



SPANISH PENSION FUNDS SYSTEM

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1.- DEFINITION AND DEVELOPMENT OF SPANISH PENSION SYSTEM

Spanish pension system is structured along a three pillar system, whose main features are shown in table 1.

TABLE 1 SPANISH PENSION SYSTEM'S PILLARS

	1st Pillar	2nd Pillar	3rd Pillar
Type	Mandatory	Mandatory/Voluntary	Voluntary
Management	Public	Public/Private	Private
Form	Non-contributory	Contributory/Occupational Plan	Personal savings Plan or occupational Plan
Financing	Tax-financed Pay-as-you-go (PAYG)	PAYG Contributions Funded	Funded

a) *First Pillar*

These are economic benefits granted to citizens who have a protected situation and lack sufficient resources for subsistence under the legally established terms, even when they have never contributed or they have not contributed for a sufficient amount of time nowadays (15 years) to reach contributory level benefits. This type of pension includes ***disability and retirement***.

b) *Second Pillar*

Economic benefits, whose concession is normally linked to a previous legal relationship with the Social Security (having a minimum contribution period in certain cases, etc.) as long as the remaining requirements are met.

In the case of employed workers, its amount is determined from contributions made by the worker and the employer during the established period according to the corresponding regulatory basis.

The following pensions are included under the protective action of the General Scheme and the Special Schemes of the Social Security, with the exceptions indicated for each case and type in the corresponding special schemes:

- ◇ ***Retirement pension:*** Ordinary retirement at 65 years old (men and women), early retirement due to being a member of a mutual, early retirement without being a member of a mutual, early retirement due to a reduction of the minimum age for performing hazardous, toxic or harmful work, early retirement for

disabled workers, partial retirement, flexible retirement and special retirement at 64 years of age.

- ◇ **For permanent disability:** Total, Absolute and Severe Disability.
- ◇ **For death:** Widowhood, Orphanage and Family pensions.

The second pillar also includes private Pension Plans, administered by private institutions.

c) *Third Pillar*

The 3rd pillar includes private Pension Plans, administered by private institutions other than general Government. Private Pension Plans are:

- Pension Funds. Pool of assets forming an independent legal entity that are bought with the contributions to a Pension Plan for the exclusive purpose of financing Pension Plan benefits. So, in these cases, Pension Schemes integrate their contributions plus other resources into Pension Funds.
- Pension Insurance Contracts. An insurance contract that specifies contributions to an insurance undertaking in exchange for which the benefits will be paid. For example, occupational social insurance schemes and other insurance schemes.

This study is referred to Pension Funds, due to their important role as voluntary private means to complement public pension system.

Contingencies that would cause a right to obtain benefits are the followings:

- **Retirement.**
- **For permanent disability:** Total, Absolute and Severe Disability.
- **For death affecting participant or beneficiary:** Widowhood, Orphanage and Pensions in favour of other heirs or other designated people.
- **For dependence affecting participant.**

Additionally, consolidated rights in Pension Plans would be available in situations of serious illness or long-term unemployment, providing that this matter was established in Pension Plan's rules.

2.- GENERAL OVERVIEW

The article 41 of the Spanish Constitution makes obligatory a public system of Social Security and also allows a free supplementary pension system schemes.

The Law 8/1987 of Pension Funds regulates, for the first time in Spain, a supplementary funded system, through Pension Funds vehicles.

The Law 8/1987 has been amended several times since 1987, being the last one by the “Real Decreto Legislativo” (Legislative Royal Decree) 1/2002, of 29 November, that comprises all the regulation that is actually in force concerning Pension Funds, and derogates the Law 8/1987. Many developing rules have been approved (Decrees, Orders, Resolutions, etc.).

