

# Employment Flash – March 2023

Employment news

## 1. LAW ON EMPLOYMENT

The purpose of **Law 3/2023 of 28 February on Employment** is to establish the framework for the organisation of public employment policies and to regulate the structures, resources, services and programmes that make up the National Employment System. The Law introduces a series of measures affecting labour relations, which we highlight below:

- It establishes the unseizability of the Minimum Interprofessional Wage (SMI) in any of its amounts, whether in monthly or annual terms.
- It provides that, in collective dismissals, the Labour and Social Security Inspectorate (ITSS) will issue a report in which, in addition to verifying the details of the communication and the development of the consultation period, it will issue an opinion on the concurrence of the causes alleged by the company and will verify that the documentation presented by the company is in line with that required according to the cause.
- The ex officio procedure that could be initiated by the Labour and Social Security Inspectorate (ITSS) before Social Courts in cases of reclassification of self-employed workers, when the employer disputed the employment nature of such relationships, is abolished (although the same transitional regime is maintained for all claims filed ex officio before the entry into force of the regulation).
- In order to guarantee real and effective equality in access to and consolidation of employment for women and young people (under 30 years of age), the creation of specific working and employment conditions for these groups shall not constitute discrimination on grounds of sex or age in the field of employment and occupation, if they are objectively and reasonably justified by the existence of a legitimate aim and are appropriate and necessary to favour access to and consolidation of employment for women or young people.

Law 3/2023 has entered into force on **2 March 2023**.

## 2. LAW FOR THE REAL AND EFFECTIVE EQUALITY OF TRANSGENDER PEOPLE AND FOR THE GUARANTEE OF THE RIGHTS OF LGTBI PEOPLE

**Law 4/2023, of 28 February, for the real and effective equality of trans people and for the guarantee of the rights of LGTBI people**, aims to guarantee and promote the right to real and effective equality of lesbian, gay, trans, bisexual and intersex (LGTBI) people, as well as their families.

The Act regulates a number of labour-related measures, which are summarised below:

- Companies with more than 50 employees must have, within 12 months, a planned set of measures and resources to achieve real and effective equality for LGTBI people, including an action protocol for dealing with harassment or violence against LGTBI people.

- It regulates a series of offences that may have an impact in the field of employment (among others) such as discriminatory harassment, retaliation or adverse treatment as a consequence of lodging a complaint or other discriminatory practices, with a specific sanctioning regime that provides for penalties of up to 2,000 euros in the case of minor offences, up to 10,000 euros in the case of serious offences and up to 150,000 euros or other accessories, such as the closure of the establishment, in the case of very serious offences.

Law 4/2023 has entered into force on **2 March 2023**.

### **3. LAW ON SEXUAL AND REPRODUCTIVE HEALTH AND THE VOLUNTARY INTERRUPTION OF PREGNANCY**

**Organic Law 1/2023, of 28 February, which amends Organic Law 2/2010, of 3 March, on sexual and reproductive health and the voluntary interruption of pregnancy**, regulates new cases of temporary incapacity (sick leave) due to common contingencies:

- Case of women with secondary incapacitating menstruation, regulating a subsidy paid by the Social Security from the day of sick leave.
- In the case of a pregnant worker, from the first day of the 39th week of pregnancy, the employer will pay the salary corresponding to the day of the sick leave and the Social Security will pay a subsidy from the day following the day of the sick leave.
- In the event of voluntary or involuntary termination of pregnancy, while the worker receives medical care from the Public Health Service and is unable to work, the employer shall pay the salary corresponding to the day of the sick leave and the Social Security shall pay an allowance from the day following the day of the sick leave.

Organic Law 1/2023 has entered into force on 2 March 2023, although the above measures will enter into force on 1 June 2023.

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