



# EMPLOYMENT IN ARGENTINA



Argentina is the third most populous country in South America and the second largest. Argentina is defined as an 'emerging market' by the FTSE Global Equality Index. It is the second largest economy in South America after Brazil. The service sector in Argentina dominates almost 64% of GDP followed by the industrial sector at 25% of GDP. Argentina's labour laws have strict worker protections including rules on working hours, conditions, salaries & sick pay. Below is some key information regarding employment in Argentina, intended to provide a brief overview of employment law in Argentina. It is not intended as substitute for professional legal advice and counsel.



## WORKING TIME AND OVERTIME

Working hours in Argentina should not exceed 48 hours per week or 8 hours per day. A workday maybe extended due to exceptional circumstances but should not exceed an additional 3 hours per day (8 hours per week), 30 hours per month and 200 hours per year. The overtime rate is an additional 50% of the salary and 100% for work on Saturdays after 1pm, Sundays and public holidays. Employees should have a minimum of one rest day for every 6 days worked. Employees are entitled to a rest period of at least 12 hours between two working days.

## ANNUAL LEAVE

Annual leave entitlement in Argentina largely depends on length of service with an employer. Generally, the following applies. 14 calendar days for employment less than 5 years, 21 days for employment between 5 to 10 years, 28 days for employment between 10 - 20 years and 35 days for employment over 20 years. There are 12 public holidays in Argentina. Additionally, employees in Argentina are also entitled to 10 days leave for marriage.

## TRIAL PERIOD

Generally, probation periods in Argentina are 3 months. However, collective agreements may extend the probationary period to 6 months. This is very common within smaller businesses of 40 employees or less. A probation period may even be extended up to 12 months for skilled employees.

## RESIGNATION AND DISMISSAL

The employee may unilaterally terminate the employment contract by giving the employer notice in writing of 15 days. Either parties may terminate employment within the probation period in writing and providing 15 days' notice. Once the probation period has ended the notice period will be 1 month when length of service is between 3 months to 5 years and 2 months notice for over 5 years of service. In addition to notice, employees will also be entitled to compensation payments, this is based on the employee's salary. If the employment is terminated with over one years service without a justified cause, then the employee is entitled to 30 days salary for each year up to 330 days. The employee will also be entitled to payment of notice days if prior notification was not given as well as payment of any annual leave days not taken.

If an employee was based on a specific contract or task and this ends prematurely they will be entitled to 2.5 days of salary for each month worked. The settlement, resignation and mutual agreement must be provided must be provided in writing. The settlement payment will need to be paid within 10 working days.

If an employee is made redundant there will still be a compensation payment. However, this will be at a reduced rate, typically 50% of the monthly salary. An employee will not be entitled to compensation payments based around dismissal regarding the conduct of the employee.



## RESIGNATION AND DISMISSAL CONT...

For example serious misconduct such as harassment, assault, immoral conduct, non-attendance of the employee to work without cause or notification for two days or more in a row, prohibited negotiations by the employee within work, breach of obligations within the work contract, acts of recklessness that affect the safety of the business, intentional damage to company property, abandonment of work by the employee e.g. refusal to work without justified cause and abandoning work during working hours without prior consent.

An employee may terminate the employment relationship by constructive dismissal if the employer fails to discharge his or her obligations under the contract. In this case the worker is entitled to payment in lieu of notice, and to an indemnity equal to that which is payable by the employer in the case of dismissal without cause.

Employees can also claim severance for unfair dismissal, plus an additional amount that increases the severance payment by 50%. However, in some cases where dismissals have been found to be discriminatory, the courts have ordered the reinstatement of the employee. There is currently no separate claim for wrongful dismissal.

### RESTRICTIVE COVENANTS

During employment, employees are obliged to respect their employer's intellectual property, confidentiality and non-compete provisions. There are no specific laws around restrictive covenants after the termination of employment. However, the constitution provides freedom of work, which means that the employee may challenge any non-compete or non-solicitation provisions after termination of employment. The employee is obliged by labour laws not to compete during any current employment relationship. Restrictive Covenants, such as non-compete or non-solicitation of customers, after termination of employment will need to comply with specific requirements.

### CONTRACT OF EMPLOYMENT

Written contracts of employment are not required for permanent, full-time employees. However, they are recommended. Employees on fixed term contracts, part time, or casual employment will require a written contract.

### MATERNITY AND PATERNITY LEAVE

Expectant mothers are entitled to 90 days maternity leave (Licencia por maternidad). This is usually taken 45 days before the birth and 45 days after. However, many employees choose to take 30 days before the birth and extend their leave following the birth. The leave before the birth cannot be reduced to less than 30 days. Additional unpaid leave (período de excedencia) between 3 - 6 months can be requested. Maternity pay is not paid by the employer but by social security. This is the equivalent to normal remuneration. Fathers are entitled to 2 days paternity leave (Licencia por paternidad) which must be taken immediately after the birth.

