



# Panama Employment Rules for Foreign Personnel

## Authors:

Michelle Martinelli (partner of Tax & Legal)

Jeimy Caballero (senior consultant of Tax & Legal)

The Ministry of Labor and Employment Development of the Republic of Panama ("the MITRADEL"), with the purpose of integrating the multiple decrees issued with regard to the employment of foreign personnel, enacted Executive Decree No. 6 of April 13, 2023 (the "Decree") that consolidates in a single regulation the different categories of work permits, the requirements and considerations that must be met for permits to be granted, applicable procedures to access the online service platform, including also a section describing the rights and obligations applicable to foreign personnel and their employers.

As a general principle, it is important to note that the Political Constitution of the Republic of Panama prohibits the employment of foreign personnel that lowers the working conditions or living standards of Panamanian citizens, or its equivalent according to local regulations.

In this regard, the Cabinet Decree that introduced the Labor Code establishes the obligation of the Panamanian Government to protect the local workforce, introducing the foundations under which employers are authorized to employ foreign workers. Under article 17 of the Labor Code "each employer must guarantee that at least ninety percent

of his or her "ordinary" (non-specialized or non-technical) employees are Panamanian, have a Panamanian spouse or have ten years of residency in Panama. No more than 15 percent of all employees may be specialized or technical foreign personnel. In no case may the percentages of salaries or individuals by category be less than those set out in the preceding paragraph..." This authorization will require a work permit to be granted by MITRADEL, provided that such relationships are under conditions of legal subordination or economic dependence on the person who employs them.

The classification of work permits as established by the Decree are as follows:

- 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 because they are parents of Panamanian children or are married to Panamanian citizens, are subject to the same treatment that is granted to nationals. Under this classification of work permits are the following:



- Foreign employee with ten (10) or more years of residence in the Panama;
- Foreign employee with a spouse of Panamanian nationality, includes those whose support for the work permit is (i) marriage; (ii) by parental authority in case of a divorce; or (iii) by parental authority in case of widowhood;
- Foreign employee with special permanent residence, endorsed by a letter of recommendation from the President of the Republic of Panama;
- For family regrouping, such as being father or mother of a Panamanian person in a condition of dependency;
- For dependents of diplomatic, consular, administrative and international organizations accredited in the Republic of Panama. Permit granted for the term of the mission.
- In accordance with the Treaty of Friendship, Commerce and Navigation between the Republic of Panama and that country. Permit is granted for an indefinite period of time.

# Panama Employment Rules for Foreign Personnel



Under this category of work permits, there is no requirement to validate the percentages of article 17 of the Panamanian Labor Code, which links the granting of the permit to company's payroll.

- Those that come from Special Economic and Investment Policies, and from the percentages authorized by the Labor Code:
  - As permanent resident qualified investor.
  - As resident under own economic solvency.
  - As special categories of special economic and investment policies.
  - From specific countries that maintain friendly, professional, economic and investment relations with the Republic of Panama, in case of investment;
  - Foreign employee as trustworthy personnel of companies with transactions that are perfected, consummated or take effect abroad;
  - Foreign employee hired by a micro or small employer (MIPE), formerly known as the Marrakesh Agreement.

The above categories are not subject to compliance with the percentage limits established in article 17 of the Labour Code; only the following, which are subject to compliance

that in a same company the ordinary foreign personnel do not exceed 10% and foreign technical or trusted personnel do not exceed 15% of the total number of workers, excluding both percentages from each other and respecting the proportionality both in labor and salary:

- Foreign employee hired as ordinary personnel within ten percent (10%) of the total number of workers;
- Foreign employee hired as a specialist or technician within fifteen percent (15%) of the total number of workers;
- Foreign employee hired as trustworthy personnel within fifteen percent (15%) of the total number of workers;
- Those that come from Special Laws:
  - Foreign employee hired as an executive by companies established in the Colon Free Zone.
  - Foreign employee hired by an authorized employer under the City of Knowledge Foundation regime.
  - Foreign employee hired by an employer within the Panama Pacifico Special Area.
  - Foreign employee hired by an employer under the Free Trade Zone regime.

- Foreign employee who has a Temporary Multinational Company Personnel Visa for the rendering of services related to Manufacturing or companies under the EMMA Law.
- Foreign employee hired as a pilot or specialized staff of a commercial aviation company.

Of the categories of permits listed above, the only permits subject to the validation of percentages established in Article 17 of the Labor Code is that of Foreign employee hired by an employer within the Panama Pacifico Special Area, Free Trade Zones, EMMA Regime and commercial aviation company. The other categories are not subject to compliance with the percentage limits; however, they must comply with all obligations resulting from an employment relationship, including, but not limited to, those that must be fulfilled before the Social Security Administration.

# Panama Employment Rules for Foreign Personnel

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The managing of permits for permanent personnel under Law 41 SEM and Law 159 of EMMA will be carried out under the criteria established in the legal regulations that derived from those regimes; therefore, in accordance with the provisions of this Decree, no additional procedures will be carried out or any permit obtained from another governmental entity in addition to the residence permit to work for any of these companies in Panama.

