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Card ELANBiz: Labour Peruvian Regime^{1y2}

(Prepared by the ELANbiz in Peru Expert, based on secondary information. Updated to August 30, 2016)

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The purpose of this card is to inform the most relevant aspects on labour topics that must be taken into account when doing business in Peru.

Introduction²

The Peruvian Labour Regime is applicable to personal, subordinated and paid services. The existence of work contract for an indefinite term and ordinary working day (4 hours or more per day) is presumed, until the opposite is proved.

¹ "The information contained in this Card is only general. For more detailed, events and trade promotion as well as possible business contacts, please contact the Commercial Offices of the Member States, European trade organizations and bilateral Chambers of Commerce in Peru".

² Main Sources: KPMG Inversiones en Perú 2015. Guía Legal para la conducción de negocios en el Perú Estudio Roselló. Proinversión, Ministerio del Interior-Migraciones.



To contract national workers the only condition is fulfilled the Peruvian legal adult age (18 years).

Exceptionally fixed-term contracting is allowed, providing that it is fulfilled by objective grounds that support that temporality, and when is the case of a part-time work (less than four hours per day).

The main labour aspects to consider when a company established a business in Peru are³:

Labour Contract

1. Indefinitely Term Work Contracts

Can be entered in writing or verbally and starts the day in which the effective presentation of work exists.

The first three months will be considered to be a trial period, during this time, the employer will be able to dispense the worker services without invoking a reason of dismissal.

After this period, the worker has “labour stability” and the employer will only be able to dismiss the worker for a legal cause establish by law or paying compensation for unjustified dismissal.

2. Fixed Term Work Contract

It is agreed in an exceptional way and providing objective reasons of the temporary need (real, objective and verifiable). For its subscription it is required the record in writing and the virtual registration before the [Ministry of Labour and Employment Promotion \(MTPE\)](#).

That is, only when it is essential by the needs of the market, larger production as well as when it is demanded by the temporary or accidental nature of the service to be performed or the work that has to be executed.

³ For more information, we suggest to review [Compendio de Normas sobre Legislación Laboral, elaborado por el Ministerio de Trabajo y Promoción del Empleo](#).



Within 15 days of the sign of the contract, it must be submitted to the Ministry of Labour in order to be registered. Failure to comply with this requirement within that period, the employer must pay a fine for late registration.

The employee shall be entitled to all the legal benefits during the contract period.

There are nine types of fixed-term contracts. If you need more information about this matter, we suggest checking details of the types of temporary contract allowed by law in [Compendium of Standards Labour Law](#), prepared by the Ministry of Labour and Employment Promotion.

3. Companies of Labour Intermediation

The rule applicable to labour relations is that the personnel/staff is hired directly by his employer. Nevertheless, exceptionally third companies will be able to provide with personnel/staff to the employer, only in the following cases:

- Temporary Services: Occasional services or temporary replacement staff.
- Supplementary Services: Services that are not a part of the principal activity (core business) of the employer.
- Highly specialized services: complex and specialized services that are not part of the core business of the employer, or the line/course of business.

It is important to consider that in order to issue a labour contract a registration certificate must issued by the Ministry of Labour and Employment Promotion. It is also recommended to assure a guarantee letter from the contracting company granted on behalf of the Ministry of Labour and Employment Promotion, in order to mitigate any liability that could affect the contracting company.

4. Foreign workers

Peruvian legislation allows the recruitment of foreign workers, within some limitations and on the basis that they have specialized knowledge expertise, or to hold leadership positions in the company. Law of Contracting of Foreign Workers of Peru, states that employers, foreign or national, are authorized to recruit personnel of other countries, providing that:

- The number of foreign workers does not exceed 20% of total employees hired by the company.



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- The wages or remuneration of the foreign workers will not exceed 30 % of total costs registered in the company payroll, unless the Manager's position or the case of a specialized professional.⁴

The formal requirements are:

- Request addressed to the Sub-Directorate of General Records (Sub-Dirección de Registros Generales).
- Work Contract in three (03) originals containing clauses according to law and place where the foreign worker will work.
- Affidavits, considering the fulfilment or exoneration of limiting percentages,
- Photocopy legalized by notary or certified by the consular service and the Ministry of Foreign Affairs of Peru, of the professional title, technical or experience certificates issued abroad, linked to the object of service.
- If the documents are in foreign language, the official translation must be attached.
- Evidence of payment of the corresponding fee (50 euros approx.) In the Banco de la Nación (Bank of the Nation), Tribute No. 5533. Payment will be made with the RUC number of the contracting company.

