



# EMPLOYMENT IN SPAIN



The Spanish Labour Laws governs the relationship between employees and employers of all types. People who work in Spain can rely upon a minimum set of employment rights. A key aspect of Spain's employment legislation is the Workers' Statute (Estatuto de los Trabajadores), which regulates many aspects of individual and collective employment relations. Below is some key information about employment in Spain, intended to provide a brief overview of employment law in Spain. It is not intended as a substitute for professional legal advice and counsel.



## WORKING TIME AND OVERTIME

The standard working week in Spain is 40 hours per week. However, this may vary depending on occupations. Employers must ensure there is a 12 hour rest period between working days. A typical Spanish working day tends to be from 8.30am or 9am to around 1.30 pm and then from 4.30pm or 5pm to around 8pm.

The famous siesta, whilst declining in the larger cities, is still a major part of the working day in Spain. Siesta is a mid-afternoon break, usually around three hours, which gives employees a break from work during the intense midday heat. Most people tend to go home for lunch, spend time with their family or relax during this time. Employees that work more than 6 hours uninterrupted are entitled to a minimum 15 minute break. Employees cannot work more than eighty hours of overtime (horas extraordinarias) in a single year unless there is a collective agreement in place.

## ANNUAL LEAVE

Full-time employees are entitled to a statutory minimum of 30 calendar days' annual leave per annum (pro rata for part-time employees). One period of annual leave taken must be 2 weeks. Payment in lieu is not allowed for holidays unless employment is terminated. It is up to employers whether public holidays form part of that entitlement. There are usually 8 nationwide public holidays. However, there are other public holidays on a regional level.

## TRIAL PERIOD

Generally, a probation period in Spain is between 2 to 6 months. A probation period cannot exceed 6 months.

## RESIGNATION AND DISMISSAL

An employee may unilaterally terminate their employment by providing written notice to their employer. Typically, this is 15 working days but will be stated in the contract of employment. During a probation period either party may terminate employment without prior notice with no need to provide a reason for termination.

Termination from the employers side once a probation period has ended cannot take place without a statutory reason such as collective dismissal (economic, technical, production, organisational), retirement, disciplinary dismissal (e.g gross misconduct), incapacity, circumstances that prevent the provision of work, objective dismissal. Please be aware this list is not exhaustive.

For all types of dismissal, the employer must deliver a letter of termination to the employee. This letter must include the date of termination and the reasons for the dismissal. An employee has up to 20 days after receiving the letter of termination to initiate a court case for unfair dismissal.

In the case of objective dismissal (despido objetivo), employees are entitled to 20 days of salary for each year of service. With a maximum of 12 instalments.

Unfair dismissal (despido improcedente), employees are entitled to 33 days of salary for each year of service. With a maximum of 24 instalments. There will not be any statutory compensation if the employee ends their employment or if there is a mutual agreement between the employee and the company. However, both parties may voluntarily agree on a specific compensation in order to terminate employment.

## CONTRACT OF EMPLOYMENT

Spanish employment contracts can be verbal or in writing. However, Spanish labour law does require certain contracts to be in writing such as part time contracts, temporary and contracts that involve special labour relations e.g commercial representations, lawyers, higher management. It is best practice to produce a written contract of employment. The Public State Employment Service (SEPE) should receive a copy of the contract within 10 days of this coming into operation. The contract will need to state details of employer and employee, time period of contract, professional category, work location, schedule i.e hours/days, salary as well as any other benefits or compensation, holiday entitlement, notice periods and applicable collective agreements.

## MATERNITY AND PATERNITY LEAVE

Expectant mothers in Spain are entitled to 16 weeks of maternity leave (Permiso de Maternidad). Of these 16 weeks, 6 weeks are mandatory after the birth and the other 10 weeks are optional. Up to 4 weeks can be taken before the birth but this is usually covered as sick leave. To be entitled to maternity leave the mother should have been working either for a company or self employed and made the following contributions to social security.

- Under 21 years old - no minimum period of contribution to the Social Security
- Between 21 and 26 years old - 90 days of contribution during the prior 7 years, or 180 days in total.
- Over 26 years old - 180 days of contribution during the prior 7 years, or 360 days in total.

If these requirements are not met then they may still be entitled to a grant of approximately €530 per month. Since 2019 maternity and paternity leave have been unified, meaning expectant fathers are entitled to the same 16 weeks of leave. The procedure is the same for payment entitlements.

