

**Employment and Social Security Law II**

Code: 102291  
ECTS Credits: 6

Degree	Type	Year	Semester
2500786 Law	OB	3	2

### Contact

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### Use of Languages

Principal working language: spanish (spa)  
Some groups entirely in English: No  
Some groups entirely in Catalan: Yes  
Some groups entirely in Spanish: Yes

### Other comments on languages

Grup in Spanish: 02, 51 i 70. Grups in Catalan: 01,03

### Teachers

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### Prerequisites

In order to achieve the learning results proposed, it is highly recommended that the student has studied and passed the third year course "Labour and Social Security Law I".

Passing the course is not an official prerequisite for taking Labour and Social Security Law II, but it is a proper basis for being in a position to pass it.

### Objectives and Contextualisation

Labour Law II is a subject that is taught in the second term of the third year of Law degree,

based on the knowledge gained from the structural elements of the subject matter that have been the subject of Labour and Social Security Law I.

This is a subject that develops the legal regime of access to employment, recruitment and training. rights and duties of salaried workers, of the powers of management, and of the

business organisation, as well as the modification, discontinuation and termination of the employment relationship.

## Competences

- Arguing and laying the foundation for the implementation of legal standards.
- Drawing up and formalising works, reports, documents, rulings.
- Drawing up legal texts (contracts, judgements, sentences, writs, rulings, wills, legislation...).
- Explaining the legislative reforms and jurisprudential changes.
- Identifying and solving problems.
- Integrating the importance of Law as a regulatory system of social relations.
- Mastering the computing techniques when it comes to obtaining legal information (legislation databases, jurisprudence, bibliography...) and in data communication.
- Memorising and utilising legal terminology.
- Negotiating and mediating between different people or institutions in the context of a conflict (between public administrations-administrators, family and child protection related conflicts, between business-workers and their representatives, parties to a case..).
- Properly analysing the issues related to equality between men and women.
- Searching, interpreting and applying legal standards, arguing every case.
- Students must be capable of communicating their points of view in a compelling way.
- Students must be capable of learning autonomously and having an entrepreneurial spirit.
- Students must be capable of making decisions.
- Students must be effective in a changing environment and when facing new tasks, responsibilities or people.
- Use different information and communication technologies.
- Working in teams, being either a member or a coordinator of working groups, as well as making decisions affecting the whole group.

## Learning Outcomes

1. Acting in a conflict situation posed as practical work.
2. Applying in combination the principles of hierarchy and most favourable law.
3. Applying the principle of inalienability of labour rights.
4. Clearly identifying the controversy points as well as differentiating between legal and interest labour disputes.
5. Defining the content and utility of the regulatory and jurisprudential newsletters and databases used in the occupational framework.
6. Defining the main interpretation and implementation principles of the Labour Law.
7. Describing in a practical way the minimum and essential content of the legal-occupational documents: employment contracts, collective agreements, or communications between employer and employee, among others.
8. Describing the databases of Spanish public administrations and European and international organizations, as well as knowing how to gain access to the news these institutions might provide.
9. Describing the mechanisms and legal principles used to balance the relations produced in the scope of implementation of Labour Law.
10. Detecting the assumptions where the collective bargaining, unilateral pacts or unilateral decisions of the entrepreneur damage the equality between men and women in the workplace.
11. Detecting when an equality plan is significantly efficient to achieve equality in the work place.
12. Drawing up and formalising works, reports, documents, rulings.
13. Drawing up said documents with an appropriate content and style.
14. Enumerating the means (collective bargaining, social concertation) used for individuals and groups to create the Labour Law.
15. Explaining and identifying the content and scope of that terminology to others.
16. Identifying and solving problems.
17. Identifying the areas (in a legal, administrative courts, collective agreements negotiation or others..) where it's possible to negotiate and mediate between several subjects in case of a labour dispute.
18. Identifying the databases of commercial nature and knowing how to use them correctly.
19. Identifying the issues and aspects that should be reformed, and properly integrating them with the current part of the legal system or the jurisprudence and/or judicial doctrine.

