

FRANCE

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1. Pension Reform

2. Termination of employment contract in case of “no show”

1. Pension reform

Introduction

- French pension system is composed of three blocks:
 - A **national regime** (*régime de base*), attached to the Social security system, which is mandatory and based on contributions made by the employer and the employees
 - A “**complementary**” regime (for employees of the private sector), which is also mandatory and based on contributions made by the employer and the employees
 - As the case may be, “**supplementary**” regimes (not mandatory).
- The pension reform only concerns the national regime (*régime de base*)

1. Pension reform

Introduction

The system in itself does not change:

- Pensions are **nationally funded** through social security contributions being **levied on the employees' wages** each month.
- The total amount of security contributions levied during one year is used to pay the pensions of the retirees during that year.

1. Pension reform

1. The retirement age: currently 62 years old
2. The duration of contribution to pension schemes
 - An employee having minimum age may retire
 - But to receive a “full pension”, 2 possibilities:
 - Contribution to pension schemes for a minimum number of quarters
 - Or, being aged 67 years old.
 - Otherwise, the employee will receive a reduced pension.

1. Pension reform

3. Pension: $P = D/M \times S \times T$

- It involves 4 elements:
 - D: duration of insurance under the general social security scheme expressed in quarters, with a maximum equal to M ;
 - M: maximum number of quarters taken into account;
 - S: average annual basic salary up to the social security ceiling (3 666 € in 2023);
 - T: pension rate. Maximum: 50 % of the 25th best years of contribution

4. Forced retirement: An employee having the minimum age to retire or is entitled to “full pension”:

- Has no obligation to retire;
- May not be forced by the employer to retire unless he/she is at least 70 years old

1. Pension reform

Main topics covered by the reform

- Increase in the **retirement age** and duration of **contributions to pensions**
- Confirmation and amendment to current **exceptions** for long careers and medical disability
- Specific measures to improve and extend care granted to workers facing “**difficult working conditions**”
- Increase of the cost of **mutually agreed terminations / forced retirement**
- Improvement of the possibility to **cumulate pension and professional activity**
- Specific **index** and experimental contract for “**senior**” employees

NB: Other measures, such as those relating to women having raised children, the minimum amount of pension to be paid, the end of specific pension schemes (such as SNCF) are provided.

1. Pension reform

Changes entailed by the reform

The reform will be **progressive**: the minimum age and required number of quarters will be gradually increased by 3 months starting from the employees born on September 1, 1961

- The retirement age

TODAY	AFTER THE REFORM
62 years	64 years

- The number of quarters ("full pension")

TODAY	AFTER THE REFORM
For employees born after 1973 , 172 quarters	For employees born after 1965 , 172 quarters

1. Pension reform

Changes entailed by the reform: full pension

YEAR OF BIRTH	CURRENTLY - NUMBER OF QUARTERS WORKED	AFTER THE REFORM - NUMBER OF QUARTERS WORKED
1955, 1956, 1957	166 (41 years and 6 months)	166
1958, 1959, 1960	167 (41 years and 9 months)	167
January – August 1961	168 (42 years)	168
September – December 1961; 1962	168 (42 years)	169
1963	168 (42 years)	170
1964	169 (42 years and 3 months)	171
1965, 1966	169 (42 years and 3 months)	172
1967, 1968, 1969	170 (42 years and 6 months)	172
1970, 1971, 1972	171 (42 years and 9 months)	172
As of 1973	172 (43 years)	172

1. Pension reform

Exceptions: what does the reform change?

Long careers

Currently, starting work before age 20 can lead to an early retirement of two years, and starting work before age 16 can lead to an early retirement of four years subject to minimum contributions.

Reform: This system will be "adapted" with two new age limits:

- Start of work between 20 and 21 years: will be able to retire one year earlier, at 63;
- Start of work before 20 years: two years earlier, at 62;
- Start of work before 18 years: four years earlier, at 60;
- Start of work before 16 years: six years earlier, at 58.
- The minimum period of contributions, once the early retirement age is reached, is of 43 years of contributions.

