

MAIN ASPECTS OF THE PLANS ON EQUALITY AND EQUAL PAY REGULATED BY ROYAL DECREES 901/2020 AND 902/2020, OF 13 OCTOBER

[Royal Decree 901/2020 of 13 October, regulating equality plans and their registration and amending Royal Decree 713/2010, of 28 May, on the registration and deposit of collective labour agreements and settlements](#) ("**RD 901/2020**") and [Royal Decree 902/2020, of 13 October, on equal pay between men and women](#) ("**RD 902/2020**") were published in the Official State Gazette (BOE) on 14 October.

The main aspects regulated by RD 901/2020 are those briefly set out below:

1. GENERAL ISSUES

- RD 901/2020 will come into force **three months after its publication (14 January 2021)**.
- Producing an equality plan will be voluntary **except in three cases**:
 - Where the company has 50 or more workers,
 - Where producing it is imposed on the company as a condition in an applicable collective agreement, or
 - Where it has been imposed by a sanctioning agreement adopted by the Labour Authority.

Companies forming part of a group of companies will be able to produce a single plan for all or some of the companies in the group.

- Companies should commence the negotiation procedure for their equality plans and prior analyses by establishing a **joint collective bargaining committee** between members of the company and workers. Regarding the latter, this could be the Works Council, employee representatives, the trade union branches, if any, when they amount to most members of the committee and they so decide, the inter-workplace committee, where legally appropriate, or a specific company committee formed by representatives of the major trade unions in the sector.
- This committee has competencies in several spheres:

- Negotiating and preparing an analysis aimed at identifying and estimating the magnitude, through quantitative and qualitative indicators, of inequalities, differences, disadvantages, difficulties and obstacles, which exist or may exist in the company to achieve effective equality between men and women and a report on the outcome of the analysis.
- Identifying priority measures, scope of application, material and human resources required.
- Negotiating the equality plan and boosting its implementation.
- Defining the measurement indicators to assess the measures implemented by the equality plan.

2. PRE-ANALYSIS

- The analysis, which shall relate to all the company's jobs and workplaces, shall involve at least the following issues:
 - Selection and recruitment processes.
 - Professional classification.
 - Professional promotion.
 - Training.
 - Working conditions, including the wage audit referred to in RD 902/2020 on equal pay between men and women.
 - Exercise of the rights to a personal, family and work life.
 - Female underrepresentation.
 - Remuneration and preventing sexual harassment and harassment on the grounds of sex.

3. THE EQUALITY PLAN

- Regarding the Equality Plans, they must have at least the following content:
 - Parts forming it.
 - The personal, territorial, and temporary scope of the Plan.
 - An analysis report in the terms indicated above.
 - Results of the pay audit carried out under RD 902/2020 on equal pay between men and women.
 - The qualitative and quantitative goals of the Equality Plan.
 - Description of specific measures, implementation deadline, and prioritisation of the latter.
 - Identification of the means and resources to carry out the implementation, monitoring and assessment of each measure covered by the Plan.
 - Timetable for implementation, monitoring and assessment of the measures covered by the Plan.
 - Composition and operation of the committee or body responsible for monitoring and assessing the Equality Plan, as well as reviewing it, and,
 - Procedure for amending and resolving discrepancies in its application, follow-up, assessment, or review.
- The duration of equality plans may not exceed four years and must be reviewed should certain circumstances come to pass. An oversight and monitoring body for

the plan, to undertake regular assessments, will be mandatory.

- The equality plan will cover all workers in the company and its **registration in the public register will be mandatory**. Measures to prevent discrimination between men and women, as well as specific measures to prevent sexual harassment or harassment on the grounds of sex at work, may also be voluntarily registered.
- A transitional regime for Equality Plans already existing when RD 901/2020 comes into force is envisaged, so they can be adapted to the terms of the latter within 12 months from that date onwards.

Likewise, we summarise the main developments in RD 902/2020 below:

- RD 902/2020 will come into force **six months following its publication (on 14 April 2021)**.
- All companies must have pay records covering their entire workforce, including management personnel and senior postholders, as provided for by art. 28.2 of the Statute of Workers' Rights.

This record must include **average wage values, wage supplements and extra-wage payments broken down by sex and distributed in equal groups, professional categories, or jobs; or by groups, professional categories, or jobs of equal value**.

Workers shall have access to this record should they not be legally represented, in which case information on average percentage differences between men and women shall be provided. In companies where they are legally represented, access to the record shall be provided to workers through the aforesaid representatives.

- The format to be published by the Ministry of Labour and Social Economy on its website can be followed.
- Companies conducting pay audits shall have a pay record which shall reflect the arithmetic and median averages of the groupings of equal value work in the undertaking, and the corresponding justification where the average pay for one sex is higher than that of the other by at least 25%.
- Those undertakings preparing an equality plan should include a pay audit aimed at obtaining the information necessary to verify whether the company's remuneration system, across the board and comprehensively, complies with the effective application of the principle of equality between men and women in terms of pay.

- The audit involves obligations such as undertaking an analysis of the pay situation within the company and implementing an action plan to correct pay inequalities.
- Information on pay, or the absence thereof, may be used to undertake both individual and collective administrative and judicial actions.
- Part-time workers have the same rights, including pay rights, as full-time workers.
- Within six months of this Royal Decree coming into force, an order on a procedure to perform job assessments issued based on a joint proposal from the heads of the Ministries of Labour and Social Economy and the Ministry of Equality shall be approved.