

Updates on the guidelines of Work Permits for Foreign Employees in Panama.



During the month of March, the government of Panama issued Executive Decree No. 4 of 2 of March 2023, which was entirely replaced by the recent enacted Executive Decree No. 6 of 13 of April 2023 (the "Decree").

The Decree maintains the consolidation of the provisions on labor mobility, unifying in a single regulation all labor relations where foreigners are involved.

Through this Decree, the different categories of work permits are reiterated, along with their respective requirements and parameters for granting them, reducing the requirements that can be validated electronically. It also details the presentation of procedures and the rights and obligations of migrant workers and their employers.

As a general principle, it is important to point out that any work relationship in Panama that involves a foreign person, will require a work permit issued by the Ministry of Labor and Labor Development of the Republic of Panama (by its abbreviation in Spanish, the "MITRADEL"), provided that said relationships are under conditions of legal subordination or economic dependence to whoever contracts the services.

Permits that are **equivalent to local labor**, which corresponds to those who, given their connection with the country for maintaining their continuous residence in Panama for more than 10 years or for being fathers or mothers of Panamanian children or being married to nationals, etc., are subject to the same treatment that is granted to local employees. Under this classification of work permits are the following:

- Foreigner with ten (10) or more years of residence in the country.
- Foreigner with a spouse of Panamanian nationality, includes those whose support for the work permit is marriage; parental authority and divorce; or parental authority and widowhood.
- Foreigner with special permanent residence, endorsed with a letter of recommendation from the President of the Republic of Panama.
- Foreigners for family reunification, as the father or mother of a Panamanian person in a condition of dependency.
- Foreigner dependent on diplomatic, consular, administrative personnel and accredited international organizations in the Republic of Panama, who have the right to request a valid work permit for

the term of the diplomatic, consular or international personnel's stay in the country.

Under this category of work permits is not necessary to validate, as a requirement for the issuing of permits, that the percentage rate between nationals or foreigners is being met, as established by article 17 of the Panamanian Labor Code as a condition for employing foreigners. .

Permits related to **Special Economic and Investment Policies:**

- Migrant worker from specific countries that maintain friendly, professional, economic and investment relations with the Republic of Panama.
- Permanent resident migrant worker as a classified investor.

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- Migrant worker under the special category of own economic solvency.
- Migrant worker by special categories in force under special economic and investment policies.

The above-mentioned categories are not subject to the validation of percentages established in article 17 of the Labor Code; only the categories below listed have to comply with percentage ratio between nationals or foreigners; not exceeding 10% when refers to ordinary labor and 15% for technical or trusted personnel of total number of employees. In no case may the above percentages be less than those previously indicated in compensation paid or in number of employees as a whole and by category.

- Foreigner hired as ordinary personnel, within ten percent of the total number of workers.
- Foreigner hired as a specialist or technician, within fifteen percent of the total number of workers; o Foreigner hired as trusted personnel, within fifteen percent of the total number of workers.
- Foreigner hired as Micro or small employer personnel, formerly known as the Marrakech Agreement.
- Foreign person hired as trusted company personnel whose transactions are perfected, consumed or take effect abroad, exclusively.

Work Permits originating from **Special Laws**:

- Foreigner hired as an executive of a company established in the Colon Free Zone.
- Foreigner hired by an authorized employer within the regime of the City of Knowledge Foundation.
- Foreigner hired by an employer within the Panama Pacifico Special Area.
- Foreigner hired by an employer within the Free Zone regime.
- Foreigner hired by an employer within the Multinational Company Headquarters (by its abbreviations in Spanish, “SEM”) regime.
- Foreigner hired by an employer within the Multinational Companies regime for the provision of services related to Manufacturing (by its abbreviation in Spanish, “EMMA”)
 - Foreigner hired as trusted personnel by an employer within the regime of the cinematographic and audiovisual industry.
 - Foreigner hired as a pilot or specialized personnel of a commercial aviation company.

Of the categories of permits listed above, the only one subject to validation of the percentages established in article 17 of the Labor Code is the is the category of of Foreigner Hired by an Employer within the Panama-Pacific Special Economic Area and Free Zones.

Other categories are exempt from validation of percentages; however, must comply with all the obligations derived from a labor relationship, including, but not limited to, those that must be fulfilled before the Social Security Fund.

