

News in Labor Migration

Executive Decree No. 6 of April 13, 2023, amended and introduced new concepts, terms, and conditions regarding the types of work permits for foreigners. From its content, we can highlight for its high relevance the seven (7) points explained below:

I. Workers considered local labor.

1. Migrant workers with ten (10) or more years of residence in the country.
2. Migrant worker with a spouse of Panamanian nationality:
 - ◇ With the current marriage.
 - ◇ With Parental authority in case of divorce.
 - ◇ With Parental jurisdiction in case of widowhood.
3. Migrant worker with exceptional permanent residence.
4. Migrant worker for family reunification, as father or mother of a Panamanian person with a dependency condition.
5. Migrant Worker in attention to the Treaty of Friendship, Commerce, and Navigation between the Republic of Panama and the Italian Republic.
6. Migrant workers dependent on diplomatic, consular, administrative, and international organizations accredited in Panama.
7. Specific countries that maintain friendly, professional, economic, and investment relations with the Rep. of Panama (Executive Decree No. 140 of August 2, 2012).

The highlight of this classification is that it is recognized in writing that the work permits listed from 3 to 7 will not be considered within the percentages of salary and local labor.

II. Percentages authorized by the Labor Code.

1. Migrant workers hired by an employer as Ordinary Personnel Within 10% of the total number of workers.
2. Migrant workers hired by an employer as a Specialist or Technician within 15% of the total number of workers.
3. Migrant workers hired by an employer as Trusted Personnel within 15% of the total number of workers.



4. Migrant Worker hired by Micro or Small Employer (MIPE) (Marrakesh Agreement).
5. Migrant workers hired as Trusted Personnel whose transactions are perfected, consummated, or have their effects abroad exclusively.

The highlight of this category is that it is established that in the same company, there may be staff within ten percent (10%) and technical or trusted personnel within fifteen (15%) of the total of workers, excluding both percentages among themselves. It also clarifies the requirements that personnel must meet to be considered within 15% of the technical staff, such as transferring knowledge through training to the national team and sending the Ministry of Labor the technical reports and evidence demonstrating compliance with the above. The Trusted Personnel whose transactions are perfected, consummated, or have their effects abroad are excepted from the calculation of percentages.

III. Work permits covered by special laws.

1. Migrant workers hired as an executive by a company in the Colon Free Zone.
2. Migrant workers hired by an authorized employer within the City of Knowledge Foundation (CDS) regime.

3. Migrant Worker hired by an employer within the Panama Pacific Area:
 - a. For workers within 10% of ordinary workers.
 - b. For workers within the 15% of technical or specialist workers, both in technical aspects and administrative management matters.
 - c. For workers who exceed fifteen percent (15%) of technical workers or specialists, both in technical aspects and administrative management matters.
 - d. For workers of companies that have less than ten workers.
 - e. For workers of companies that are dedicated exclusively to maintaining offices to direct transactions that are perfected, consummated, or have effects abroad.
4. Migrant workers hired by an employer within the Free Zone regime or another special economic regime whose legislation refers to the Free Zone regime:
 - a. Migrant workers hired by an employer as trusted personnel within 15% of the total number of workers.
 - b. Migrant workers employed by an employer as regular staff, within 10% of the total number of workers.
 - c. Migrant workers employed by an employer as specialized or technical personnel, within 15% of the total number of workers.
5. Work permit for dependent of a migrant worker holding a visa or residence permit utilizing special laws.
6. Work permit for migrant workers holding a Temporary Personnel Visa of a Multinational Company to provide services related to Manufacturing (EMMA).
7. Migrant workers hired as a pilot or specialized personnel of a commercial aviation company.

This classification highlights that the new Work Permit for Migrant Workers holder of Temporary Personnel Visa of Multinational Enterprises is introduced to provide

services related to Manufacturing (EMMA). In addition, it clarifies that dependents of migrant workers under a visa or immigration residence permit granted through special laws (i.e., SEM Staff and EMMA) will be able to work in the Republic of Panama if they meet the requirements to apply for a work permit in any of the existing categories. The percentages indicated in Article 17 of the Labor Code are exempt from the Migrant Worker hired as an executive by a company of the Colon Free Zone and Migrant Worker hired by an authorized employer within the regime of the City of Knowledge Foundation (CDS).

IV. Work permits covered by special economic and investment policies.

1. Specific countries that maintain friendly, professional, economic, and investment relations with the Rep. of Panama in case of investment.
2. Permanent resident as a Qualified Investor.
3. Under the special migratory category of Own Economic Solvency.
4. By existing special categories of particular economic and investment policies.

It should be noted that for the renewals, an affidavit of income tax must be presented with its corresponding good standing certificate issued by the General Directorate of Income or proof of payment of nine (9) installments of the Social Security Fund (CSS).

V. Work permits for migrant workers under the protection of the Panamanian state.

1. That it has been admitted to the procedure of refuge.
2. That he has been recognized as a refugee.
3. Refugee with permanent residence.
4. Refugee.
5. Stateless person
6. Victim of trafficking.
7. For humanitarian reasons

The work permits listed in points 4, 5, 6, and 7 are introduced. It is important to note that migrant workers of this classification are included in the percentages established in Article 17 of the Labor Code and will have the same rights and obligations as local laborers.

VI. Work permit established by special migratory conditions.

1. Specific countries that maintain friendly, professional, economic, and investment relations with the Rep. of Panama for work.
2. General Migratory Regularization (Crisol de Razas).
3. Professional Migrant (Professional Foreigner)
4. Migrant for family reunification for dependents of a resident.
5. Student.

The Executive Decree creates the figures for numbers 4 and 5. Applicants for work permits for special conditions must verify that they are self-employed (self-employment) or employed as an employee, i.e., linked to an employer with an employment contract. Migrant workers employed under the condition of employment are included in the percentages established in Article 17 of the Labor Code.

VII. Work permit established for temporary migrant workers.

1. Temporary technicians.
2. Athletes.
3. Artists.
4. Workers of night shows.

The most important thing to highlight is that the validity of work permits for temporary workers may be up to three (3) months, with three (3) additional renewals. That is, authorization to work can be obtained for a maximum term of up to one (1) year. These should be included in the percentages established in Article 17 of the Labor Code. The migrant worker who enters the country to conduct business activities as a travel agent of commercial houses,

administrators, or international auditors for a maximum of fifteen (15) calendar days without generating local income will be obliged to inform the Ministry of Labor using a note or application.

Other relevant data:

- **Permanent residence:** Foreigners who have been granted a permanent residence permit (E-Id card) may apply for any category of work permit regardless of the immigration status they have obtained. (article 7)
- **Renewals:** Work permits under special immigration conditions (i.e., Friend Country, Professional Foreigner) and permanent residents will be governed under the same conditions at the time of submission of the first application. (Article 172).
- **Procedure certification:** valid for thirty (30) business days.
- **Payroll certification:** Employers with over twenty (20) workers must submit a certificate by an authorized public accountant with the information described in Article 143.
- **Time Table:**
 - ◇ Each work permit application must be resolved within forty (40) business days.
 - ◇ Applications for Work Permit Extensions may be requested sixty (60) calendar days before permit expiration.
- **Penalties:** The amount of the penalty for non-compliance for lack of work permit is maintained for the first time, US \$500.00, the second time, US \$1,000.00, and increases for the third time from US \$10,000.00 to US \$15,000.00.