

## Spanish labour reforms (Royal Decree 2012 Act 3)

	Reform	Summary of impacts for employers	Previously	
1. Flexibility	I) Professional classifications now broader	i) Broader changes to roles within a category before invoking substantial changes to T&Cs	Professional categories were more restrictive	
	II) Working times	ii) 5% of an employee's working day may now be unevenly distributed throughout the year	Required provision in the collective bargaining agreement	
	III) Changes to employment T&Cs	i) Justification for implementing changes to employment conditions and/or location is now lighter. ii) Employees may also choose 20 days pay instead of accepting substantial changes. iii) The definition of substantial change now distinguishes between collective and non-collective based on the number of employees affected.	Evidence of future effects of changes no longer needed	
	IV) Temporary suspension/working time reduction	i) Employers may benefit from a social security discount if employees under redundancy-consultation are kept on for at least one year.	Prior administrative approval for the suspension of employment agreements for ETO reasons	
2. Collective negotiation	I) Non-application collective bargaining agreements	i) Exceptions to collective bargaining agreements are permitted for ETO reasons. These mainly affect working times/shifts, remuneration, performance and functions, and are subject to up to 15 days consultation.		
	II) Preferential application of company bargaining agreements vs. nation/regional	Company collective bargaining agreements supersede national/regional in terms of fixed and variable remuneration, working times, holiday planning and work-life balance. If the company doesn't have its own collective bargaining agreement, it may apply for non-application		
	III) Term of collective bargaining agreement	Term now set at two years and if not renegotiated, the relevant national/regional agreement will apply.	Prior to reforms, collective bargaining agreements that expired would remain in force if no new agreement negotiated	
3. Termination of employment	Objective dismissals	Termination due to not adapting to technical development	Relevant training is now required 2 months before any termination due to a lack of adaptation to new technology	
		Termination due to justified but intermittent absence from work	Employment may be terminated if (justified) absence amounts to (i) 20% of working days within 2 consecutive months, or (ii) 25% within 4 months over a twelve month period. Certain justified absences should not be taken into account	
		I) Non-collective terminations	Termination due to ETO/production reasons	Economic grounds refer to revenue decreases over three quarters and/or current/forecast losses. Production reasons refer to (material) changes in demand for the company's products and services
			Technical grounds include changes in the scope of production methods Organisational grounds include changes to the methods and systems of work for employees	Prior to the reforms, reasonable technical and organisational grounds required evidence of improvement to the company's position / that a downturn would be prevented
	II) Severance for unfair dismissal	For employment agreements made after 12 Feb 2012	Compensation is limited to 33 days' salary per year of service up to 2 years of service	
		For employment agreements in force before 12 Feb 2012	Severance is calculated as the sum of (i) 45 days salary per year up of service to 12 Feb 2012, and (ii) 33 days salary per year of service after 12 Feb 2012. The limit applicable is 720 days but where this limit is reached for employment periods before 12 Feb 2012 the limit is 42 months salary.	
	III) Collective redundancies		Employment authorities and representatives no longer need to authorise collective redundancies. Collective redundancies may be made on ETO grounds (as detailed above) Companies must now set out the criteria for the roles chosen to be redundant The collective bargaining agreement may offer priority of stay to those with family burdens, those with disabilities, or those above a certain age. If collective redundancies affect 50 employees or more, companies must provide the employees affected with external outplacement services provided If a company with over 500 employees (also counting group companies) performs collective redundancies after recording profits over two financial years, must make economic If any company performs collective redundancies of 100 employees or more after recording profits in the prior two financial years, must make economic	
		IV) Public sector terminations	Terminations of directors and executives within the public sector	Severance may not exceed an amount equivalent to seven days of cash salary per year of service up to a maximum of six months' salary. Former government directors/executives receive no severance since they have the chance to be reinstated to their former public position
	4. Entrepreneurs (<50 employees)	I) Dismissals	A probation period of 1 year may be stipulated by the employer. Terminations need not be justified but must not be discriminatory	
5. Banks and credit entities	I) Additional rules			
6. Other changes	I) Temporary employment agencies	Temporary employment agencies are entitled to operate as job agencies		
	II) Rights to training	Specific rights to training are set out for employees		
	III) Measures to promote	Various changes to existing types of employment agreements and provisions for social security benefits.		

Note 1: ETO reasons: Economic, technical and organisation or production reasons. These are defined as two consecutive quarters of revenue decreases.

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