



Social obligations From the employer

Effects of crossing thresholds

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Preamble

In companies, crossing workforce thresholds requires the employer to comply with certain rules. It is therefore important to monitor the calculation of one's workforce in order to comply, if necessary, with the new social obligations in the event of crossing the threshold.

Since 2020, the PACTE law has modified the obligations attached to the workforce thresholds by favouring the thresholds of 11, 50 and 250 employees. Crossing the threshold of 300 employees also entails obligations for the employer, in particular the obligation to draw up a social report or to negotiate a forward-looking management of jobs and skills (GPEC in French) agreement.

Please note: the method of calculating the workforce varies according to the rights and obligations of the employer. The length of time during which the threshold must be crossed is distinguished according to the obligation concerned (immediately, over one year, 3 years, 5 years, ...).

1. The company's social obligations from the first employee

A. The Collective Agreement



A collective agreement contains rules of Labour law applicable to **a sector of activity**, in addition to the Labour Code. It is negotiated and concluded by the trade unions representing employees and employers.

The applicable collective agreement is the one under which **the main activity** carried out by the company falls.

The majority of companies are required to apply a collective agreement.

B. The single risk assessment document

The single document for the assessment of occupational risks (DUER) is mandatory in companies as soon as the first employee is hired.

The employer shall record in this document the results of the assessment of the health and safety risks to which employees may be exposed and the actions taken to remedy them.

Penalties: The employer is liable to the fine provided for 5th class offences:

- For a physical person, up to **€1,500** (and up to **€3,000** in the event of a repeat offence)
- For a legal entity, up to **€7,500** (and up to **€15,000** in the event of a repeat offence)
- Liability of the employer in the event of an accident at work or occupational disease

In addition, an employer who does not make the DUERP available to the CSE commits an **offence of obstruction**. The penalty can be **up to 1 year in prison and a fine of 3,750 euros**.

C. The single personnel register



The employer must keep a personnel register in each establishment of the company.

This document allows the identification of jobs in each establishment. Thus, the identity of all employees employed by the establishment, including homeworkers, must be mentioned at the time of hiring and in the order of hiring. In addition, information on the functions performed (job, qualification, date of entry and exit, etc.) must be indicated. Finally, specific information is only required for certain situations (foreign workers subject to the possession of a permit authorising the exercise of a salaried activity, etc.)

The information contained in the register must be kept for 5 years from the date of departure of the employees concerned.

Sanction: The employer is liable to a fine of 750 euros for each employee concerned by the absence of a personnel register.

D. The DPAE (pre-employment declaration)

An employee can only be hired after **a nominative declaration has been made to the social protection bodies** designated for this purpose (Urssaf or MSA for agricultural employees). The DPAE will allow employees to be able to open all their social rights, to be covered in the event of an accident at work and to benefit from any exemption rights.

Indeed, the employer must make a pre-employment declaration (DPAE) within **8 days** of any employee being hired.

Sanction: In the absence of a DPAE, the employer is exposed to various criminal and administrative sanctions for concealment of salaried employment.

E. Verification of residence permits and work permits

For any hiring of a foreign employee, the employer is obliged to check the validity of his/her residence permit and work permit 2 working days before hiring.

Note: if the foreign employee is already registered on the list of job seekers of France Travail (formerly Pôle Emploi), the employer is relieved of the obligation to verify the residence permit.

Sanction: the employer is exposed to various criminal and administrative sanctions for illegal work.

F. Affiliation to a provident scheme and health expenses



The employer must provide all its employees with coverage in addition to the benefits granted by the basic Social Security scheme. There is the **health expenses scheme** (Mutuelle in French) and the **incapacity, disability and death insurance scheme** (Prévoyance in French).

The employer is obliged to offer a **supplementary reimbursement scheme for health expenses**, as soon as only one employee is present. The Mutuelle insurance contract must be **mandatory** for employees, except in cases of exemption, collective (fixed-term contract, permanent contract, part-time) and **responsible**.

The employer's financial contribution must be at least equal to 50% of the contribution (the remainder to be paid by the employee).

Regarding the provident scheme (incapacity, disability and death), for **non-managerial employees**, there is no legal obligation, but the collective agreement applicable to the company may impose it. Conversely, for **managerial employees**, there is a legal obligation.

G. Affiliation to an occupational health service

Membership in an occupational health insurance is mandatory from the first employee. Regardless of the nature and duration of the employment contract, the employer must organize a **visit** by the occupational health practitioner **within three months of being hired**.

H. The appointment of a prevention referent

Regardless of the number of employees and the company's activity, the employer must appoint one or more competent employees to take care **of the company's** activities for the protection and prevention of occupational risks.

The prevention referent must receive **training in occupational health and safety**. Time is taken from working time and is paid as such.

In the absence of competent employees, the employer may call on an external contractor.

I. The declaration of employment for disabled workers



All companies, regardless of their workforce, **must declare the number of disabled workers they employ**. The declaration must describe the number and status of each disabled worker recruited, regardless of their employment contract.

