
**The new equality
roadmap for employers**

January 2021

I.

New equality legislation and regulatory framework

The publication of Royal Decree 901/2020, of October 13, 2020, on equality plans and their registration and of Royal Decree 902/2020, of October 13, 2020, on equal pay for women and men, has led to major changes in the area of equality.

RD 901/2020 regulates equality plans and their registration, clarifying and regulating the following matters, among others: how to calculate the number of workers in order to determine the obligation to draw up a equality plan, the time limits for commencing negotiations and the maximum duration of the negotiation period, the possibility of drawing up group equality plans, how to set up the negotiating committee, the minimum content of the diagnosis, the duration of equality plans, their scope of application and the obligation to register them on a public register.

For its part, RD 902/2020 regulates matters relating to equal pay, such as: the obligation to have a pay register, who can access the pay register, the obligation to carry out pay audits, and the penalties linked to the breach of these obligations.

II.

Equality plans

Which employers are required to prepare an equality plan?

The preparation and application of an equality plan is **mandatory** for

- ◆ All employers with fifty or more workers.
- ◆ Employers at which the obligation to prepare and apply an equality plan is established by the applicable collective labor agreement, regardless of the number of workers.
- ◆ Employers required to do so by the labor authorities, as a result of a penalty proceeding and in lieu of ancillary penalties.

For all other employers, preparation of the plan will be **voluntary**.

How long do employers have to approve an equality plan?

RDL 6/2019 provided transitional rules allowing the obligation to approve an equality plan to be implemented gradually on the basis of employer size, as from March 7, 2019:

Employers with between 151 and 250 workers: 1 year in which to implement the equality plan, that is, until March 2020.

Employers with between 101 and 150 workers: 2 years in which to implement the equality plan, that is, until March 2021.

Employers with between 50 and 100 workers: 3 years in which to implement the equality plan, that is, until March 2022.

In addition, RD 901/2020, which entered into force on January 13, 2021, requires existing equality plans to be adapted within the time period envisaged for their review and, in all cases, within not more than twelve months, following a negotiation process

What contents must an equality plan have?

Equality plans, whether mandatory or voluntary, must contain the following minimum content:



(*) The new regulatory framework establishes the minimum content of the situation diagnosis, which must cover at least: (i) recruitment and hiring processes, (ii) occupational classification, (iii) training, (iv) career advancement, (v) working conditions, including the audit of the pay gap between men and women, (vi) shared responsibility for exercising the right to reconcile work, private and family life, (vii) underrepresentation of women, (viii) pay, (ix) prevention of sexual and gender harassment.

III. Other equality obligations

As well as the obligation to implement an equality plan, employers also have the following obligations:

- ◆ **Pay register:** All employers, regardless of the number of workers, must have a pay register. Moreover, if the employer is also required to have an equality plan, additional obligations are established. This obligation covers the entire workforce, including management personnel and senior officers.
- ◆ **Pay audit:** All employers that draw up an equality plan must include a pay audit. The pay audit will be valid for the term of the equality plan, unless a shorter term is stipulated in the plan itself.

Garrigues from all angles of business law

Garrigues is an international legal and tax services firm that advises clients locally, regionally and globally from every angle of business law. Garrigues' strength lies in its team of over 2,000 people working cross-functionally to resolve their clients' problems. And in the values that it shares in the 13 countries where it operates. With the ultimate goal of helping businesses develop in a fairer, more ethical, responsible and sustainable society.

The Garrigues Labor and Employment Department has the most accomplished team of experts in the Spanish market and the EU, with 185 professionals in Spain (32 partners). A broad local and international presence enables the labor team to be involved in the major, most impactful and most complex issues in the market. The team provides ongoing advisory services to leading domestic and multinational companies, with presence in all sectors and industries.

◆ Why prepare your equality plan with Garrigues?

The recent legislation on equality has imposed new obligations on employers, with major legal and technical aspects impacting all areas of the company: recruitment, career advancement, pay structures, among others. The new regulations also require the pertinent dialog with labor unions and workers' statutory representatives, which must be undertaken from a strategic as well as from a technical and legal perspective.

Garrigues is on hand to guide companies through the integral management of equality matters.

Garrigues is well-versed in equality matters, having assisted with the implementation of equality plans at numerous companies across all sectors of activity, offering innovative ideas and custom solutions in each case, with a view to delivering the most cutting-edge and imaginative proposals.

Garrigues also has extensive experience and offers first-class legal assistance in collective bargaining processes, as well as in the resolution of any disputes that may arise during negotiation of the diagnosis and equality plan or in court.

In short, Garrigues offers comprehensive advice that enables employers to draw up the equality plan that best fits their needs, including the measures that best suit the circumstances in each case.



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