

On 14 May 2013, the French Senate passed a controversial new law giving employers greater flexibility to respond to changing economic conditions whilst at the same time introducing new rights for employees.

This new legislation reflects provisions agreed in the national inter-professional agreement (*accord national interprofessionnel*), which was signed on 11 January 2013 between the employers' associations and three out of five of the major trade unions. The changes are likely to have a significant impact on the French labour market and are highly controversial, resulting in industrial action across France even before their implementation.

What will the changes mean for companies doing business in France? We set out the key points below.

New Procedures for Implementing Collective Redundancies

As the law currently stands, if an employer has at least 50 employees and is proposing the redundancies of at least ten employees in a 30-day period, it must prepare a "social plan" designed to mitigate the impact of the proposed redundancies. The employer is required to inform and consult the Works Council about the plan. The social plan must contain certain information including any proposed measures to encourage redeployment or retraining for those employees affected by the proposed redundancies. This process can be very time-consuming and complicated.

In an attempt to give French employers more flexibility, the new legislation will give them greater choice as to the procedure to be followed. They will now be able to (a) negotiate an agreement with the relevant trade union; or (b) unilaterally implement a social plan. In both cases, employers will be able to depart from the standard requirements governing the number of meetings with employee representatives, the timetable for dismissals, selection criteria, etc., with the overall aim being to speed up the collective consultation process.

If an employer decides to negotiate an agreement with the relevant trade union then once agreement is reached on the procedure, the parties will be bound by it. The employer will be required to submit the social plan to the relevant Labour Authority for approval, and the Labour Authority will have 15 days within which to issue its approval.

If an employer unilaterally implements a social plan (at its instigation or because the negotiation to reach an agreement failed), it will still be required to submit the plan to the Works Council for its opinion (but not necessarily for its approval). It will then be able to submit it to the relevant Labour Authority for its approval. If the Labour Authority does not give its approval within 21 days then the plan will be deemed to be approved. If, however, it rejects the plan then the employer will have to start again and draft a new agreement.

In both cases, dismissed employees will have two months within which to challenge the agreement. If successful they will be entitled to their jobs back or to compensation of at least six months' salary.

Timetable for Exchanging Information

In a collective redundancy exercise, the Works Council has the right to appoint a chartered accountant to advise it on such matters as the content of the social plan. The accountant can request further information about the employer's proposals and this can sometimes result in lengthy delays. Under the new law, there will be a strict timetable for requesting and exchanging information between the parties which should enable the process to progress more quickly.

Alternatives to Redundancy

Employers facing "economic difficulties" will be able to enter into agreements with trade unions under which employees agree to detrimental changes to their terms and conditions (such as a reduction in wages or an increase in hours) in return for a commitment by the employer not to implement any redundancies during the term of the agreement. This must not exceed two years.

Voluntary Mobility Period

Employees with at least two years' service will have a new right to go and work for a different company for a fixed period, subject to obtaining the agreement of their original employer. At the end of this period they will have the right to return to their "original" employer. This new right will only apply to companies with at least 300 employees.

Company Closures

If a company is closing a site it will be required to take steps to find a purchaser. The Works Council will have new rights to be informed about these steps.

Health Insurance

Employees will be granted new rights to complimentary health insurance. Employers which have professional branch agreements in place or trade union representatives will be required to negotiate group medical cover for their staff. Furthermore, if employees lose their jobs they will continue to be entitled to such health cover for a maximum period of 12 months if they are unemployed.

Personal Training Allowances

Employees will have the right to earn up to 20 paid hours per year for training (up to a maximum of six years) and this will be transferable to any new employer.

Employee Representatives

Companies with at least 5,000 employees in France (or 10,000 employees worldwide) must appoint employee representatives on their board of directors or surveillance board if the Head Office is located in France. If the board has less than 12 members, there must be at least one employee representative. If there are more than 12 members there must be at least two employee representatives.

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