20. Identifying the several individuals and social groups and their different interests on the scope of Labour Law: employers, entrepreneurs, trade unions, employers' associations, company representatives.
21. Identifying the transitional or derogatory arrangements of the legal-occupational standards and applying them in a proper way, in combination with the principle of most beneficial condition.
22. Interpreting and comprehending labour regulatory texts, sentences of the labour court and collective agreements.
23. Interpreting the employment standards in the light of the general rules of interpretation and the pro operario principle.
24. Knowing the foundations of the legal areas of the industrial relations in the specific scenarios of public administrations.
25. Knowing the mechanisms that must be applied in every situation.
26. Students must be capable of communicating their points of view in a compelling way.
27. Students must be capable of learning autonomously and having an entrepreneurial spirit.
28. Students must be capable of making decisions.
29. Students must be effective in a changing environment and when facing new tasks, responsibilities or people.
30. Use different information and communication technologies.
31. Working in teams, being either a member or a coordinator of working groups, as well as making decisions affecting the whole group.

## **Content**

### Unit 1

#### ACCESS TO / WORK AND GENERAL CONFIGURATION OF THE EMPLOYMENT CONTRACT

##### 1. Access to work

##### 1.1 Right to work and duty to work

##### 1.2 Occupation policy: concept, subjects and measures

##### 1.3 Placement and mediation in the labour market: public services and other parties involved

##### 2. Employment contract

##### 2.1 Origin and historical evolution

##### 2.2 Concept and Characters

##### 2.3 Structure

##### 2.4 Constitutive and regulatory functions

##### 2.5 Typology

##### 3. Special regime employment contracts and relationships

### Unit 2

#### FORMATION OF THE EMPLOYMENT CONTRACT: ELEMENTS AND INITIAL PHASE

##### 1. Validity budgets of the work contract: capacity of the parties to contract

##### 1.1 Capacity to contract as a worker.

##### 2.1 Condition

##### 2.2 Time limit

3. Form and formalities of the employment contract
4. Validity and effectiveness of the employment contract
5. Legal regime

#### Unit 3

#### MODALITIES AND TYPOLOGY OF THE EMPLOYMENT CONTRACT

1. Permanent and fixed-term employment: stability and flexibility of employment
2. Permanent employment contracts of indefinite duration
  - 2.1 Indefinite employment contract for an employer
  - 2.2 Permanent-continuous employment contract
  - 2.3 Permanent employment contract for an indefinite period of support for entrepreneurs
- 2.4. 3. Structural fixed-term employment contracts
  - 3.1 Employment contracts for specific works or services
  - 3.2 Temporary employment contracts due to production circumstances
  - 3.3 Temporary employment contracts
4. Fixed-term work contracts for a mixed cause
  - 4.1 Training contracts: training and apprenticeship employment contract and work experience contract
  - 4.2 Relief contract
5. Part-time contract
6. Other forms and types of employment contract

#### UNIT 4

#### BUSINESS POWERS AND DUTIES OF THE PARTIES

1. The management power of the employer
2. The disciplinary power of the employer
3. Employer's power of control
4. Duties of the worker
  - 4.1 Duty to work
  - 4.2 Dependence and duty of obedience
  - 4.3 Duty of diligence: due performance, collaboration and contribution to productivity improvement
  - 4.4 Duty of good faith.
5. The employer's duties
  - 5.1 Duty to protect the employee's professional capacity
  - 5.2 Duty to protect the employee's person