1. Pension reform

Exceptions: what does the reform change?

Medical disability

Specific rules for employees victims of occupational accidents or diseases whose disability is medically established

Reform: Employees may still retire earlier (60 or 62 years) based on their level of disability.

Disabled workers

Subject to a certain percentage of handicap and number of quarters contributed, those workers may retire earlier.

Reform: no change, they may retire as of 55 years.

1. Pension reform

Difficult working conditions

6 difficult working conditions as listed by the law:

- Night work
- Shift
- Repetitive work
- Exposure to extreme temperatures
- Noise
- Hyperbaric environment

Employees are entitled to this “regime” if their exposure to such circumstances meets a certain threshold.

1. Pension reform

Difficult working conditions: what does the reform change?

Particular rights for those workers:

- A specific account is set up for them, which entitles to allocation of virtual “points” financed by the social security
- The conversion of those “points” allows to finance:
 - Training
 - Part time work prior to retirement
 - Early retirement

Reform:

- Evolution of the account’s rules;
- Possible financing of a reconversion leave;
- Creation of an investment fund of 1 billion euros to **finance trainings and reconversion of employees not eligible to the account but facing other difficult working conditions** (*manual handling of heavy loads, awkward postures and mechanical vibrations*)

1. Pension reform

Mutually agreed termination / Forced retirement: what does the reform change?

- As of September 1st, 2023 increase of the social security contributions to be paid by the employer in case of mutually agreed termination or forced retirement

TODAY	AFTER THE REFORM
20% of the termination indemnity	30% of the termination indemnity

Note: this specific rate named « forfait social » applies when the amount of the termination indemnity does not exceed certain thresholds, or for the portion below this threshold if reached

1. Pension reform

Accumulation of pension and professional activity

Specific rule which allows an employee to resume or continue a professional activity and to cumulate the income from this activity with his/her pension.

Reform:

- Improvement of the possibility to cumulate pension and professional activity.
- The new professional activity will allow the acquisition of additional pension rights.

1. Pension reform

Senior employment

- In France the employment rate of “senior employees” (aged between 55 and 64) is low
- In 2021 only 56% of « senior » are employed
- Increasing the retirement age requires attention to promote their employment by encouraging their hirings and properly manage the “end of carrier”

1. Pension reform

Senior employment: what does the reform change?

- **Obligation to negotiate on the employment of seniors:** applies to companies subject to the duty to conduct annual negotiations on the management of jobs and career paths (“GEPP”)
- **Creation of a “senior index”:**
 - In companies of more than 1.000 employees from November 2023 and 300 employees from July 2024
 - Annual publication of indicators relating to the employment of seniors as well as the actions implemented to promote their employment
 - Sanction: up to 1% of the total payroll
 - Consequences in case of devaluation during 3 consecutive years.
- **Experimentation of a contract for the employment of “seniors”:** in the absence of a collective bargaining agreement, to encourage the hiring of people over 60 years old

2. Impact of recent legislation

Termination of employment contract in case of “no show”

- Law no. 2022-1598 of December 21, 2022 *"on emergency measures relating to the functioning of the labour market with a view to full employment"* aims to limit rights to claim unemployment benefits.
- Previously, in case of **employees no longer showing up to work**, employers were obliged to comply with the dismissal process which allowed such employees to claim unemployment benefits. This cause for dismissal represents today 71 % of the dismissals for serious or gross misconduct.
- Employers will now be able to treat such situations as resignations subject to having asked employees to justify their absence and after a certain period to be defined by decree.
 - Up to date, this decree has not yet been adopted. A draft decree shared with the social partners on February 21, 2023 provided for a **delay of at least 15 calendar days** for the employee to answer the employer's request to justify its absence.
- Employees may however challenge this presumed resignation before the labour court, if the employee can demonstrate that they had a legitimate reason (medical reasons, but also if they argue they could not return to work because of the employer's actions)