



Global Employer Services Immigration

Update on the salary requirements for work permit holders

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After the sixth state reform, the employment of foreign workers has become a regional affair. This means that the regions have the power to create new rules regarding access to the regional labour market and the modalities of foreign worker employment.

Exact Salary indicated upfront

Recently, the different regional authorities (Flemish, Brussels and Walloon) introduced new legislation regarding the minimum salary. This new law clarifies that the salary amounts which a foreign employee will earn must be known with certainty before the

start of employment activities in Belgium. Previously, it was sufficient to declare that the employee would receive a certain minimum gross salary of at least EUR 39,824.00 (highly qualified employee) or EUR 66,442.00 (managerial employee).

Due to the change in legislation, the authorities (especially in the Walloon and Flemish regions) no longer accept the approach of indicating a minimum salary amount. Furthermore, the authorities have started to pay closer attention to the composition of salary packages.

In practice, this entails the authorities requesting a declaration of the exact gross salary which the expat will earn during the validity period of the Belgian work permit. Furthermore, this 'exact gross salary' must be clearly mentioned in the expat's secondment letter or employment contract. All additional salary components, which the employee would receive, need to be explicitly mentioned and must be quantifiable.

Cost of living allowances and bonuses

The new legislation reconfirms that the 'salary' must represent a remuneration that is given in relation to performed activities and may not represent the reimbursement of any costs borne by the employee, such as cost of living allowances (COLA's).

Given that the salary must be known upfront, bonuses and any other remuneration that are not known upfront and indicated in the employment agreement or assignment letter are no longer taken into account to establish whether the minimum salary requirements are met.

The Walloon region has been applying the above rules very strictly, with the Flemish authorities also verifying the above requirements very thoroughly.

Deloitte's view

It is understood that for some employees, the exact gross salary is often very hard to establish due to the nature of the special tax status (which impacts the gross salary for employees with a guaranteed net income) or due to company policies that often provide a compensation package which includes variable benefits.

In view of organising a smooth immigration process for foreign employees, it is important to comply with this new legislation. Detailing the compensation package extensively in the contractual agreement with foreign employees is therefore strongly recommended. This will allow the immigration authorities to determine compliance with the relevant legal requirements and will allow them to process the files without any delays.

Deloitte Belgium's immigration and social security services team is readily available to provide more detailed information.

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