

INFOCARD ELANBiz Labor Regime in Peru¹

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The purpose of this infocard is to provide information on the essential elements of the legal regime applicable to labour relationships in Peru.

Essential Elements of an Employment Contract

The **Peruvian labor regime** is applicable to relationships between the employer and the worker in Peru. The existence of an employment contract for an indefinite term is presumed for any provision of services that is made in a personal, remunerated and subordinate manner. The Peruvian labor regime applies the principle of “Primacy of Reality”, according to which facts must be prioritized when examining whether or not there is an employment contract, despite the existence of a differently named agreement.

Under this premise, the employment contract differs from the service agreement in the following way:

ELEMENTS	LABOR CONTRACT	SERVICE AGREEMENT
Services	Must be provided personally by the worker.	Can be provided by third parties.
Subordination	The employer can direct, control and apply sanctions to the worker.	There is no subordination.
Term	Permanent or continuous, with the exception of contracts subject to a definite term. Worker is subject to a schedule.	Temporary, worker is not subject to a fixed schedule.
Exclusiveness	Most or all of the workers’ main activities are undertaken exclusively for the benefit of the employer.	The services can be provided personally, but are not necessarily exclusive. The contractor can provide services to a third party.

¹ The information provided in this document is of a general nature only. For more detailed information, events and commercial trade offers as well as commercial business contacts, please contact the Commercial Offices of the Member States and the bilateral chambers of commerce in Lima.



Types of Employment Contracts

1. Probation period

The employment contract is concluded for an **indefinite term**, as a general rule, and for a **fixed term**, exceptionally. The first three (03) months are considered a probation period, in which the employer may dismiss the worker without arguing of a just cause. The probation period can be extended up to six (06) months, by means of a written agreement between the parties in the case of qualified or trusted personnel, and up to one (01) year in the case of management personnel.

After this period is over, the worker has labor stability and may only be dismissed for a just cause or by awarding them compensation for arbitrary dismissal equivalent to one and a half monthly salaries for each year of labor performed under the general regime.

2. Employment contracts subject to a fixed term

Employment contracts subject to a fixed term must have an objective cause that justifies such temporality. Fixed term contracts can be concluded under different modalities and are subject to term limits, which may vary between two (02) and five (05) years depending on the cause of the contract, after which they shall become indefinite. Should labor authorities find out that there was no objective cause for such temporality or should the term limits be exceeded, these authorities may declare that the contract was denaturalized and shall be considered as contract with an indefinite term.

There are **nine (09) types of fixed term contracts**:

NATURE	CONTRACT
Temporary	<ul style="list-style-type: none"> Contract due to start of business activities Contract due to market necessities Contract due to corporate restructuring
Incidental	<ul style="list-style-type: none"> Occasional contract Substitute contract Emergency contract
Work or service	<ul style="list-style-type: none"> Contract for a specific work or service Intermittent work contract Seasonal contract

3. Part-time contracts

Part time contracts must necessarily be concluded in writing and notified to the Labor Authorities of the Ministry of Labor, for its registration, within fifteen (15) calendar days of its signature. **Part-time employment** involves a **maximum** of nineteen (19) hours per week, if the employee works five (05) days a week, and twenty-three (23) hours per week, if the employee works six (06) days a week. Should the work hours exceed these limits, the worker shall benefit from protection against arbitrary dismissal.



Workers who do not fulfill this requirement are not entitled to such protection.

Work week

Workers are subject to a **maximum ordinary work week of forty-eight (48) hours a week**. They are entitled to twenty-four (24) hours of weekly rest, which is normally granted on Sundays. Likewise, they are entitled to public holidays established by law, without prejudice to the full payment of their normal wage. In the event that an employee is asked to work on a holiday, the employer must pay an additional full daily salary or, alternatively, grant them an additional day of rest as a compensation. See the full list of Peruvian holidays in the ELANbiz infocard: Business Travel.

Vacations

Workers are entitled to **thirty (30) days of paid vacations for each year of service**, unless they agree with the employer to reduce the vacation period to a maximum of fifteen (15) days, or to accumulate two (02) consecutive vacations. Nonetheless, in the event that the worker does not take their vacation within the year after earning it, they will be entitled to compensation.

Wages and Social Benefits

CONCEPT	DETAILS
Minimum Wage	The monthly minimum wage is established by the government. To date it is equivalent to PEN 930.00 (approximately € 263.00).
Legal Bonuses	There are two (02) mandatory yearly bonuses; one granted in the month of July and the other one in December. The amount of each of them is equivalent to one monthly salary paid to the worker.
Unemployment Insurance (CTS)	It is a legal benefit equivalent to 8.33% of a biannual salary, paid each semester, which amounts to roughly one monthly salary per year.
Profits	Employees working in companies with over 20 employees are entitled to a percentage of the profits, which may vary between 5% and 10% depending on the type of economic activity performed by the company.
Contributions to pensions and public health insurance	The employer must retain a percentage of the worker's salary as contributions to their private or public pensions schemes. Public pensions (ONP): 13% Private pensions (AFP): 12.82% – 13.04% The contribution to Public Health Insurance (ESSALUD) which is equivalent to 9% of the salary shall be covered by the employer.

