

# Sustainable commute plans: a new obligation for some companies

Companies with more than 200 employees or 100 per shift must have a sustainable mobility plan as part of their collective bargaining, the aim of which is to rationalise journeys to the place where employees, customers, suppliers and visitors carry out their activities.

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1. Among the recently passed legislation is the Sustainable Mobility Act 9/2025 of 3 December, which came into force on the day following its publication in the Official Journal of Spain. Considering mobility a necessity linked to a range of social activities such as working, studying, producing, interacting, accessing leisure, ensuring health and quality of life, and consuming

goods and services, it incorporates a series of obligations, including those of an employment-related nature. Its main objective is to “establish the necessary conditions for citizens and public or private entities to have access to a sustainable, fair and inclusive mobility system as a tool for achieving greater social and territorial cohesion, contributing to resilient economic

development and achieving the objectives of reducing greenhouse gases and other pollutants and improving air quality” (Art. 1(1)). To this end, “the right of all citizens to enjoy a sustainable and fair mobility system is recognised under the terms established in the legal system, allowing the free exercise of their constitutional rights and freedoms, facilitating the pursuit of their personal, business and commercial activities, as well as meeting the needs of the most disadvantaged people and geographical areas affected by depopulation processes, and, in particular, pays special attention to cases of everyday mobility” (Art. 4(1)).

It is understood that, in order to guarantee the application of this “novel right”, it must be exercised under conditions of equality throughout the national territory and that it constitutes an indispensable tool for the exercise of other constitutional rights such as, in addition to the right to work (Art. 35 of the Spanish Constitution [CE]) and, among others, the right to free movement within the national territory (Art. 19 CE), the right to education (Art. 27 CE), the right to health protection (Art. 43 CE) and the right to enjoy an environment suitable for personal development, as well as the duty to preserve it (Art. 45 CE).

2. Within the planning and management of mobility, the “sustainable mobility-to-work” (hereinafter, sustainable commute) plans of Article 26 of the aforementioned Act 9/2025 occupy a prominent place. As pointed out in Article 2(1)(s) thereof, this plan constitutes a set of measures promoted by the management of the workplace and drawn up within the framework of collective bargaining, the aim of which is to

rationalise journeys to the place where the activity of employees, customers, suppliers and visitors takes place.

In this regard, both companies and public sector entities have a period of twenty-four months from the entry into force of the law to draw up sustainable commute plans for workplaces with more than two hundred employees or one hundred per shift whose usual place of work is that centre of activity. This obligation will also apply to entities belonging to the state public sector and may be applied to other entities belonging to the public sector if so established by the competent authority in matters of transport and mobility in the corresponding territorial area.

These commute plans must be negotiated with the statutory body of worker representatives. For these purposes, the definition in Article 1(5) of the Workers’ Statute Act shall apply to the consideration of the workplace. In companies where there is no such body, an ad hoc joint consultative committee shall be set up, “composed, on the one hand, of representatives of the company and, on the other, of representatives of the workers, made up of the most representative trade unions and the trade unions representing the sector to which the company belongs and which are entitled to form part of the ad hoc joint consultative committee for the applicable collective agreement”. Trade union representation shall be proportional to the representativeness in the sector and shall ensure the participation of all legitimate trade unions. In the case of cooperatives, the commute plan shall be approved by the *consejo rector* (board of directors).

And, to guarantee this negotiation, Act 9/2025 introduces an amendment (through its third final provision) to Article 85(1) of the Workers' Statute Act, which covers "economic, employment, trade union and, in general, any other matters affecting the terms of employment and the scope of relations between workers and their representative organisations with the employer and business associations", which are subject to collective bargaining within the scope of statutory collective agreements. Now, in addition to the "duty to negotiate measures aimed at promoting equal treatment and opportunities

reduction targets, as well as avoiding congestion and preventing accidents on the way to work." In any case, this is an obligation applicable to "the negotiation of collective agreements whose ad hoc joint consultative committee is created after the date of entry into force of this law," according to the first transitory provision of Act 9/2025.

Similarly, Article 26(3) of Act 9/2025 states that these plans must include sustainable mobility solutions that provide for, for example, the promotion of active mobility, public transport, low-emission mobility, shared and collaborative mobility solutions, solutions to facilitate the use and recharging of zero-emission vehicles, teleworking where possible, etc. Measures relating to improving road safety and preventing accidents when travelling to work will also be included, and training in both areas will be encouraged. As men-

tioned above, these plans will not only take into account the workplace's employees, but also visitors, suppliers and anyone else who needs to access the workplace.

When drawing up these plans, they must take into account the sustainable mobility plan of the local authority in whose territory the workplace is located, as well as, where applicable, the mobility regulation instruments approved by the competent transport and mobility authority. The plans may establish carbon footprint offsetting for greenhouse gas-emitting mobility on which it has not been possible to take action. Regulations may establish the role of mobility manager for workplaces with this type of plan.

## ***Companies with more than 200 employees or 100 per shift must have a sustainable commute plan within two years***

between women and men in the workplace or, where appropriate, equality plans with the scope and content provided for in Chapter III of Title IV of the Equality Act 3/2007 of 22 March " or the obligation to negotiate "action protocols that include risk prevention measures specifically referring to action in the event of disasters and other adverse weather events", is "the duty to negotiate measures to promote the development of sustainable mobility-to-work plans with the scope and content provided for in the Sustainable Mobility Act 9/2025, aimed at finding mobility solutions that promote public transport, low-emission mobility, active mobility and shared or collaborative mobility, with a view to achieving air quality and emission

Sustainable commute plans must be monitored to assess the level of implementation of the actions and measures included therein. In any case, and without prejudice to other actions, it is envisaged that, within two years of their approval, public entities and companies will draw up a follow-up report on the level of implementation of the actions and measures in their plan, which will be repeated every two years during the plan's validity.

