

# JOB

## 1. WHAT ARE THE LABOR RIGHTS OF MIGRANTS IN CHILE?

Migrants who are working in Chile have the same labor rights as Chilean people. In particular, they are entitled to:

- Having written employment contract.
- Gozar the same working conditions as regards:
  - Salary.
  - Working hours and overtime.
  - Weekly rest and paid leave.
  - Social security, health, rights to maternal, prenatal and postnatal immunity, among others.
- Enjoy basic health, hygiene and safety in the workplace.
- Forming and / or participate in unions.

The "International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families" states that "migrants enjoy the same treatment they receive and nationals of the country they are in respect of remuneration and other conditions of labor and employment." This Convention was ratified by Chile in 2005. From that moment it is in force, which commits the State to respect, protect and guarantee the rights contained in this international treaty.

## 2. WHAT IS A WORK CONTRACT?

### Can I claim it when starting to work?

The employment contract is an agreement between a worker who undertakes to provide services under the subordination and dependence on an employer in exchange for remuneration. It can exist only if both parties agree on the obligations and rights that give rise to employment.

Every worker has the right to formalize the employment relationship with their employer by signing an employment contract. This instrument must arise from a free agreement between worker and employer. This contract is useful to resolve misunderstandings or to go to the authorities in cases of breach of the agreement.

His employment contract must be written in Spanish and agree with the Chilean labor laws, so you must specify:

- The date employment began.
- The compensation you will receive.
- Work place.
- The length of the working day.
- The functions to be fulfilled.
- Who is your employer.

The employer is obliged to pay timely the **Quotes** Health for the National Health Fund (FONASA) or Social Security Health Institutions (ISAPRE) and corresponding contributions to the Pension Fund Administrators (AFP).

### 3. WHAT CHARACTERISTICS HAVE THE CONTRACT FOR MIGRANTS WORK?

You are signed in **notary's office** and contain certain special clauses:

- Remuneration. It must be consistent with the position or activity carried out in the country, and conform to Chilean labor standards (including respecting the minimum wage).
- Effective -Cláusula. This clause must be read as follows: "The obligation to provide emanating from this contract services may only once the worker has obtained the visa corresponding residence in Chile, or special work permit for foreigners with visa pending fulfilled" .
- Cláusula of Social Security System. It should be read as follows: "It is stated that the worker quoted in the Chilean pension system, committing the employer to deduct the dues and forwarded to the relevant institutions."
- Cláusula of income tax. It should be read as follows: "The employer is obliged to respond to the payment of the corresponding income tax in relation to the remuneration paid" (only for higher salaries to 13.5 UTM) .<sup>4</sup>

### 4. WHAT IS THE DURATION OF THE WORK DAY IN CHILE?

In Chile, the maximum working day is 45 hours per week. These can be divided into five or six days, and should consider a minimum 30-minute break for feed or snack.

<sup>4</sup> The Monthly Tax Unit is an amount of money that varies from month to month. Learn about its current value:[www.sii.cl/pagina/valores/utm/utm2017.htm](http://www.sii.cl/pagina/valores/utm/utm2017.htm)

In no case can be worked more than 10 hours daily routine. If more hours working than those in the employment contract, you are entitled to demand payment of overtime, which are calculated with an additional value of 50% of the value of the ordinary hour.

### 5. WHAT IF MY LABOR RIGHTS ARE NOT RESPECTED?

If any of their labor rights be violated and you have difficulties such as delay in payment of their salary, their pension contributions, or non-compliance with health and safety at work, you can:

- Provide a confidential complaint office **Labor inspection** closest.
- Provide a claim in the office of the Inspectorate of Labor nearest presenting their identity card, the name and address of the employer and home working.

If you believe your employment rights have been violated by being a migrant or other reasons, may also submit an application for protection or procedure of labor protection through a (a) lawyer (a) of the Labor Defense of Judicial Assistance Corporation, who will assist you for free. To contact them, call **600 440 2000**.

### 6. DO YOU HAVE PERMISSION REQUIRED TO WORK IN CHILE?

-To work in Chile, migrants must request permission, which can be ordered in the form of temporary residence available from the Department of Foreign Affairs and Migration or provincial immigration offices. You can review the form on the link [www.extranjeria.gob.cl/filesapp/solicitud\\_visas\\_temporarias\\_por\\_CORREO\\_2008.pdf](http://www.extranjeria.gob.cl/filesapp/solicitud_visas_temporarias_por_CORREO_2008.pdf)

In the case that you have filed a request for change or extension of visa or permanent residence, it is considered authorized to work and does not require asking permission from the authority.

## **7. WHAT IS THE PENSION SITUATION OF FOREIGN WORKERS IN CHILE?**

From the point of view pension, foreign workers at Chile must meet the same standards as any worker (Decree Law No. 3,500 of 1980, DFL No. 1 of 2005 of the Ministry of Health, Law 19.728, Law 16.744).

Notwithstanding the foregoing, No. 18,156 law gives the possibility of not performing in Chile paying pension contributions for sickness, disability, old age and death, the foreign worker who meets certain conditions, such as:

Companies which sign contracts with foreign technical staff (it is understood that a technician is every worker "who possesses the knowledge of a science or art").

Abroad, which is affiliated to a social regime outside of Chile, covering the benefits listed (sickness, disability, old age and death).

The employment contract which contains a clause on pension affiliation outside Chile, and the worker expresses its willingness to keep this affiliation.

The foreign worker who chooses not listed in Chile, will be deprived of access to the benefits of the Chilean pension system, except derivatives cover system of occupational accidents and occupational diseases and unemployment insurance, which are compulsory contributions for employer.

## **8. WHAT IF AN EMPLOYER DOES NOT PAY THE QUOTES FOREIGN WORKER?**

If the employer does not pay worker contributions monthly, the Labor Directorate, through its inspectors, establish fines to the employer. In this case, the offender is the employer, not the worker.

## **9. WHAT IF YOU WORK WHILE IN ILLEGAL IMMIGRATION STATUS?**

You as a worker would be violating the law on aliens.

An employer who hires foreign workers in an irregular situation, meanwhile, infringe labor and social security legislation.

## **10. WHAT IS THE ACCIDENT AND OCCUPATIONAL DISEASES?**

It is a social insurance mandatory and paid by the employer. Occupational Safety Institute (ISL) is the public service responsible for granting social security benefits against risks of occupational accidents and occupational diseases. This insurance includes:

- activities prevention in your workplace to prevent the occurrence of accidents or occupational diseases.

- medical -Performances generated following an accident, commuting accident or occupational disease.

- In the event that following the accident or disease sequelae or death of the worker are generated, the ISL is in charge of delivering economic benefits to mitigate the consequences of that situation.

These benefits at no cost to the employee and delivered to achieve recovery or while supplies last aftermath of the accident or illness.

#### **11. WHAT SHOULD I DO IF YOU SUFFER AN ACCIDENT OR WORK Commuting?**

If you suffer an accident at work or on the way to it, you must follow these steps:

- Informing your direct supervisor or boss.

- Informing your insurance agency, which will tell you where to be addressed.

- the employer must report the accident or ride a branch of the ISL.

- You, as affected, receive medical care and appropriate benefits to its recovery.

This insurance protects all dependent workers.

Sources:

Passbook "right to work of migrants", National Institute of Human Rights.

Information booklet for foreign workers, ISL. •[www.isl.gob.cl](http://www.isl.gob.cl)