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The processing of permits under Law 41 SEM and Law 159 of EMMA will be executed under the criteria established in the legal norms that originated from said regimes; therefore, in accordance with the provisions of this Decree, no additional procedures will be carried out or any permission obtained from other Governmental office, rather than the ones already established by the Governing Entity that oversees its operations.

- **Work Permit under the Protection of the Panamanian State**, are those that apply in cases of people in refugee status, asylum, stateless person or foreign victim of human trafficking; namely, the categories are:

- Foreign refugee who has been admitted for processing and recognized as a refugee.
- Asylum foreigner.
- Stateless foreigner.
- Foreigner victim of trafficking.
- Foreigner with temporary status for humanitarian reasons.

- **Work Permits for Special Conditions:**

- Foreigner for General Immigration Regularization.
- Professional Foreigner.
- Foreign migrant for family reunification for dependents.
- Student.

limits, as established in articles 17 and 19 of the Labor Code and in Title II, Chapter VI of the Executive Decree.

Applicants for work permits for special conditions must comply with the conditions of: (self-employment, or work for others. Self-employment may be as a natural person or through a legal entity. How much does it treat of applications in a personal capacity, the person must prove that the activity carried out on their own account is not subject to a relationship of legal subordination or economic dependence, that in addition, does not include activities whose exercise is protected for people of Panamanian nationality.

Temporary: Applicable to international artists, athletes, specialized technicians, and artists of night shows.

Work permits for temporary workers will continue to be approved for no more than

three months, which may be extended for a maximum of three periods for the same term.

Once these three periods have expired, the foreign worker must change category and apply for a Work Permit for a foreigner hired by an employer as specialized or technical personnel within 15%.

These temporary workers are not included in the percentages established in Article 17 of the Labor Code.

These work permits are subject to contracting

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General considerations:

- The Decree emphasizes that the foreign worker authorized to work in a company may not be transferred or voluntarily transferred to any other company, without authorization from the Ministry of Labor and Labor Development.
- Is responsibility of the employer to guarantee that workers of foreign nationality have with their current work permits. Maintaining workers without the corresponding permits will not cause prejudice to the foreign employee with respect to their labor rights and guarantees, including the calculation and payment of benefits or other sums of money to which they are entitled by reason of the employment relationship.
- The employer who does not comply with the obligation to guarantee that its foreign workers have a work permit, will be subject to the application of sanctions according to the following criteria: Fine of Five Hundred Balboas with 00/100 (B/.500.00) for each foreign worker who works without a work permit. work, thousand balboas with 00/100 (B/.1,000.00) for each worker foreigner at the first recidivism, One Thousand Five Hundred Balboas with 00/100

(B/.1,500.00) before the second recidivism, cancellation of the Notice of Operation on the third recidivism.

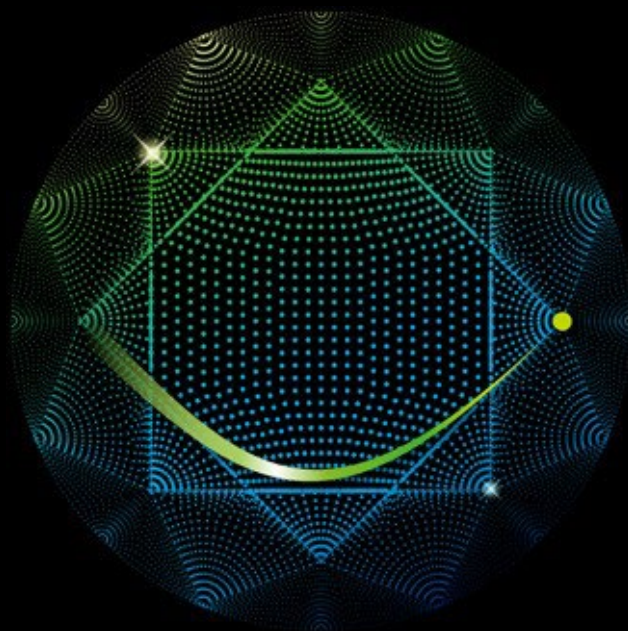
- Employers who keep foreigners in the process of permit extension will not be penalized for lack of a work permit, as long as they verify that they are still pending, and that said extension was requested before the expiration of the work permit.

It is important to mention that as of **the 14 of May 14 of 2023**, only work permits that comply with the new provisions of Executive Decree No. 6 of the 13 of April of 2023 will be received.

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