3. The law includes special rules for high-occupancy workplaces, which are those with more than 1,000 employees located in municipalities or metropolitan areas with more than 500,000 inhabitants, in which case public and private entities must

## ***The Workers' Statute Act is amended to establish the obligation to negotiate these sustainable commute plans***

include measures to reduce worker mobility during rush hour or during working hours and promote the use of low- or zero-emission means of transport and collaborative mobility services, as well as encourage active mobility, including tools to facilitate public or private charging of this type of transport. To this end, the authorities responsible for transport and mobility shall ensure that these measures are included.

Where several workplaces with an obligation to establish a mobility plan are located

in the same place, appropriate coordination mechanisms shall be promoted between them for the exchange of information and the implementation of sustainable mobility solutions. To this end, public entities and companies may offer their employees transport cards processed through a company issuing transport vouchers under the terms provided for in tax legislation.

It should also be noted that Article 2(1)(k) of Act 9/2025 describes a *large centre of activity* as “any place or location where a particular job or task is carried out or concentrated more intensively, such as healthcare, education and training, leisure, sport, commerce, industry and transport,

by grouping together workplaces of different companies or involving the attendance of many users, in which greater mobility intensity is generated, in addition to that corresponding to the workers themselves, in general or at certain rush hours”. For this reason, Article 25 regulates sustainable mobility plans for

large centres of activity. The Ministries of Transport and Sustainable Mobility and of Employment and Social Economy shall jointly establish the criteria for identifying large centres of activity that must have sustainable mobility plans, as well as the quantifiable milestones that these plans must achieve. These criteria will be supplementary to those established for this purpose by the competent authority in the field of transport and mobility or by the urban planning regulations of each municipality, in accordance with the legislation of each devolved region.

In establishing these criteria, at least the following may be taken into account: the surface area of the centre of activity, the number of companies and workers affected by work shifts or the influx of visitors and users, and mobility at rush hours and on specific dates. These sustainable mobility plans must take into account other mobility planning instruments that may be concurrent and, in any case, be coordinated with sustainable commute plans. The competent authority for transport and mobility shall identify the large centres of activity in its territory, taking into account the above criteria, as well as the aggregate of existing activities for the purposes of determining the obligation to have sustainable mobility plans. It may also establish a list of other large centres of activity that must also have, or are recommended to have, a sustainable mobility plan. Within eighteen months of the publication of these criteria, the large centres of activity that are obliged to do so must approve the appropriate sustainable mobility plan, which must be reviewed at least every five years, and must appoint a mobility manager for the centre of activity.

Article 13 of Act 9/2025 creates the integrated mobility data space (EDIM), a digital tool of the General Sustainable Mobility System under the direction of the Ministry of Transport and Sustainable Mobility which aims to guarantee the availability of information relating to mobility generated from data provided by public authorities, transport operators and infrastructure managers, among others. This data space must include a register of sustainable commute plans with their most relevant parameters and indicators, as agreed within

the framework of the Territorial Forum for Sustainable Mobility.

4. Among other noteworthy aspects, the law incorporates its own penalty system in Articles 103 et seq. Specifically, and in relation to violations in the area of sustainable mobility plans, Article 104(b) of Act 9/2025 identifies companies with more than two hundred employees or one hundred per shift as responsible parties. It establishes as minor violations of Article 106(2) of said law, both the failure to comply with the obligation to have sustainable commute plans within the period referred to in Article 26 of the same legal text and the failure to comply with the obligation to prepare a follow-up report on the level of implementation of the actions and measures of the plan within the established deadlines when any of them causes damage to the mobility system. Minor violations shall be punished with fines of between €101 and €2,000, pursuant to Article 107(2) of Act 9/2025, with a limitation period of six months for minor violations.

In order to encourage the implementation of sustainable commute plans, the twenty-seventh additional provision of Act 9/2025 provides for the approval of open calls for applications for subsidies by the Ministry of Transport and Sustainable Mobility to finance sustainable commute plans for companies with workplaces with more than one hundred employees or fifty per shift.

Companies already have extensive experience with their own identity plans (equality, LGTBI, hazard prevention), to which these sustainable commute plans must now be added. Perhaps with one qualitative

difference, which is that, in this case, the content of these plans does not entail a material obligation on the part of the company, but rather an involvement in the culture of sustainability, which already exists in most of them. Promoting active mobility or public transport, recommending low-emission mobility, facilitating the use and charging of zero-emission vehicles are actions that do not entail a legal obligation on the part of the company that is subject to penalties. It is true that promoting teleworking where possible or preventing accidents on the way to work, as well as encouraging shared or collaborative mobility, may have a link to employment, basically if, as provided for in the law, it

becomes part of regulation in collective agreements. However, including not only employees but also visitors, suppliers and any other person who needs to access the workplace in this obligation does not seem to fit in with behaviours that the company can manage under its control in order to avoid both unwanted legal non-compliance and the imposition of a penalty for a violation that has not been committed, at least not intentionally. It is true that the violation is classified as minor and the penalty is proportionate to that classification, but perhaps it should be limited only to those areas where the company can act organisationally and productively and not in relation to other non-work-related behaviour.