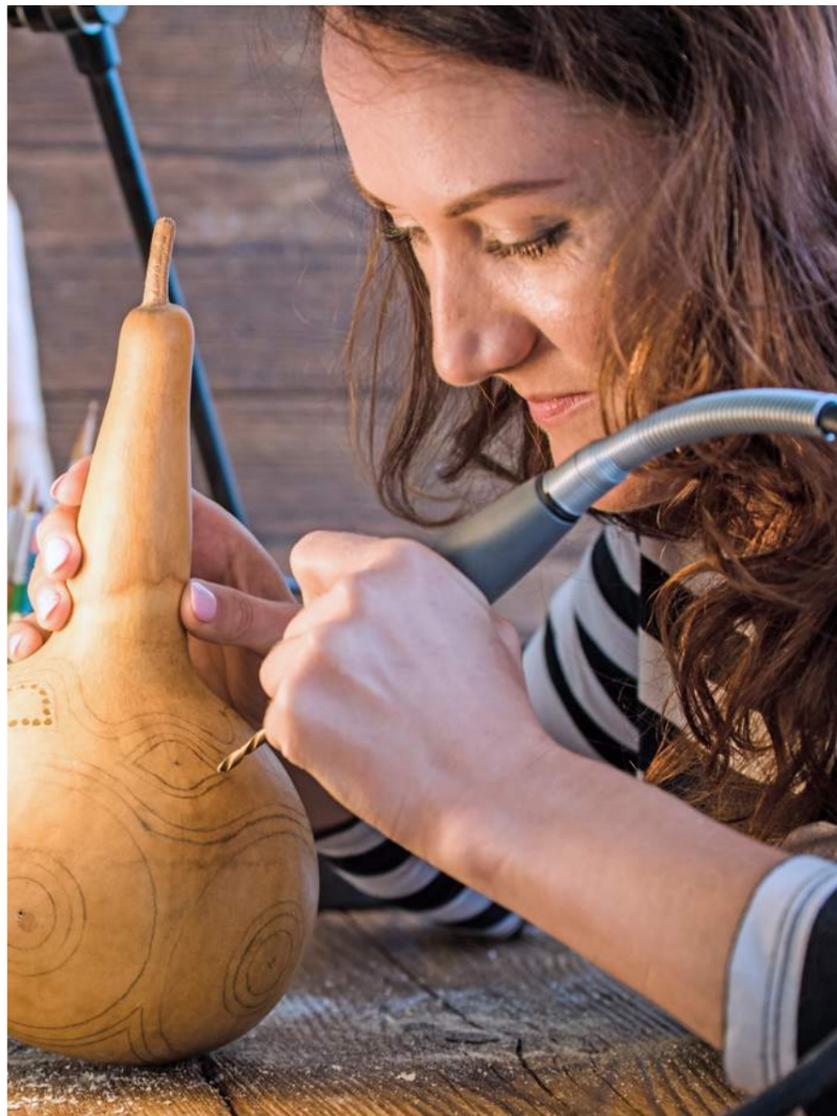
The reform entrusts businesses with the task of negotiating, at their level, the social agenda, consultations and the information arrangements concerning them; the Labour Code will enable greater involvement from all the stakeholders: employees, staff representatives and the company manager.

This new freedom will respect public policy timelines and priorities (such as consideration of strenuous work in the company through the occupational prevention account or gender equality for example).

In practice, where the keys to a business's success are innovation and the commitment of its employees, it will be possible to replace a binding sector-wide seniority bonus with a more attractive system – to subsidise the costs of childcare for a young child or the remuneration of inventions for instance. If there is no majority enterprise-level agreement, then the sector-level agreement applies.



12/ 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.



13/ 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).

14/ 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.

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

16/ 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.

In businesses with over 50 employees, the Social and Economic Council (CSE) will merge the current responsibilities of staff delegates, the works councils and the occupational health & safety committee (CHSCT).

It will keep the legal personality as well as its full remit and prerogatives, including as regards working conditions and occupational safety, the ability to request expert appraisals, launch investigations and institute legal proceedings if necessary.

In practice, when it comes to certain issues, businesses are currently obliged to consult all four of these bodies separately. Take moving premises for example. This is an issue with implications bearing not just on economic and social aspects but also on occupational well-being and safety. With a single body, employees and employers will discuss all issues concerning the business in the same place – this is much more effective.

For businesses, this means less complexity, while the social partners will have a greater say in negotiations and their authority as a key stakeholder will increase – even in smaller businesses.

