




European Platform Undeclared Work

Regulating subcontracting in the construction sector (LSCS)

Spain

	Summary Law 32/2006 regulating subcontracting in the construction sector (LSCS) contributes to prevent 'new occupational risks' related to new forms of work. By ensuring a minimum organisational structure, including limiting the number of companies in a subcontracting chain, and setting health and safety requirements for subcontractors, the law helps to prevent occupational accidents and undeclared work in the sector.
Title of the practice in original language	<i>Ley 32/2006 reguladora de la subcontratación en el Sector de la Construcción.</i>
Name(s) of authorities/bodies/organisations involved	<ul style="list-style-type: none"> • Spanish Labour and Social Security Inspectorate (<i>Inspección de Trabajo y de la Seguridad Social - ITSS</i>); • National Institute for Occupational Safety and Health (<i>Instituto Nacional de Seguridad y Salud en el Trabajo - INSST</i>); • Construction Labour Foundation (<i>Fundación Laboral de la Construcción - FLC</i>).
Sectors	Construction and woodworking
Target groups	<ul style="list-style-type: none"> • Workers in the construction sector (directly targeted); • Vulnerable workers (directly targeted); • Workers involved in undeclared work (UDW) (directly targeted); • Companies (directly targeted); • Labour inspectors (indirectly targeted).
Purpose of measure	Prevention


	Aims and objectives The LSCS limits the number of subcontractors in the subcontracting chain and sets health and safety requirements for companies that are subcontractors in the construction sector.
Background context	New forms of subcontracting chains have created new risk factors for employees ⁱ . In Spain, experts have identified



	<p>substantial increase in occupational accidents in subcontracting chains. Outsourcing in the construction sector leads to increased specialisation, qualifications and business efficiency. However, some subcontracting companies hire workers without adequate health and safety requirements. The LSCS was therefore introduced to combat the high rates of occupational accidents and undeclared work (introduced October 2006–ongoing).</p>
Key objectives of the measure	<p>General objective:</p> <ul style="list-style-type: none"> To prevent occupational accidents in subcontracting chains, undeclared work and to implement a rigorous system of joint and several liability. <p>Specific objectives:</p> <ul style="list-style-type: none"> To limit the number of contractors in subcontracting chains and set requirements for subcontractors in the construction sector. To establish exhaustive communication obligations between companies, registration and documentation requirements aimed at preventing occupational risks and UDW and the implementation of a rigorous system of joint and several liability. To develop health and safety training actions via collective bargaining.
Main activities	<p>The LSCS establishes specific measures to prevent objective instances of risk to the health and safety of workers:</p> <ul style="list-style-type: none"> The number of subcontractors in a chain cannot exceed four enterprises, except where strict requirements are fulfilledⁱⁱ. Companies operating in the construction sector (and not third parties) must manage and organise employees' work. The LSCS has been implemented via national collective agreements in the construction, metal and woodworking sector, establishing basic and advanced levels of training for employees. These agreements regulate the so-called 'professional cards' which accredit specific training in health and safety that the worker must complete. Such training can be provided by the Construction Labour Foundation (FLC), either directly or through entities that have obtained the authorities' approval. The percentage of employees in the company that should hold an open-ended contract is specified, as abuse of temporary contracts has proven to be linked to high rates of occupational accidents.



Funding/organisational resources	Implementation and enforcement of the Law is the responsibility of the Ministry of Labour, Migration and Social Security, particularly the Spanish Labour and Social Security Inspectorate (ITSS) and the National Institute for Occupational Safety and Health (INSST).
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	Outcomes Since the LSCS has been in place, the number of accidents in the construction sector has decreased by 50 % between 2007–17.
Achievement of objectives	<ul style="list-style-type: none"> • The LSCS is evaluated annually, and rates of occupational accidents are analysed by the FLC (foundation created by social partners in the construction sector) and the INSST. • Thorough research has been conducted in this area since 2006. Several publications and training courses have been created regarding causes and factors contributing to accidents in this sector.ⁱⁱⁱ • The LSCS is progressively achieving its objectives. In fact, it is considered as one of the direct causes of the decrease of the number of accidents in the construction sector. Since its enactment (period 2007–17), the number of accidents in the construction sector has been reduced by 50%. Serious and very serious accidents have fallen by 77%^{iv}.
Lessons learnt and success factors	<p>New types of employment are introducing new risk factors into the working environment. The implementation of health and safety legislation in the construction sector is challenging, as each employer tends to limit its preventive actions to its own workers.</p> <p>The need to introduce legislation like LSCS to tackle undeclared work and fulfilment of employment obligations through subcontracting, has been confirmed. ILO studies prove that the higher the number of subcontractors in a chain, the higher the accident rates.^v</p>
Transferability	For transferability, action must focus on tackling abuse in temporary recruitment agencies and preventing the proliferation of 'fake' companies which lack the minimum organisational structure to guarantee health and safety standards. These companies do not have the necessary means for protecting employees from occupational risks.



Further information	
Contact	The National Anti-Fraud Office Email: itsssgit@mitramiss.es
Useful sources and resources	National Anti-Fraud Office website http://www.mitramiss.gob.es/es/organizacion/subsecretaria/contenido/OM111.htm National Institute for Occupational Safety and Health http://www.oect.es/portal/site/Observatorio/ Construction Labour Foundation https://www.fundacionlaboral.org/en/ International Labour Organisation (ILO). The effects of non-standard forms of employment on worker health and safety. Conditions of Work and Employment Series No. 67. 2015 https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_443266.pdf

ⁱ ILO studies prove that the higher the number of subcontractors in a chain, the higher the accident rates. See

https://www.ilo.org/wcmsp5/groups/public/@ed_protect/@protrav/@safework/documents/publication/wcms_124341.pdf

ⁱⁱ Article 5 (paragraphs 2 and 3) of Law 32/2006 establishes that the third subcontractor may not subcontract work to another subcontractor or self-employed person; though in duly justified cases established in the Law, the subcontracting may be extended to an additional level. In addition, subcontracting of manual work (work requiring the use of hand tools, including hand-held power tools) is prohibited.

ⁱⁱⁱ Observatorio de la Fundación laboral de la Construcción. *Informe Accidentabilidad en la Construcción 2017*. 21 March 2019.

^{iv} Although the financial crisis, which resulted in a sharp decrease in economic activity, contributed. See

<http://www.insht.es/Observatorio/3%20Siniestralidad%20laboral%20en%20cifras/Informes%20interanuales/Ficheros/Avance.pdf>

^v Organización Internacional del Trabajo. *Riesgos emergentes y nuevos modelos de prevención en un mundo de trabajo en transformación*. Ginebra, 2010. Available at https://www.ilo.org/wcmsp5/groups/public/@ed_protect/@protrav/@safework/documents/publication/wcms_124341.pdf