3.- PENSION PLANS

3.1. TYPES OF PENSION PLANS

3.1.1. *Depending on constituents*

- ◇ Employment system’s Pension Schemes: those of which the promoter is any Entity, Society or Firm, and whose participants are its employees (closed).
- ◇ Associate system’s Pension Schemes: those of which the promoter is an Association, Syndicate or Labour Union, being the participant its associates or members (closed).
- ◇ Individual system’s Pension Schemes: those of which the promoter is one or several financial Entities, opened to any participant. This system represents the 3rd pillar Pension Schemes.

Employment system’s Pension Schemes and Associate system’s Pension Schemes can have a single promoter or several promoters that may constitute jointly one Pension Scheme. Jointly constituted Employment system’s Pension Schemes can be opened to any company or limited to certain companies according to criteria such as:

- A Pension Scheme promoted by companies that belong to the same parent group.
- A Pension Scheme promoted by small and medium companies.

- A Pension Scheme promoted by companies whose pension commitments are established by industry-wide collective agreement.

Individual system's Pension Schemes can have only one promoter.

3.1.2. Depending on the agreed commitments

- ◇ Defined Contribution Schemes: those in which the promoters' and/or participants' contributions are defined.
- ◇ Defined Benefit Schemes: those in which the amount of the benefit is defined, and the contributions will vary depending on the returns.
- ◇ Hybrid Schemes: those that consider, simultaneously or separately, the amount of the benefit and of the contribution. For example, schemes in which the contributions are defined for some contingencies, groups or subplans and the benefits are simultaneously defined for other contingencies, groups or subplans.

3.1.3. Possible Schemes depending on constituents and agreed commitments.

Generally speaking, Employment system's Pension Schemes and Associate system's Pension Schemes can adopt any category depending on agreed commitments. However, Individual system's Pension Schemes must be Defined Contribution Schemes, as shown in table 2.

TABLE 2. POSSIBLE SCHEMES DEPENDING ON CONSTITUENTS AND AGREED COMMITMENTS

Type of Plan	
Depending on agreed commitments	Depending on constituents
Defined Benefit Schemes and Hybrid Schemes	Employment and Associate system's Pension Schemes
Defined Contribution Schemes	Employment and Associate system's Pension Schemes
	Individual system's Pension Schemes

3.2. PENSION PLANS PRINCIPLES

The basic features of Pension Plans are as follows:

▶ Non discrimination.

It must be granted that any natural person, who complies with established contract requirements, gains admittance as a plan member to the corresponding Pension Scheme.

Especially, an employment system's Pension Plan will be deemed non discriminatory when all employees of the company are covered or can potentially be covered by the Plan, independently of the type of labour relationship, without demanding a seniority above two years to access. Additionally, employment system's Pension Scheme can establish access to workers with seniority below two years or since they joined the Company.

However, this principle has been relaxed, so that it is compatible with different contributions on behalf of different participants, application of different regimes of contributions and benefits and creation of subplans within a Plan, according to criteria established by collective employment agreement or employment system's Pension Plan's rules.

▶ Irrevocability of contributions and attribution of rights

Contributions made by the promoter are irrevocable. Such contributions, together with those, if any, made by the participant, plus the net returns obtained constitute vested rights of the participant, regardless of whether or not his or her labour relationship with the employer remains in place. Participants whose employment relationship is terminated are titleholders to the Funds constituted (dormant members) and are entitled to transfer them to a different Pension Plan, if it is established in Pension Plan's rules.

▶ Capitalisation

The Plans are instrumented by financial and actuarial systems of capitalisation, and then the benefits would be calculated according to these systems.

▶ Unattachment of the consolidated rights

These consolidated rights are not subject to judicial or administrative attachment until the moment when right to benefits is acquired or when

consolidated rights are received due to situations of serious illness or long-term unemployment.

► Mandatory integration in a Pension Fund

Contributions made by promoters and participants plus other resources ascribed to a Pension Plan, must be integrated in a Pension Fund.