This declaration is made every month in the nominative social declaration (DSN).

J. Contribution to vocational training

Any company employing at least 1 employee is obliged to participate in the financing of vocational training. However, the percentage of the contribution to vocational training to be paid depends on the number of employees.

- a rate for companies with less than 11 employees: **0.55%**.

K. Contribution to the FNAL

The contribution to the National Housing Assistance Fund (FNAL in French) is payable by employers regardless of the number of employees. However, the rate varies according to the number of employees in the company:

-**0.10%** on the portion of remuneration limited to the Social Security ceiling for companies with less than 50 employees.

2. The company's social obligations from 11 employees

A. The social package



The social contribution is an employer's contribution allocated to Social Security.

Companies with 11 or more employees are liable for the social contribution on supplementary pension contributions at rates of 8%.

In the event of an increase in the number of employees, companies benefit **for 5 consecutive calendar years** from the neutralization of the crossing of the threshold and will not be subject to the social contribution at the rates of 8%.

B. The establishment of the Social and Economic Committee

A Social and Economic Committee (CSE) must be set up in companies with at least 11 employees. The CSE has **reduced powers** (presentation of complaints; contribution to the promotion of health, social and economic security; referral to the Labour inspectorate; right to alert).

Penalty: Obstruction offence (1 year imprisonment and a fine of 7500 euros), loss of certain social exemptions, damages depending on the prejudice suffered, difficulties in initiating certain procedures (negotiation of collective agreements, dismissals, etc.).

C. New social security contributions

- Subjection to the mobility/transport payment: in the Île-de-France region, the maximum applicable rate ranges between **1.6%** and **3.20%**. Outside the Île-de-France region, the maximum rates range on average between **0.55%** and **1.75%**.
- Subjection to the regional and rural mobility contribution: created by the Finance Act for 2025, it applies in metropolitan France and in the territorial authority of Corsica. The Île-de-France region and the overseas departments are not concerned. This contribution applies to

companies with a workforce of 11 or more employees located within a region that has introduced it. The rate of this contribution is capped at **0.15%**.

- Contribution to vocational training: change from the reduced rate of 0.55% to the full rate of 1%.

D. The new value-sharing obligation

For financial years starting on or after 1 January 2025, a value-sharing scheme must be implemented in companies with 11 to 49 employees that have achieved **a net profit of at least 1% of turnover for three consecutive years**. This obligation applies on an experimental basis for a period of five years.

3. The company's social obligations from 20 employees

In every company with at least 20 employees, the employer is required to hire **disabled people up to 6% of its total workforce**. The company that does not fulfil this employment obligation must pay a financial contribution to the social security bodies concerned.

4. The company's social obligations from 50 employees

A. Extended CSE with an operating budget and social works



In companies where the workforce is at least 50 employees for **12 consecutive months**, the powers of the CSE are **extended**.

The CSE must be informed and consulted on issues relating to **the organization, management and general operation of the company**. Each year, the CSE must be consulted **on the strategic**

orientations, the financial and economic situation, the company's social policy and on working conditions.

The CSE is also required to have an operating budget and a social works budget.

B. The Economic and Social Database (BDES)

The BDES is set up when the threshold of 50 employees is reached for **12 consecutive months**.

The BDES gathers information on the company's major economic and social orientations that **must be made available to the CSE**.

C. Participation in results

Companies and economic and social units (UES) exceeding the threshold of 50 employees must set up a system for employee participation in the company's results. Profit-sharing allows employees **to redistribute part of the profits made by their company**.

The company is required to set up a participation agreement if its workforce is at least 50 employees for **5 consecutive calendar years**. However, if the threshold of 50 employees decreases during a calendar year, the implementation of a participation agreement is no longer mandatory for another 5 years.

D. The rules of procedure



The establishment of internal regulations is mandatory in companies employing at least 50 employees. This obligation applies at the end of a period of **12 consecutive months** from the date on which the threshold of 50 employees was reached.

The internal regulations are a document drawn up by the employer containing the following provisions:

- Health and safety **measures**.
- The conditions under which employees may be called upon to participate, at the request of the employer, in the restoration of working conditions that protect the health and safety of employees.
- Rules relating to discipline, nature and scale of sanctions (warning, duration of suspension, etc.).
- Provisions relating to compliance with **disciplinary procedures** (e.g. summons to a preliminary interview).
- Provisions relating **to employees' rights of defence**.
- Provisions relating to **moral and sexual harassment and sexist acts**.

- The existence of the **whistleblower protection system**.

Sanctions:

- Risk of damages depending on the harm suffered.
- Risk of difficulties in taking certain disciplinary sanctions.

E. The professional equality index

Every year, by 1 March at the latest, companies must calculate and publish on their website the overall score of the Gender Equality Index as well as the score obtained for each of the indicators that make it up. A company that reaches the threshold of 50 employees has a **period of 3 years** before being subject to this obligation.

Penalty: the company is exposed to a financial penalty of up to 1% of its annual payroll.