Labor regime for micro and small enterprises

Companies that do not belong to an economic group or are not economically linked with other companies or groups, whether national or foreign, may request to be subject to the **labor regime for micro and small enterprises (SME)**, if they fulfill the following criteria:

- **Micro-enterprise:** annual sales up to a maximum amount of 150 UIT² (PEN 630,000.00 or approximately € 171,149.14).
- **Small enterprise:** annual sales of over 150 UIT and up to 1,700 UIT (PEN 630,000.00 – PEN 7'140,000.00 or € 171,149.14 – € 1'939,690.30).

CONCEPT	REGULAR REGIME	SMALL ENTERPRISE	MICRO ENTERPRISE
Minimum wage	PEN 930.00	PEN 930.00	PEN 930.00
Weekly rest	24 hours	24 hours	24 hours
Public Holidays	Yes	Yes	Yes
Vacations	30 calendar days	15 calendar days	15 calendar days
Legal bonuses	100% of a monthly salary	50% of a monthly salary	None
Unemployment insurance (CTS)	8.33% of the monthly salary paid to the worker in the semester	15 daily salaries for each year of service (up to 90 daily salaries)	None
Health insurance	Private or <i>ESSALUD</i>	<i>ESSALUD</i>	<i>SIS</i> or <i>ESSALUD</i>
Complementary Insurance for Risky Work (SCTR)	Yes	Yes	No
Compensation for arbitrary dismissal	One and a half monthly salaries for each year of service, up to a maximum of 12 salaries.	20 daily salaries for each year of service, up to 120 daily salaries.	10 daily salaries per year of service, up to 90 daily salaries.

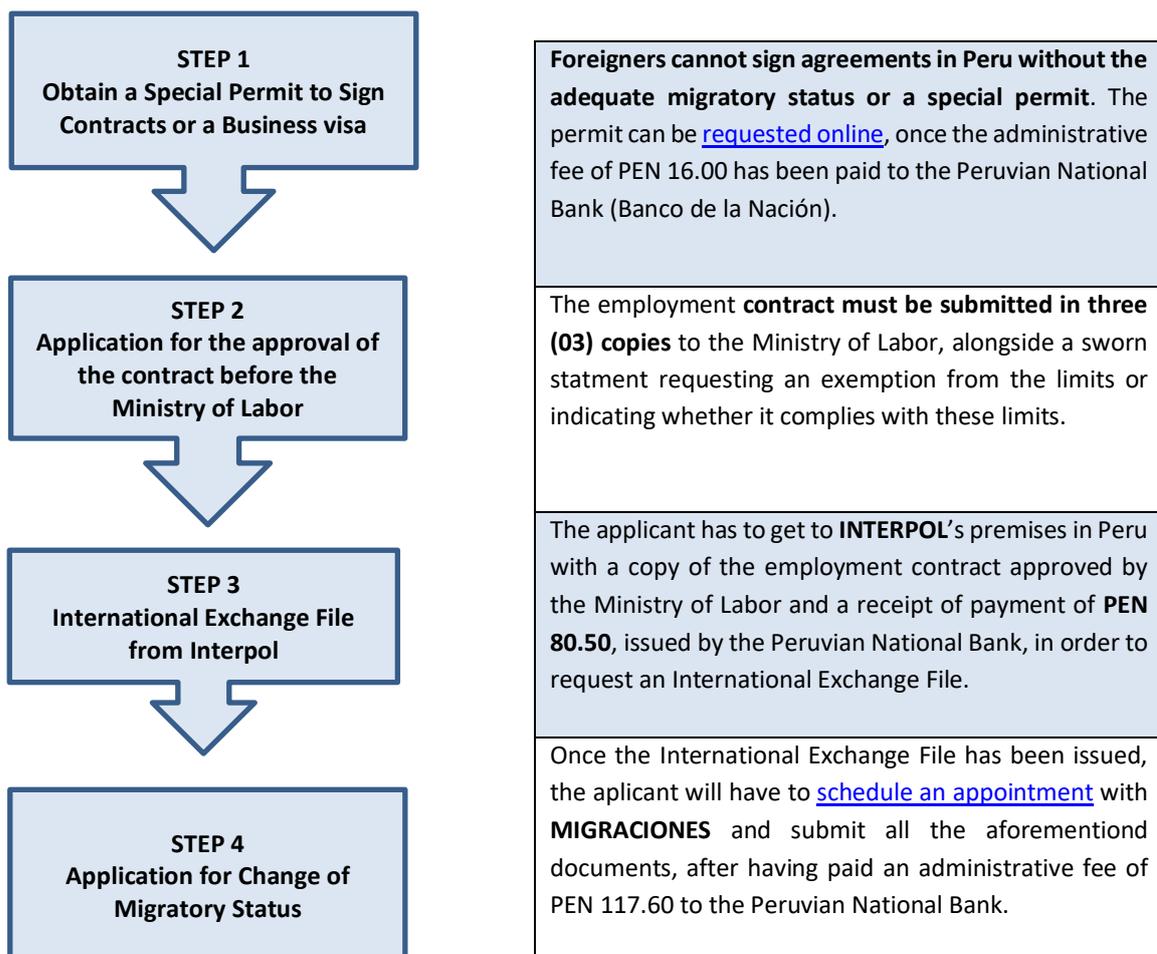
² The Tax Unit (*IUT*) is a fixed amount used for the calculation of administrative fees and fines. Each year the Ministry of Finance and Economy updates the UIT for the remainder of the year. The UIT for 2019 is PEN 4,200.00 (approximately € 1,140.00, according to the exchange rate of 3.681 as of 13 November 2019).