3.3. CONTRIBUTIONS AND BENEFITS

Pension Plans' Regulation distinguishes between a General Regime and a Special Regime applicable to disabled persons. This differentiation has consequences on contributions and benefits:

3.3.1. Contributions

Contributions to Plan Schemes can be made by:

- Participants in their own favour.
- Promoters of Employment system's Pension Schemes. This contributions used to be in favour of their employees. But, employers can make contributions in their own favour when they are natural people (not companies) and, additionally, they are contributing in favour of their employees.
- Certain relatives or guardians, in favour of disabled people. These contributions can be made in Individual and Associated system's Pension Schemes, when they comply with legal requirements.

3.3.2. Financial limits to contributions

General Regime establishes that annual contributions to Pension Plans made by a participant and by promoters in favour of this participant may under no circumstances exceed, altogether, Euro 10.000 or, if participant is older than 50, Euro 12.500.

Special Regime applicable to disabled people establishes the following limits:

- Individually, annual contributions to Pension Plans made by the disabled participant can be up to Euro 24.250. Additionally, annual contributions to Pension Plans made by each family participant in favour of a disabled person must be, at a maximum, Euro 10.000.

- Jointly, annual contributions made in favour of a disabled person, including his/her own annual contributions, may under no circumstances exceed Euro 24.250.

3.3.3. *Contingencies*

Contingencies that would cause a right to obtain benefits are the followings:

- Retirement.
- Permanent disability: Total, Absolute and Severe Disability.
- Death affecting participant or beneficiary: Widowhood, Orphanage and Pensions in favour of other heirs or other designated people.
- Severe or high dependence affecting participant.

With regard to retirement age, as a general rule, the legal retirement age is established at age 65, although it is possible to retire early starting at age 61, provided that the other general retirement requisites are met.

Additionally, vested rights can be received by the participant in two special liquidity cases: serious illness or long-lasting unemployment.

3.3.4. *Benefits*

It would not be possible to obtain the benefits deriving from Pension Plans until one of the contingencies occur.

In General Regime, benefits can adopt the following forms:

- ◇ Benefit in capital form (lump sum payment): single payment received when contingency occurs or subsequently.
- ◇ Benefit in rent form (financial payments): two or more consecutive payments with regular recurrence, including, at least, one payment in each annuity.
- ◇ Annuities.
- ◇ Mixed benefit: It combines financial or annuities payments with one payment in capital form.
- ◇ Other benefits: payments without regular recurrence.

There are some specialities in Special Regime applicable to disabled people.

4.- PENSION FUNDS

Both promoters' and participants' contributions must be transferred to a Pension Fund.

4.1. TYPES OF PENSION FUNDS

4.1.1. *Depending on the constituents of Pension Plans integrated*

- Employment Pension Funds: those that are limited to Employment Pension Schemes.
- Personal Pension Funds: those that are limited to Associate and Individual Pension Schemes.

4.1.2. *Depending on investment process*

- Closed Pension Funds, that integrate resources from Pension Plans.
- Open Pension Funds, that integrate resources not only from Pension Plans but also from Pension Funds of the same class.

4.2. INVESTMENT RESTRICTIONS

Pension Funds assets must be invested following legal criteria (among others, security, profitability, diversification, liquidity, monetary consistency and suitable terms). Spanish regulation establishes eligible assets for Pension Funds and minimum and maximum limits on investments depending on assets' characteristics.

4.2.1. *Minimum limits of investments*

Pension Funds have to invest, as a minimum, the 70% of their assets in:

- Certain financial securities traded in regulated markets.
- Derivatives traded in organized markets.
- Banking deposits.
- Credits with mortgage guarantee.
- Properties and Real Estate Investment Funds.
- Collective Investment Schemes (CIS) subject to Spanish Law 35/2003 or to Directive 85/611/CEE and other established requirements.

Additionally, Pension Funds must establish a liquidity coefficient.