Foreign personnel work contracts must be qualified for his respective approval. Workers who wish to make the approval process of foreign work contracts, will have to have a special permission to sign contracts (Department of Immigration of the Ministry of Interior). See [ELANBiz Card: Regime and Migratory Considerations in Peru](#).⁶

The worker may not provide services until possess the work visa and The Foreigners Card (Carnet de Extranjería), granted by the Immigration Authority.

⁴ Exceptions: The law allows exemptions of the above limit percentages in the case of specialists, managers or management staff of a new company, employees of public companies or private companies that have signed an agreement with government agencies, among others. This exception must be authorized by the Ministry of Labour.

⁵ See contract model and format at the end of this Card.

⁶ Source: Ministerio de Trabajo y Promoción del Empleo:
http://www.trabajo.gob.pe/archivos/file/guias/requisitos_contratacion_extranjeros_1.pdf



5. Vacation period and Payments

1. Weekends

Workers are entitled to a minimum of twenty-four (24) hours of weekly rest; it is usually enjoyed on Sundays.

2. Holidays

Workers do not serve on legal holidays, but will be entitled to full payment for that work day. See Full list of holidays in [ELANbiz Card: Business Travel information](#).

It is possible to replace the payment for the workday, giving workers an extra day of rest. In the event that the worker provides services on a holiday, without having an extra day off, the employer is required to pay an additional one hundred per cent (100%) of a daily wage.

3. Vacations

Workers are entitled to thirty (30) days of paid vacation each year of service, unless they agree with the employer to reduce or accumulate the vacation period. However, in the case the worker does not enjoy the vacation period within the next year of obtained the right, a vacation indemnification will correspond to him.⁷

6. Remunerations and Benefits

a. Minimum Vital Remuneration

To date is equivalent to 250.00 euros per month approx. The minimum living wage is set by the state.

b. Gratifications

There are two (02) mandatory bonuses (gratifications) per year: one in July and one in December. The amount of bonuses/gratifications is equivalent to the monthly salary perceived by the worker.

⁷ Art. 23 del D.L. N° 713



c. Compensation for Work Services (Compensación por Tiempo de Servicios)

It is a legal benefit consisting of 8.33% of the remuneration received by the worker in the semester.

d. Profits

Workers are entitled to a percentage ranging from 5% to 10% of Company profits, depending on the economic activity performed by the company. Companies with less than twenty (20) workers are not subject to this distribution.

Social Contributions and Taxes

Remuneration is subject to the following contributions and taxes:

CONCEPT/ PAID BY	EMPLOYEE (Retención)	EMPLOYER	RATE
Public Pension System	X		12.5%
Private Pension System (AFP)	X		13%
Public health insurance (ESSALUD)		X	9%
Income Tax	X		Progressive Rate according to salary level, until 30% ⁸

Depending on company activity, remuneration may be subject to other contributions.

Referential models and formats:

The Ministry of Labour and Employment Promotion provides models contracts as reference in order to facilitate the formalization of the employment status of workers. Check: <http://www2.trabajo.gob.pe/guia-de-tramites/modelos-y-formatos/> review

⁸ Income Tax for non-domiciled workers, will be determined by applying a rate of thirty percent (30%) of gross Peruvian income from sources.



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Business Visa

Required only if the foreigner who travels to the country wants it. As a general rule, it must be processed before entering the country. Foreigners who plan to develop business related activities, including signing contracts or financial transactions, can obtain this type of visa. We suggest check [ELANBiz Card: "Regime and Migration Considerations Peru"](#).

Special permission to sign contracts and Work Permit

We recommend check [ELANBiz Card: Regime and Migratory Considerations in Peru"](#).

Links of Interest

- **Ministerio de Trabajo y Promoción del Empleo**
www2.trabajo.gob.pe/
- **Superintendencia de administración Tributaria Peruana - SUNAT:**
<http://www.aduanet.gob.pe/aduanas/informag/importac.htm> .
- **MINCETUR: Ministerio de Comercio Exterior y Turismo:**
<http://www.mincetur.gob.pe/newweb/>
- **MIGRACIONES: Superintendencia Nacional de Migraciones:**
<http://www.migraciones.gob.pe/>.



For additional information, we invite you to use the Ask the Expert Service (www.elanbiz.org). You will receive a response within 3 business days without cost

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