See the Taxation infocard for more information on workers' taxation in Peru.

Hiring foreign workers

The Peruvian labor legislation **allows for the hiring of foreign workers**, as long as these do not exceed 20% of the total personnel hired by the company and their combined salaries do not exceed 30% of the company's payroll. Nevertheless, there are exceptions to this rule, specifically for (a) professionals and specialized technicians and (b) management personnel related to a new economic activity, meaning a company within three (03) years of its incorporation or subject to corporate restructuring, which may apply to be exonerated from such limits before the Ministry of Labor ("MTPE").

Foreign employees may not start working until they have obtained a work visa, issued by the National Superintendence of Immigration ("**MIGRACIONES**"). In order to apply for such migratory status, foreigners who wish to work and reside in Peru will have to complete the steps listed below:





A migratory status under the category of “Business” can be requested at the airport, for a period of three (03) months by citizens of the Member States of the Schengen Area.

Note that if a foreign company appoints an employee in Peru for the performance of services, to the extent that this “designated worker” (*trabajador designado*) does not receive any order from the local company, they shall not be considered as an employee of the Peruvian company³.

Other obligations of the employer

SUBJECT	EMPLOYER’S OBLIGATIONS
Work Health and Safety (WHS) Law N° 29783	Establish a WHS Management System, which must be reviewed at least once a year.
	Carry out no less than four (04) WHS related training sessions a year.
	Annex WHS recommendations to each worker’s contract, which must be related to their position.
	Develop a risk map, which must be displayed in a visible place.
Work Health and Safety (WHS) Law N° 29783	Elect a WHS Supervisor, if the company has less than twenty (20) workers, or a WHS Committee, if the company has more than twenty (20) workers; who shall be in charge of the preparation and approval of WHS related policies and documents.
	Develop a WHS Internal Rulebook, if the company has more than twenty (20) workers, and give a copy of it to each worker.
Equal Pay Law N° 30709	Develop and apply a Table of Categories and Functions, which shall describe: <ul style="list-style-type: none"> • The job positions belonging to each category; • A general description of the characteristics of the positions; which justify their belonging in a category; • The arrangement of each category according to its value and the necessity of the economic activity of the company.
	Prepare, apply and send notice to the workers of an Equal Pay Policy.
	Not engage in acts of wage discrimination that respond to circumstances such as pregnancy, motherhood and/or fatherhood, breastfeeding, family responsibilities, or being a victim of domestic violence.

³ Issues related to the recognition of degrees are dealt with in the Postgraduate & Master Infocard.



<p>Prevention and punishment of sexual harassment Law N° 27942</p>	<p>Train the workers with regard to the laws and policies against workplace sexual harassment.</p>
	<p>Adopt the necessary measures to ensure that all threats and reprisals by the harasser cease, as well as all comments and behaviors of a sexist or sexual nature that may contribute to a hostile environment.</p>
	<p>Notify the Ministry of Labor of sexual harassment incidents, as well as of the results of the investigations carried out, to verify compliance with the law. Properly sanction the harasser.</p>

Useful Links

Ministry of Labor (MTPE):

<https://www.gob.pe/mtpe>

National Superintendence of Immigration (MIGRACIONES):

<https://www.migraciones.gob.pe/>

Interpol Peru (INTERPOL):

<https://www.gob.pe/7307-obtener-ficha-de-canje-internacional-interpol>

Website for online payments of the Peruvian National Bank:

<https://pagalo.pe/>

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