4.2.2. *Maximum limits of investments*

Pension Funds have maximum investment limits. Some of them establish the maximum percentage that certain asset can represent in relation to Pension Fund's Total Assets (see table 3).

TABLE 3. MAXIMUM INVESTMENT LIMITS OF TOTAL PENSION FUND'S ASSET

Investment		% máximo of Pension Fund's Total Assets
1) Financial instruments issued by the same entity, plus loans granted to that entity or guaranteed by that entity, with the exception of Banking Deposits.		5% in general. 10%, when Pension Fund doesn't invest more than 40% of its assets in entities that represent more than 5% of its assets.
2) Total investment in entities that belong to the same parent group, with the exception of Banking Deposits.		10%.
3) Financial instruments that are not admitted to be traded in regulated markets or, if they are admitted to be traded in regulated markets, trading is not general and impersonal, with the exception of Banking Deposits.		2%, when they are issued or guaranteed by the same entity. 4%, when they are issued or guaranteed by entities that belong to the same parent group.
4) Financial Collective Invest- ment Schemes (CIS)	CIS subject to Directive 85/611/CEE and set up in European Economic Area or regulated in Spanish Law 35/2003, providing that they comply with certain trading requirements	20 % This limit is applied to: - One Collective Investment Scheme, - Several CIS managed by the same entity or by several entities that belong to the same parent group.
	CIS subject to Directive 85/611/CEE and set up in European Economic Area or regulated in Spanish Law 35/2003, that don't comply with established trading requirements Hedge Funds Funds of Hedge Funds Other eligible CIS	5 % This limit is applied to: - One Collective Investment Scheme, - Several CIS managed by the same entity or by several entities that belong to the same parent group.
5) Financial instruments issued or guaranteed by the same entity, positions related to that entity in derivatives and deposits that Pension Fund has in that entity		20 % This limit is also applied to several entities that belong to the same parent group. This limit is not applied to assets mentioned in section 7. This limit excludes investment in CIS and Open Pension Funds, managed by the same entity or a group of entities.
6) Financial instruments issued by entities that belong to the group of the promoter of Employment system's Pension Schemes integrated in the Pension Fund		5 %
7) Properties, credits with mortgage guarantee, rights in immovable property, Real Estate Investment Funds and companies, whose exclusive object is holding and management of properties and whose securities are not admitted to be traded in regulated markets.		30 % in total; 10 % in only one property, credit with mortgage guarantee, right in immovable property or company; 20 % in only one Real Estate Investment Fund or several Real Estate Investment Funds, managed by the same entity or by entities that belong to the same parent group.

4.3. LEVERAGED RESTRICTIONS

Pension Funds are not allowed to borrow funds, excluding exceptional and temporary cases that must have the only objective of obtaining liquidity to pay benefits and must be communicated to Spanish authority (DGSFP).

Obligations with creditors must not exceed 5% of Pension Fund`s total Assets, excluding certain debts (for example, debts maintained with beneficiaries until the moment of payment).

5.- SUPERVISION

Pension Funds and their Management Companies (“Gestoras”) are submitted to the supervision and inspection of the Spanish authority called “Dirección General de Seguros y Planes de Pensiones” (DGSFP), which belongs to Spanish Ministry of Finance and Taxes, both at their beginning (previous authorisation from the DGSFP is needed) and during the development of their activities (they have to send their quarter and annual reports and can be inspected by the DGSFP).

The financial and actuarial system of the Plans have to be revised by an actuary. This revision must be carried out at least every three years, in general, or annually, in Pension Plans that require solvency margins (such as Defined Benefit Plans).

6.- OTHER ENTITIES

6.1. MANAGEMENT COMPANIES

Pension Funds’ Management Companies (“Gestoras”) are companies with the sole exclusive aim of managing Pension Funds. Pension Funds can also be managed by insurance companies authorised to operate in life insurance area, whenever they have minimum required financial reserves and without having to set up a Management Company.

