

## Foreign nationals and labour relationship procedures

### International protection

International protection consists of the right to asylum and subsidiary protection.

Beneficiaries of international protection have the right to work, and can do so under any type of contract and with the same rights as a Spanish citizen.

People who have not been granted asylum, but have applied for it, will also be authorised to work from 6 months after their application is officially submitted.

The problem in these cases is that if the application is denied, the work permit is cancelled and the applicant is required to end the employment contract.

### Arraigo (ties to the country)

There are two types of *arraigo*:

- **Social *arraigo***: From an employment point of view, an indefinite or temporary full-time employment contract of at least one year in duration must be submitted in order to obtain residency through social ties.

Another possibility is to submit 2 employment contracts of at least 6 months in duration with a workload of 30 hours a week between the two contracts.

- **Employment *Arraigo***: From an employment point of view, a worker is required to prove that he/she has worked in Spain for at least 6 months in order to obtain an employment *arraigo*.

In this case, this work will have been conducted without a contract due to the fact the foreign national has been in the country illegally, reason for which this situation needs to be reported to the Department of Labour Inspections and Social Security or to the Courts of Justice.

### Unaccompanied foreign minors

Minors of between 16 and 18 years of age are allowed to work in accordance with the regulations in force provided they have obtained a residency permit under the supervision of a Spanish authority.

Upon reaching adult age, they may continue to work provided this guarantees them the financial means to subsist.

# LABOUR LAW

## Immigration procedures



## Important note

Issues related to the world of work are an essential part of immigration procedures and the process involving the integration of foreign nationals living in Spain in general.

As such, knowledge, even if basic, of the essential elements of the employment relationship, in addition to the rights and obligations arising therefrom, is an important part of the integration process.

The purpose of this document is to list and clarify the most basic concepts of the world of work.

## The basics of employment relationships

### Working as an employee - self-employment

Trabajar por cuenta ajena es realizar un trabajo para un tercero, el empleador, a cambio de un salario.

Trabajar por cuenta propia o ser autónomo es organizar una actividad por si mismo, sin depender de nadie. Los frutos del trabajo son para el propio trabajador.

### Sources of the employment relationship

The basic rights and obligations of the employment relationship are set forth in the Statute of Workers and the Collective Agreements, although extensive labour laws exist.

Being aware of the existence of Collective Agreements, designed to regulate the different sectors of activity (hospitality, tourism, etc.), is extremely important.

### Trial period

This is the period of time in which both parties, the employer and the worker, analyse the employment relationship, always at the beginning of the contract, and which can be ended with no compensation and no need to provide any reasons for the decision. Nevertheless, the trial period is working time and generates all the worker's rights (salary and holidays).

### Holidays

All workers are entitled to holidays (normally 30 calendar days for each year worked), and which are always paid.

### Indefinite contract - temporary contract

An indefinite contract has no end date initially, and in principle is "forever".

A temporary contract has an end date. There are several types of temporary contracts, the most important being:

- Casual. Within the company's normal activity, the contract is for up to 1 year in a period of 18 months.
- Works and services. For the execution of specific activities, it lasts for up to 3 years.
- Training. For young people beginning their work activities. Up to 2 years for internships and up to 3 years for training.

### Full time work - part time work

Full-time work consists of 40 hours per week or thereabouts.

Part-time work consists of fewer hours per week than a full working day.

### Salary

A worker's most important right. There is a minimum wage that must always be complied with. It is currently 12 payments of € 1,108.33 for full-time work.

Each Collective Agreement regulates the salaries in each sector.

### Work involving minors

Minors under the age of 16 are not allowed to work in Spain.

Young people from 16 to 18 years of age are allowed to work with the authorisation of the person holding parental custody.

Minors are not allowed to work nights or overtime.

### Household employee employment relationship

This type of work, although it involves certain specific characteristics, generates the basic rights of an employment relationship such as salary, holidays, severance pay and sick leave payment.

However, it does not generate the right to unemployment benefit.

### End of the employment relationship

- Workers withdrawing voluntarily: have no right to compensation or unemployment benefit.
- Workers withdrawing voluntarily due to the fault of the employer: have the right to compensation of between 20 and 33 days per year of work depending on the cause, and the right to unemployment benefit.
- End of a temporary contract: the right to compensation of 12 days per year of work and unemployment benefit.
- Dismissal due to non-compliance by the worker: no compensation but the right to unemployment benefit.
- Unfair dismissal: the right to compensation of 33 days of work for each year of service and unemployment benefit.
- Fair dismissal: the right to compensation of 20 days of work for each year of service and unemployment benefit.

### The exercise of labour rights

The Department of Labour Inspection and the Courts and Tribunals of Justice are the bodies a worker should turn to in the event his/her labour rights have been infringed.

### Social security

Work generates a series of benefits to cover different contingencies such as unemployment, sick leave, maternity leave, permanent disabilities and retirement.

### Access to the employment market

Workers are required to obtain an Affiliation Number (NAF by its acronym in Spanish) in order to register with the Social Security System under any of the regimes (general, autonomous community, Marine, etc.).

Workers are also required to obtain a request for employment, which is a job application submitted by an unemployed person or worker, at their own initiative, to one of the Public Employment Department's offices in the country.

The request for employment is the means through which an applicant can access the services on offer that are best suited to their characteristics and needs.