F. Mandatory annual negotiation (NAO)



Mandatory annual negotiations are mandatory as soon as the company reaches a threshold of 50 employees and has a union delegate.

The topics of negotiation are:

- remuneration, in particular actual wages, working time and the sharing of added value in the company;
- professional equality between women and men and quality of life at work.

G. Agreements to be negotiated (in addition to participation)

- **Equality between women and men in the workplace**

In the absence of an agreement on professional equality between women and men at the end of the NAO, or in the absence of an action plan, the employer is liable to a penalty of 1% on the remuneration subject to contributions.

- **Prevention of occupational risks**

Obligation to negotiate an agreement or establish an action plan if at least 25% of employees are exposed to 6 arduous factors above the thresholds, or if the loss ratio exceeds 0.25.

Penalty for failure to reach an agreement or action plan: penalty of up to 1% (maximum rate) of the remuneration paid to the employees concerned during the period for which the company was not covered (entire months are taken into account).

H. The restaurant

In establishments with at least 50 employees, the employer is obliged **to provide a dining room**, regardless of the number of employees who have expressed the desire to take their meal at their workplace.

The upward crossing of the threshold of 50 employees is only taken into account when it has been reached or exceeded for **5 consecutive calendar years**. Lowering this workforce threshold has the effect of running a new 5-year period.

I. New social security contributions

Participation in the construction effort: rate of 0.45 % of the amount of remuneration paid during the previous financial year.

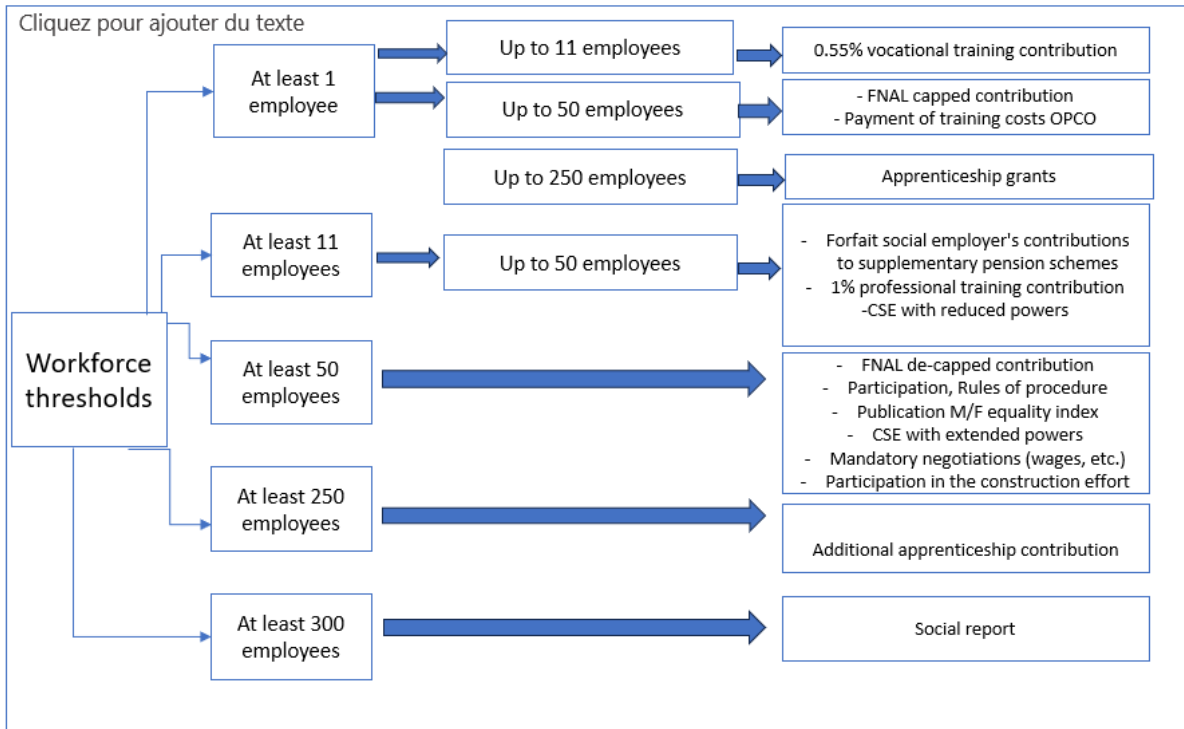
Final contribution : change from the reduced rate of 0.1% to the full rate of 0.50% of the payroll.

J. Obligation to negotiate the PER

A company that has set up a company savings plan (PEE in French) or an inter-company savings plan (PEI in French) for more than 3 years must open negotiations with a view to setting up a retirement savings plan (PER in French), if the company does not already offer all its employees a collective pension system.

Summary

The different workforce thresholds



This sheet contains summarized information. Please contact us for advice tailored to your situation. We cannot be held responsible for misinterpretation.

We would like to inform you that the Employment Department of APLITEC is there to support you in the fulfilment of some of your social obligations and/or the calculation of your workforce.

Please do not hesitate to contact us if you need more information or further assistance.

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