6.1.1. Financiacal reserves:

To be registered Pension Funds’ Management Companies must comply with capital and reserves requirements, that are shown in table 4.

TABLE 4. CAPITAL AND RESERVES REQUIREMENTS

Capital and reserves		
Paid up Capital € 601.012	+ Percentages applied to surplus of total asset of Pension Funds managed by the Pension Funds Management Company over the following amounts:	1% surplus over € 6.010.121 up to € 901.518.157
		0,3% surplus over € 901.518.157 up to € 3.305.566.574
		0,1% surplus over € 3.305.566.574

6.1.2. Functions:

Principal functions of the Management Company are:

- Book-keeping of the Fund.
- To determine the amount of the different Pension Plans assets.
- To control the Depositary of the Fund.
- To disclose quarterly information to participants and beneficiaries regarding their consolidated and economic rights in the Pension Plan.

Furthermore, Management Company has the following functions according to requirements and limits established by Fund's Supervisory Commission (only for occupational Pension Schemes):

- To select the investments to be made by the Fund.
- To order the depositary to purchase and sell portfolio assets.

6.1.3. Fees:

Management Companies can get from the Funds a management fee as payment for its services, with the maximum annual limit of 2% applied to the value of the account that reflects Pension Plan's resources and returns and that is integrated in corresponding Pension Fund.

6.2. DEPOSITARIES

Any authorized deposit financial entity domiciled in Spain can be Depositary.

6.2.1. Functions:

Main Depositary functions are:

- The custody and deposit of transferable securities and other securities integrated in the Fund.
- To control that Management Company complies with its obligations.
- To do the operations agreed by the Management Company which are adjusted to legal rules.

6.2.2. Fees:

Depositaries can get from the Funds a fee as payment of its services, with the maximum annual limit of 0,5% applied to the value of the account that reflects Pension Scheme's resources and returns and that is integrated in corresponding Pension Fund.

6.3. PENSION SCHEME'S SUPERVISORY COMMISSION, IN EMPLOYMENT AND ASSOCIATED PENSION PLANS ("COMISION DE CONTROL DEL PLAN DE PENSIONES")

In Employment and Associated Pension Plans, Pension Scheme's Supervisory Commission (hereafter, SC) represents and supervises the functioning and doing of each Pension Scheme. In Individual Pension Plans, this role is assumed by the promoter.

6.3.1. Functions:

They are the following:

- To supervise the application of the Scheme's rules.
- To select the actuary/actuaries who must certify the situation of the Scheme.
- To nominate the representatives of the Scheme's SC in the Fund's SC.
- To represent the interests of the participants and beneficiaries in connection with the Pension Plan.
- To suggest or decide with respect to matters established in regulation.

6.3.2. Composition:

In Employment Pension Schemes, SC is integrated by representatives of the promoter/s, participants and beneficiaries, with the total guarantee of all interests, maintaining an equal representation between participants/beneficiaries and the representatives of the promoter.

However, for some types of decisions, it is required approbation by, at least, half of promoters' representatives (when decisions affect economic costs incurred by companies in Defined Benefit Schemes or Hybrid Schemes); or by, at least, half of participants' representatives (when decisions affect investment policies in certain Defined Contribution Schemes).

6.4. PENSION FUND'S SUPERVISORY COMMISSION ("COMISION DE CONTROL DEL FONDO DE PENSIONES").

Each Pension Fund must establish a Supervisory Commission (hereafter, SC) with representatives of integrated Pension Schemes. Among other functions, SC controls that Pension Schemes, Pension Funds and Management Companies carry out their obligations.

Pension Scheme's SC will act as Pension Fund's SC, if this Pension Fund instruments only one Employment or Associated System's Pension Scheme.

Promoter can act as Pension Fund's SC, if the Pension Fund canalizes exclusively one or several Individual System's Pension Schemes constituted by the same promoter and it is decided not to establish Pension Fund's SC.