In order to involve staff in initiatives aimed at preventing occupational risks and improving working conditions, an «occupational health & safety» committee (CHSCT) will be a requirement in all high-risk businesses (including nuclear or Seveso establishments for example) and all other businesses with over 300 employees.



In practice, voluntary redundancy schemes can be defined, for all businesses, through collective bargaining at the enterprise level. These schemes must, in a similar way to contractual termination at individual level, be approved by public authorities.

This means extending the possibility of contractual termination by mutual consent, introduced following cross-industry negotiations in 2008, to the collective level.

The project-based contract ("Contrat de chantier") gives employees the same rights and protection as an 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.

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 solidarity of all of a business's international subsidiaries with the struggling French subsidiary is one of the rules that put a) France at a disadvantage in international benchmarking, and b) investors, off.

When a business is grappling with economic woes in its sector and on national soil, it will be able to carry out layoffs assessed at the national level only – as is the case for our European and international partners. This simple rule is likely to bolster French and foreign businesses located in France – and convince others to invest in France, thereby stimulating job growth. Of course, the courts will still be able to exercise oversight over a potential abuse of rights, such as the fabrication of artificial problems to justify redundancies. If the French subsidiary is profitable, there is no reason to close it down.

In the current way of doing things, a business is obliged to show the employee it is laying off all of the group's job vacancies across its international network, including those offering less than the minimum wage. This is sometimes burdensome for the business. Ultimately, offering positions that pay less than the minimum wage in euros in a foreign country is in no way protective for the employee being made redundant.





**NEW RIGHTS
AND NEW FORMS OF
PROTECTION FOR
EMPLOYEES**

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For employees and their trade union delegates, this gives them a greater say in how the business is run and empowers them in terms of designing its strategy – not least regarding the decisive aspects of employees’ working lives (training plan, gender equality and so on) – but also the other topics that the agreement will determine.



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.



2 out of 3 employees today would like to work from home, but the legal framework does not currently enable them to do so in any secure way: 17% of employees telework, sometimes informally, with no legal cover. From now on, these employees will be guaranteed greater security with, for example, cover for occupational accidents under the same conditions as if they were in their employer’s workplace.



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

25/ Legal termination compensations will increase by 25%.



In practice, an employee whose average monthly wage was €2,000, and who is made redundant after 10 years of service, will see his/her legal compensation rise from €4,000 to €5,000.



As things stand at present, for a similar length of service and prejudice, the amount of damages the labor courts can grant employees subject to unfair dismissal can range from one to five times the amount between two courts. There needs to be more fairness between employees. What is more, micro-business employees will benefit from a minimum amount, which is not the case today.



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.



Today, in an agreement on working hours for example, any employee refusing to accept the new agreement is entitled to unemployment benefits and nothing else. Tomorrow, any employee refusing a majority agreement will, in addition to unemployment benefits, also have access to additional, individual training entitlements with regard to his or her specific case so as to be able to train and find another job.



27/ 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.

30/ A digital labour code making the law easier to understand, including for disabled employees.



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.



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

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



**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.

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.



In practice, when all of the elected staff representatives in a company getting 10% of the votes cede their right to be appointed as trade union delegate in writing, an organization that has obtained 10% may appoint as trade union delegate an employee who was not on the list.



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

34/ An Observatory on Collective Bargaining will be created.



The Observatory on Collective Bargaining will provide information about improvement of negotiations, elected staff representatives and trade union delegates. It will also monitor union discrimination practices, which are simply unacceptable and should therefore be afforded even greater surveillance.



Le dialogue social, ça ...

- S'adapter à la vie réelle des entreprises**
 - Encadrer le recours au télétravail dans l'...
 - Encadrer le recours au télétravail dans l'...
 - Développer l'emploi grâce à l'accord d'e...
 - Encadrer le recours au télétravail dans l'...
 - ... 60 autres
- Protéger efficacement les salariés**
 - Adapter les règles de l'entreprise à des ...
 - Encourager l'innovation grâce aux accor...
 - Respecter l'équilibre entre vie professio...
 - Valoriser la représentation des salariés ...
 - ... 12 autres
- Améliorer la qualité de vie au travail**
 - Améliorer la qualité de vie au travail par ...
 - Améliorer la qualité de vie au travail par ...
 - Favoriser et valoriser le droit à la décon...
 - Adapter les règles de l'entreprise à des ...
 - ... 31 autres

France

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 une carte interactive recensant plus de 100 exemples
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