5.3 Duty to protect the employee's property. Employee's inventions

6. Occupational health and safety rights and duties: rights and obligations of the employer and employee

Unit 5

## WORKING HOURS AND INTERRUPTIONS

1. The working day

1.1 Concept, basis and type

1.2 Ordinary working day and special working days

1.3 Extraordinary working day. Overtime

2. Working hours

2.1 Concept

2.2 Establishment and modification

2.3 Classes

2.4 Night work hours

2.5 Shift work

3 Interruptions of the working day

3.1 Concept

3.2 Assumptions: periodic and non-recurrent interruptions

3.3 Effects

4. Periodic interruptions

4.1 Daily rest

4.2 Weekly rest

4.3 Annual rest: annual rest

4.4 Work holidays

4.5 Work calendar

5 Non-recurrent interruptions: permits and licenses

UNIT 6

## WAGE BENEFITS

1. Wages

1.1 Concept

1.2 Legal and economic characteristics

1.3 Extra-wage payments

## 2. Wage arrangements and systems

### 3. Wage structure

#### 3.1 Basic wage

#### 3.2 Wage supplements

### 4. Wage fixing

#### 4.1 Heterogeneous fixing: minimum inter-professional wage

#### 4.2 Conventional fixing: wage according to collective agreements

#### 4.3 Absorption and compensation

### 5. Place, time and method of payment

### 6. Protection of wages

#### 6.1 Due payment surcharge

#### 6.2 Privileges of wage credit

#### 6.3 Unseizability of wages

#### 6.4 The Wage Guarantee Fund

## UNIT 7

### MODIFICATION OF THE EMPLOYMENT CONTRACT

#### 1. Modification of the employment contract

##### 1. Concept

##### 1.2 Modalities

##### 1.3 Effects

#### 2. Functional mobility

##### 2.1 Concept and limits

##### 2.2 Modalities

##### 2.3 Effects

#### 3. Geographical mobility

##### 3.1 Concept and limits

##### 3.2 Modalities: movement and transfer

##### 3.3 Effects

#### 4. Substantial changes in working conditions

##### 4.1 Concept and limits

##### 4.2 Manifestations

##### 4.3 Effects

## 5. Succession of companies

### UNIT 8

#### THE SUSPENSION OF THE EMPLOYMENT CONTRACT

##### 1.1 Concept

##### 1.2 Causes

##### 1.3 Effects

#### 2. Cases of suspension of the employment contract

##### 2.1 For reasons concerning the employee

##### 2.2 For reasons concerning the employer

##### 2.3 For reasons beyond the control of the parties

##### 2.4 Special consideration of leave of absence

### UNIT 9 TERMINATION OF THE EMPLOYMENT CONTRACT

#### 1. The termination of the employment contract

##### 1.1 Concept and grounds

##### 1.2 Causes

##### 1.3 Effects

#### 2 Assumptions of termination of the employment contract

##### 2.1 By decision of the employee

##### 2.2 By will of both parties

##### 2.3 By decision of the employer

##### 2.4 By decision of the employer

#### 3. Termination for objective reasons

##### 3.1 Concept

##### 3.2 Causes

##### 3.3 Procedure

##### 3.4 Effects

### UNIT 10 DISMISSAL AS A CAUSE OF TERMINATION OF THE EMPLOYMENT CONTRACT

#### 1. Disciplinary dismissal

##### 1.1 Concept

##### 1.2 Causes

##### 1.3 Procedure: form, place and time

1.4 Effects

2. Collective redundancies

2.1 Concept

2.2 Causes

2.3 Procedure: consultation periods and regulatory dossier

2.4 Effects

UNIT 11

SPECIAL REGIME LABOUR CONTRACTS

1. Special regime employment contracts

1.1 Characterisation and meaning

1.2 Speciality of the legal system and supplementation of common regulations

2. Type and legal regime

2.1 Senior management personnel contract

2.2 Family home personnel contract

2.3 Professional sportsmen contract

2.4 Artists contract for public shows

2.5 Commercial operators contract

2.6 Disabled people contract for special work centres

2.7 Civilian personnel contract for military establishments

2.8 Harbour dockers

2.9 Prisoners to penitentiary institutions

2.10 Resident health graduates

2.11 Lawyers in legal offices

2.10 Others

## **Methodology**

The learning process of the students in the framework of this subject will be organized from the three kinds of training activities described below.

1. Directed activities

The directed activities are all those that are developed in the classroom with the main protagonism of the teacher. Two main types of activities are carried out as directed activities:

Firstly, lectures. This is an activity in which the main role falls on the teacher and has an essentially theoretical character. They will consist of a presentation by the teacher of various aspects of the syllabus, taking as a basis the applicable regulations and the dossiers that are eventually provided through the Teaching Space of

the subject within the Virtual Campus, which will include slides and other materials of interest for the analysis of each of the subjects (parts from judgments, fragments of collective agreements, and so on).

Secondly, the practical classes that are carried out with a shared role of teacher and students. These activities will have a markedly practical character. They will consist of, as a minimum, three macro-practical activities, each of which will involve both, previous work outside the classroom and classroom work. Both will involve a series of tasks of different kinds: identification and study of the regulatory framework of a given institution, reading and understanding of case law, search for collective agreements, resolution and discussion of practical cases, preparation of legal documents, etc.

The practical activities will be structured in three big blocs, the so called macroactivities, which will include diverse practical activities and an activity of assessment on the set of questions treated in the framework of each block. In order to be able to carry out the assessment activity, it will be essential to previously deliver the documents requested in each case in relation to the activities of each block. The dates of the three assessment activities will be made public at the beginning of the semester through the Teaching Space of the Virtual Campus.

In the part corresponding to the previous work, some or all of the practical activities may be carried out in a small group that will be formed by the students at the beginning of the semester. In the part corresponding to classroom work, the practical activities will be carried out in groups or individually, as determined. The same is provided for assessment activities that could be done individually or in a group as determined by the teaching staff responsible for the group.

As for the schedule of supervised and supervised activities, this will be hung up before the start of classes.