### SICKNESS LEAVE

Employees with less than 5 years continuous service are entitled to up to 3 months paid sick leave, this can be extended to up to 6 months with over 5 years continuous service. If the employee has family these periods are doubled. Sick pay is covered by the employer. The employee will be required to submit an examination by a doctor to verify the illness. Once the period of sickness has expired, if the employee is still unable to return to work, then they are entitled to a further 12 months unpaid leave. The employer must keep the employee's position open during this period. If the employee is then found to have a permanent disability that prevents them from being able to perform the same work, the employer will either need to make reasonable adjustments or work in line with the disability. If the employer can prove they are unable to provide this, then the



### SICKNESS LEAVE CONT...

employer can terminate employment by paying 50% severance compensation in line with dismissal without justified cause. The employer would need to pay 100% the case of a total permanent disability.

### SOCIAL SECURITY

All employers and most employees are required to contribute to the social security (Administración Nacional de la Seguridad Social) and pension funds. Exceptions are with some foreign employees that fall into certain categories. Argentina has social security agreements with a number of countries. Employees coming from these countries are exempt from social security payments to the Argentine retirement and pensions fund if in their home country they will be covered by proportional systems. These countries include Brazil, Chile, Greece, Italy, Paraguay, Portugal, Spain and Uruguay.

### HEALTHCARE AND INSURANCE

Healthcare is available for all employees in Argentina providing free medical treatment and hospital care. There are both employer and employee contributions based on the employee's salary. It is common for employers to also offer a healthcare plan that exceeds the social security coverage. Offered Employers must provide insurance in relation to an employee's disability, illness, or death at work. This must be through an authorised insurance company which will provide medical and financial assistance to the affected employee. Life insurance is also mandatory paid by the employer via monthly contributions.





# EMPLOYMENT OF FOREIGN NATIONALS

Most foreign nationals will need an employment permit to work in Argentina. Generally, work visas can only be processed in the applicant's country of residence at the Argentinian Consular.

## 23A LABOUR CONTRACT VISA

This visa applies to applicants who will be employed by a local Argentinian company on a long-term basis. A contract of employment will be needed as proof of employment for the visa application. This will be valid for one year and can be extended. The applicant will be considered a local employee and therefore must apply for a CUIL number (Unique Code of Labor Identification).

## 23E INTRA COMPANY TRANSFER VISA

This visa will apply to employees who are transferred from their home country to the Argentinian branch of their employer on a long-term basis. This is valid for one year and can be extended. The visa specifically applies to employees with positions such as scientists, specialists, technicians, some management, and administration.

## PASSIVE INCOME OR FINANCIER VISA (RENTISTA VISA)

The rentista visa is a flexible income visa. To be eligible applicants will need to show income of at least 2,000 USD per month. Applicants are able to work in Argentina but not as an employee. Therefore, applicants will need to be self-employed or running their own business. This visa would be suitable for remote workers, digital nomads, location independent business owners or freelancers. The visa is valid for one year and renewable for up to three years.





# SALARY AND SALARY TAXES

## MINIMUM WAGE

The national minimum wage in Argentina is currently 38,940 Argentinian pesos ARS. This is set to increase again in June 2022.

## INCOME TAX

The Argentinian tax year runs from January to December. It is the employers responsibility to ensure taxes are paid from salaries before payments are made to employees. The general personal income tax rates are listed below as guidance.



<b>Salary</b>	<b>Up to 64,532.64 ARS</b>	<b>64,532.64 - 129,065.29 ARS</b>	<b>129,065.29 - 193,597.93 ARS</b>	<b>193,597.93 - 258,130.58 ARS</b>	<b>258,130.58 - 387,195.86 ARS</b>
<b>Tax payable</b>	5%	9%	12%	15%	19%
<b>Salary</b>	<b>387,195.86 - 516,261.14 ARS</b>	<b>516,261.14 - 774,391.71 ARS</b>	<b>774,391.71 - 1,032,522.30 ARS</b>	<b>1,032,522.30+</b>	
<b>Tax payable</b>	23%	27%	31%	35%	



## SALARY PAYMENTS

Salaries in Argentina are most commonly paid on a monthly basis. However, employees on an hourly salary will need to be paid either weekly or bi-weekly. Argentinian local law states employees are entitled to receive an additional month's salary, a 13th-month bonus salary known as Aguinaldo. This 13th month salary is payable in two instalments, typically these are paid in June and December.

## SOCIAL SECURITY CONTRIBUTIONS

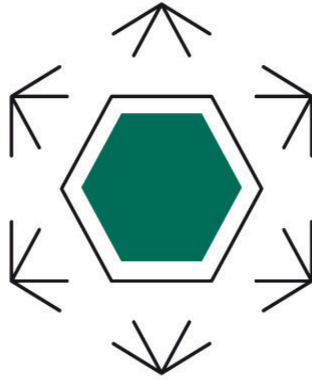
Social security contributions in Argentina are the responsibility of the employer to deduct from an employees salary before payment. Both the employer and employee are subject to social security contributions.

An employers contributions stand at approximately 37%. However, this may vary. Below is a list of typical contribution components.

- Retirement & Pension scheme
- National Institute of Social Services for Retired Persons and Pensioners
- Christmas Bonus
- Vacation Bonus
- Family Allowance and National Employment Fund
- Social Support Programs
- Disability Insurance
- Life Insurance

An employees contributions are approximately 17%. Contributions are capped at 28,000.65 ARS for employees on the below contributions.

- Pension Fund
- Social Security
- Health Insurance



# EMERALD TECHNOLOGY

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