6.5. OMBUDSMAN, IN INDIVIDUAL PENSION SCHEMES ("DEFENSOR DEL PARTICIPE")

Additionally, Individual Pension Schemes must appoint an ombudsman, who receives claims from participants and beneficiaries or people entitled against Management Companies or Depositaries of the Pension Fund or against promoters of the Pension Plan and decides about that claim.

7.- ETHICAL STANDARDS

Management Companies, Depositaries, Pension Plans' intermediaries and certain people related to all these entities (such as managers, employees and representatives) and members of Pension Plan's SC and Pension Fund's SC must comply with rules of conduct.

Under internal rules of conduct, that must be stated by some of abovementioned entities, it must be established procedures with regard to connected transactions

(transactions that affect Pension Fund and are made by entities or people that could have a conflict of interests).

8.- TAX TREATMENT

8.1. TAX TREATMENT OF PROMOTERS

The contributions to Pension Plans made by employers on behalf of their employees are deductible expenses for Corporate Income Tax purposes in the year in which they are paid.

Promoters may deduct in Corporate Income Tax an additional 10% of contributions to Employment Pension Schemes, made by them on behalf of their employees, with certain maximum limits. This percentage must be multiply by the following coefficients depending on tax period:

- 0.8, in tax periods started from 1 January 2007.
- 0.6, in tax periods started from 1 January 2008.
- 0.4, in tax periods started from 1 January 2009.
- 0.2, in tax periods started from 1 January 2010.
- Deduction will be removed in tax periods started from 1 January 2011.

Therefore, it exists two cumulative tax incentives for companies to promote Employment Pension Schemes: the employer contributions are deductible expenses for Corporate Income Tax purposes (applicable since 1989) and the other deduction that is gradually reducing until its complete elimination in tax periods started from 1 January 2011.

8.2. TAX TREATMENT OF PARTICIPANTS

Contributions, made by participant or by employer in favour of that participant, can be reduced from general tax base of personal income tax.

Tax payers can apply general reductions for contributions made in their own favour and, additionally, specific reductions for contributions made in favour of disabled people or in favour of their spouse, if the spouse receives employment

or traded incomes under Euro 8.000 or doesn't receive this kind of incomes. These reductions have limits mentioned in table 5.

TABLE 5. LIMITS TO REDUCTIONS OWING TO CONTRIBUTIONS

General limits. Contributions in favour of the participant				Specific limits. Contributions in favour of	
Participant under 50	Lower of following amounts	30% applied to sum of employment and traded net incomes received individually in tax year. € 10.000 annually.		+	Disabled people
Participant over 50	Lower of following amounts	50% applied to sum of employment and traded net incomes received individually in tax year. € 12.500 annually.	-	Spouse without incomes or with incomes lower than € 8.000 annually	€ 2.000 annually

8.3. TAX TREATMENT OF BENEFITS

The benefits received by Pension Plan beneficiaries (regardless of whether or not the beneficiaries are also participants) must be included in the beneficiaries' taxable base for personal income tax purposes. Additionally, they are subject to personal income tax withholdings.

Previous regulation, in force until 31 December 2006, established a reduction of 40%, if benefits were received in the form of lump sum benefits, and the participant made the first contribution two years before.

Present regulation, in force from 1 of January 2007 removes that reduction. Nevertheless, it establishes transitional arrangements that allow beneficiaries to apply reduction envisaged in previous regulation:

- For benefits derived from contingencies happened before 1 January 2007.
- For benefits derived from contingencies happened after 1 January 2007, only in the part corresponding to contributions made until 31 December 2006.

8.4. TAX TREATMENT OF PENSION FUNDS

They are levied to Corporate Tax rated at 0%, and taxes withheld on dividends and interests must be reimbursed by the Spanish Treasury.