The supervised activities will have a markedly practical character. They will consist of twelve practical activities, each of which will involve previous work outside the classroom and classroom work. Both will involve a series of tasks of different formats: identification and study of the regulatory framework of a given institution, reading and understanding of case law, search for collective agreements, resolution of practical cases, etc.

## 2. Supervised activities.

The supervised activities are those tutoring activities that can be carried out outside the classroom, individually or in group by students, to help them in carrying out their tasks and in understanding the subject.

## 3. Independent activities.

Independent activities are all those in which students organise their time and effort autonomously, either individually or in a group, such as research and the study of bibliography, the preparation of diagrams or summaries, etc. Within this framework, the essential part of the autonomous activities is linked to the follow-up of the theoretical classes and to the preparation of the final written exam.

## Activities

Title	Hours	ECTS	Learning Outcomes
Type: Directed			
Type: directed activities	22.5	0.9	23, 2, 3, 6, 9, 14, 15, 20, 19, 17, 21
Type: directed activities	22.5	0.9	1, 26, 5, 29, 7, 8, 10, 11, 4, 18, 22, 16, 13, 12, 27, 28, 31, 30
Type: Supervised			
Type: supervised activities	4	0.16	23, 1, 5, 29, 8, 10, 11, 18, 22, 16, 13, 12, 27, 31, 30
Type: Autonomous			

Type: autonomous activities	40	1.6	23, 2, 3, 26, 29, 10, 11, 22, 16, 13, 12, 27, 28, 31, 30
Type: autonomous activities	50	2	23, 2, 3, 6, 9, 14, 15, 4, 20, 19, 17, 21, 22

## Assessment

Regular assessment system.

This assessment system combines the continuous evaluation of practical activities and a final written exam.

### 1.1 Continuous assessment of practical activities.

The grade corresponding to the continuous evaluation of the practical activities will be the arithmetic mean of the marks obtained in the three practical assessment activities that will be carried out during the semester.

### 1.2 Ordinary final written exam.

All students can apply, regardless of whether or not they have participated in the practical activities of continuous assessment. It will consist of the resolution of between 5 and 10 questions, some of which may correspond to issues taught through the practical activities. Each question will be graded from 0 to 10 points. The score of the written exam will be obtained from the average of the total score divided by the number of questions.

### 1.3 Final grade for the course

The final grade for is obtained by summing up the grade obtained in continuous assessment of practical activities and the grade obtained in the final exam divided into 2 (that is 50% and 50% respectively) In order to be able to add the score corresponding to the continuous assessment of the practical activities it is essential that the score of the final exam be at least 5 points out of 10. If this minimum score is not reached the grade will be "failed" and the numerical value will be the one corresponding to the written exam expressed in parameter 0-10.

The final grade will be obtained by means of the corresponding average and will be considered passed if a minimum of 5 points out of 10 is reached.

Reassessment.

It consists of a theoretical exam and, for some students, they will have to pass a practical exam too. Students who chose directly for this evaluation system and also those who have not the ordinary evaluation will have access to it.

#### 2.1 Theoretical exam

It will consist of the resolution of between 5 and 10 questions, some of which may correspond to issues addressed through the practical activities. Each question will be scored from 0 to 10 points and the score will be obtained from the corresponding average. This part of the exam will have a value of 50% of the grade. It will be obtained from the corresponding average.

#### 2.2 Practical exam

It will consist of a practical case resolution with the thematic content, similar to those that have been resolved during the practical activities related to continuous assessment. This part of the exam will have a value of 50 per cent of the mark.

The practical exam should only be carried out by students who have obtained a score of less than 5 out of 10 through the practical activities of continuous assessment. Students who have obtained a score equal to or higher than 5 points will have that score maintained as a practical part score.

2.3 The final grade of the examination will be obtained by making the average of the score obtained in both parts of the exam. If the grade of the theoretical part does not achieve this minimum, the grade will be failed and the numerical value will be that corresponding to the theoretical exam expressed in parameter 0-10.

## Assessment Activities

Title	Weighting	Hours	ECTS	Learning Outcomes
Continuous assessment	50 per 100	6	0.24	23, 1, 2, 6, 7, 19, 21, 22, 16, 13, 12, 30
Reassessment	50/100 per 100	2.5	0.1	23, 1, 26, 24, 25, 5, 29, 7, 8, 10, 11, 4, 18, 22, 16, 13, 12, 27, 28, 31, 30
written exam	50 per 100	2.5	0.1	23, 2, 3, 6, 9, 14, 15, 4, 20, 19, 17, 21, 22

## Bibliography

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