- Work Permits under the Protection of the Panamanian Government are those that apply to the cases of persons in refugee status, asylee, stateless person or foreign victim of human trafficking. Namely, the categories are:
  - A foreign refugee who has been (i) admitted for processing and (ii) recognized as a refugee.
  - For asylee migrant worker.
  - For Stateless alien worker.
  - For victim of trafficking.
  - For a foreign employee with a temporary status for humanitarian reasons.

Foreign workers under this category of permits are included in the percentages established in the Labor Code as migrant workers considered local labor.

- Work Permits – Special Migratory Conditions:

This work permit is divided into two types, depending on the employment status of the migrant, which can be self-employed or employed, and migrant foreigners who have obtained their residency under the following categories:

- For employee from specific countries that maintain friendly, professional, economic and investment relations with the Republic of Panama, for work;
- With residence obtained from the General Migratory Regularization program;
- Professionals;
- For family regrouping for dependents of residents.;

The above work permits are subject to hiring limits – percentages, in accordance with articles 17 and 19 of the Labor Code and in Title II, Chapter VI of the Decree.

As mentioned at the beginning of this section, applicants for work permits under special conditions must meet the following conditions: (i) self-employment, or (ii) paid employment. Self-employment may be as a natural person or through a legal person. In the case of applications in a personal capacity, the person must prove that the activity carried out on his or her own account is not subject to a relationship of legal subordination or economic dependence, and that it does not include activities whose exercise is protected for persons of Panamanian nationality.

This Decree also contemplates the figure of temporary work permits that apply to international artists, athletes, specialized technicians and night show artists. These permits will be granted for a period of no more than three (3) months, which may be extended for a maximum of three (3) periods for the same term.

Once the three (3) periods have expired, the foreign employee must change category and apply for a Work Permit for foreigners hired by an employer as specialized or technical personnel within 15%. Exceptions to this provision are for international artists, sportsmen and night performers.

# Panama Employment Rules for Foreign Personnel



## General considerations:

- The Decree emphasizes that a 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.
- It is the employer's responsibility to ensure that workers of foreign nationality have valid work permits. Keeping workers without the corresponding permits will not cause prejudice to the foreign employee with respect to his labor rights and guarantees, including the calculation and payment of benefits or other sums of money to which he or she is entitled by reason of the employment relationship.
- An employer who fails to comply with the obligation to ensure that its foreign workers have a work permit will be subject to sanctions in accordance with the following criteria: A fine of Five hundred Balboas with 00/100 (B/.500.00) for each foreign worker who works without a work permit, One thousand Balboas with 00/100 (B/.1,000.00) for each foreign worker for the first recidivism, One Thousand Five Hundred Balboas with 00/100 (B/.1,500.00) in the event of the second recidivism, cancellation

of the Notice of Operation in the event of the third recidivism.

- It should be considered that the Ministry of Labor and Labor Development has stated that the mere processing of the work permit is not enough to be able to work in Panama, it is necessary that said permit is approved and valid by the competent authority.
- Employers who keep foreigners in the process of extending the permit will not be sanctioned for lack of a work permit, if they prove that they are still in the process and that such extension was requested before the expiration of the work permit.

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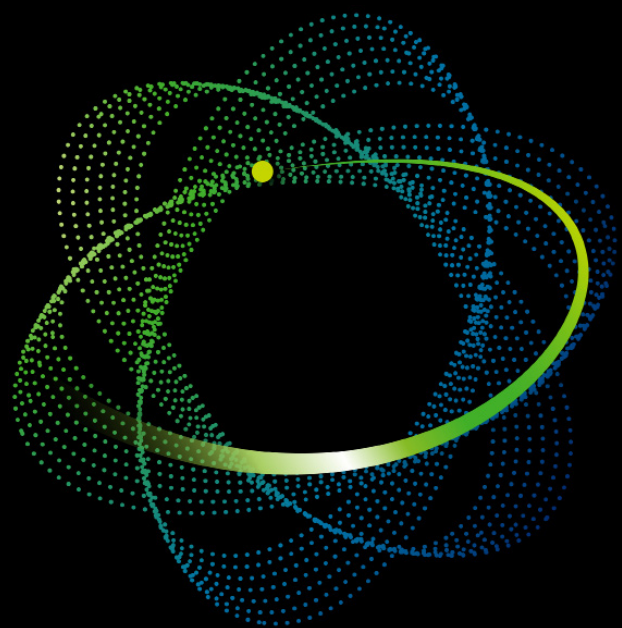
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## Contacts

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**Michelle Martinelli**

Partner Tax & Legal  
[mmartinelli@deloitte.com](mailto:mmartinelli@deloitte.com)

**Yira Cobos**

Partner Tax  
[ycobos@deloitte.com](mailto:ycobos@deloitte.com)

**Desiree Esáa**

Partner Tax & Foreign Trade  
[desaa@deloitte.com](mailto:desaa@deloitte.com)