9.- MOBILITY

The Pension Plan participant is the owner of the amounts constituted. Therefore, although such amounts are illiquid until the benefits are received, it is possible to transfer consolidated rights from one Scheme to another, without paying any taxes. Besides Pension Plan's termination, transfer is possible in the following cases:

- Employment system's Pension Schemes: when the labour relationship between the employer and the participant finishes and, additionally, it is laid down in Pension Plan's specifications.
- Associate and Individual system's Pension Schemes: whenever the participant wishes. Additionally, in Associate system's Pension Schemes, transfer takes place, when the relationship between the Association, Syndicate or Labour Union and the participant finishes.

In any case, consolidated rights will be integrated in the Scheme or Schemes proposed by the participant.

Since 1 January 2002, beneficiaries in Individual and Associated Pension Schemes may also move their economic rights from one Scheme to another under requirements established by regulation.

Since 1 January 1998, the vested rights can be received in the cases of serious illness or long-lasting unemployment.

10.- OTHER COMMENTS

10.1. PRIMARY CRITERIA FOR SCHEME'S APPROVAL

Pension commitments are not subject to tax approval.

Some administrative requirements should be met for the constitution of Pension Plans:

- Apart from the general requisites (non-discrimination, capitalisation of contributions, any system of distribution, attribution of rights and obligatory integration into a Pension Fund being excluded), several of which have been already mentioned above, Pension Fund managing entities and the Funds themselves must apply for prior administrative authorisation, although this is not a clearance or control, but rather a formality which precedes the establishment of the entity. In addition, registration at the special administrative Registries contemplated for such purpose is necessary.
- On the other hand, certain special reporting obligations exist for Fund managers and Pension Plan promoters, consisting basically of presenting to the Ministry of Economy and Finance specific accounting information, as well as an annual declaration of participants and contributions to the Plans to which they are registered.

10.2. APPLICATION OF THE STATE SOCIAL SECURITY CONTRIBUTIONS

Pension commitments are established with total independence from the Social Security system, since they are established as a private, complementary and non-alternative system with respect to Social Security, aimed at covering retirement contingencies or a similar situation, disability, widowhood orphanhood or dependence.

11.- EXTERNALISATION OF PENSION COMMITMENTS

Private Insurance Law 30/1995 came into force on 10 November 1995. This Law significantly amended the Pension Funds and Pension Plans Regulatory Law.

That reform included the obligation for companies to instrument existing or future pension commitments to their employees through insurance contracts, including occupational social insurance schemes, Pension Schemes or several of them.

The Spanish Parliament introduced these provisions in an attempt to protect workers interests in the event of company insolvency by adapting the relevant Spanish legislation to Article 8 of Directive 80/1987/EEC harmonising the legislation of the Members States in matters relating to the protection of salaried employees.

The general principles of the system introduced by that reform are as follows:

a) Externalisation of Pension Funds

Pension commitments must be instrumented through a Pension Scheme or an insurance contract, including occupational social insurance schemes, which means that the ownership and management of the resources that companies have to assign to cover their pension commitments will be transferred in all cases.

b) Prohibition of in-house Pension Funds

Consequently, the reform prohibits pension commitments to be covered by inhouse Pension Funds or similar instruments that enable employers to retain the ownership of the allocated resources. It excluded credit entities, insurance companies and brokers from this prohibition, providing that they comply with requirements established in regulation

c) Employers' responsibilities

Having externalised the Funds, the responsibilities of the companies are confined to including all their employees with pension rights in the scheme and to paying the appropriate contributions or, in the case of insurance policies, premiums. Consequently, companies are absolved of any liability not provided for in the insurance policy or pension Scheme arranged.

d) System of penalties

Failure by a company to comply with its obligation to externalise its pension commitments is deemed to be a very serious infringement of labour legislation.

Entities which had pension commitments which were not instrumented through a Pension Plan or an insurance policy, adapted themselves to comply with the abovementioned requirements (deadline finished 16 November 2002).