## SICKNESS LEAVE

Once an employee has been signed as unfit to work by a healthcare professional such as a doctor, they are entitled to receive sick pay for 1 year. This can be extended by a further 6 months. Employees are entitled to sick pay if they have paid into social security for 180 days in the five years before illness. The first 3 days of illness the employee receives 0%, days 4 to 20 they receive 60% of salary and days 21+ is 75% of salary. The payment is chargeable to the employer until day 15 where it then falls to the social security administration.

## SOCIAL SECURITY

Anyone working in Spain must register with the Spanish social security service. Contributions must also be made to the Spanish social security system (Sistema Nacional de la Seguridad Social) so an employee is able to access benefits such as illness, maternity, paternity, unemployment. Both employers and employees must contribute based on salary.

## HEALTHCARE AND INSURANCE

The public healthcare system in Spain is of high quality. Companies in Spain may offer their employees private medical insurance as a benefit or within the flexible compensation plan. Healthcare in Spain consists of both private and public healthcare, with some hospitals (hospitales) and healthcare centres (centros de salud) offering both private (privado) and state healthcare services (asistencia sanitaria publica).



## HEALTHCARE CONT...

Employees will need to apply for healthcare at one of the many “Centros de atención e información de la Seguridad Social” and the “Instituto Nacional de la Seguridad Social” (INSS)” will confirm their eligibility. This eligibility will mostly depend on the personal contributions to the social security system.

# EMPLOYMENT OF FOREIGN NATIONALS



Most non-EEA nationals must have an employment permit to work in Spain. Below are the three most common work visas for Spain.

## 1. SPAIN WORK PERMIT: Employee (permiso de trabajo por cuenta ajena)

This option is for foreigners looking to work for a Spanish business. Applicants will need an offer of the job subject to a successful work permit application. Not all jobs qualify. The occupation must be on a list of in demand jobs and skills. This list does change constantly. Otherwise, the Spanish company offering the job must have tried and failed to fill the job with an EU citizen. The exception is direct family members of legal Spanish region.

## 2. HIGHLY SKILLED PROFESSIONAL WORK PERMIT (Highly qualified worker)

There is a separate Spanish work visa for highly qualified professionals that take senior roles in Spain. Applicants must have a job offer from a qualifying Spanish company. Be working as a Senior Manager or highly skilled technical position. Be earning a significant salary, this varies depending on the industry and job role. Or applicants must have a job offer from a University, government department or research institute in a qualifying role.

## 3. INTRA-CORPORATE TRANSFER VISA

An existing employer outside of Spain is able to transfer an employee to an affiliated company within Spain. Requirements are that the person has been employed by the company for over 3 months, the company holds the employment contract outside of Spain, social security contributions are made outside of Spain, the employee has a three-year degree or three years of professional experience. The company will need to apply on behalf of the applicant.





# SALARY TAXES

## MINIMUM WAGE

The minimum wage (SMI, or Salario Mínimo Interprofesional) applies to all workers in Spain regardless of contract. The minimum wage is €1,166.66 per month as of January 2022. This is taking into account that an employee will receive 12 monthly payments throughout the year.

## INCOME TAX

The Spanish 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. Below is a list of tax thresholds for employees.



Tax per annum	Up to €12,450	€12,450 - €20,200	€20,201 - €35,200	€35,201 - €60,000	€60,001 - €300,00	€300,000+
Tax payable	19%	24%	30%	37%	45%	47%

## SALARY PAYMENTS

Salaries in Spain are often paid in 14 instalments, 12 monthly payments and an additional payment in July and December. However, this can differ among companies and collective agreements.

## SOCIAL SECURITY CONTRIBUTIONS

Social security contributions in Spain are the responsibility of the employer to deduct from an employees salary before payment. Contributions are levied as a percentage of gross salary, the amount an employer pays can vary depending on an employees contract, region, industry and position but are approximately 30% and employees approximately 6.35%.

Employer contributions are capped on an employees salary, the minimum monthly base is €1,125.90 and the maximum €4,139.40. This can be subject to change.



# EMERALD TECHNOLOGY

[www.emerald-technology.com](http://www.emerald-technology.com)  
[info@emerald-technology.com](mailto:info@emerald-technology.com)  
+44 (0) 870 889 0300

## Europe

Somerset House  
37 Temple Street  
Birmingham  
B2 5DP  
United Kingdom

## Asia Pacific

22 Malacca Street  
#03-02  
RB Capital Building  
Singapore  
048980

## Middle East

Business Central  
Towers  
PO BOX 503055 2001A  
Dubai Internet City  
UAE