



EMPLOYMENT IN PERU



Peru is the fourth most populous country in South America and the third largest. Peru is the third largest economy in South America after Brazil and Argentina. The service sector in Peru contributes almost 60% of GDP. The industrial sector follows contributing 32%. Almost 33% of Peruvian software developers are seeking employment, making Peru an ideal outsourcing destination where tech talent outstrips demand. Employees in Peru are protected by the countries labour laws for example working hours, overtime , and the the minimum wage.

Below is some key information on employment in Peru, intended to provide a brief overview regarding employment law in Peru. It is not intended as substitute for professional legal advice and counsel.



WORKING TIME AND OVERTIME

Working hours in Peru should not exceed 48 hours per week, 8 hours per day, 6 days per week. Overtime is paid at an additional 25% for the first two hours and then 35% for any overtime after. Employees are entitled to an unpaid break of 45 minutes; this will not be part of the working day unless agreed. Employees are entitled to a rest period of at least 12 hours between two working days.

ANNUAL LEAVE

Full-time employees are entitled to 30 calendar days' annual leave per annum. There are 12 public holidays in Peru. Some companies may also offer additional holiday or have more favourable holiday rules in place through a unilateral decision by the employer, agreement, or a collective labour agreement.

TRIAL PERIOD

Most employment probation periods in Peru are 3 months. Probation periods can be extended to 6 months for executive level and skilled employees.

RESIGNATION AND DISMISSAL

The employee may unilaterally terminate the employment contract by giving the employer notice in writing of 30 days. Following the probation period an employee can only be dismissed if there is a just cause established in Peruvian employment law. The cause will need to be related to the conduct or capability of the employee, or the operational requirements of the business. Below are examples of operational requirements.

- Liquidation of the company due to bankruptcy or insolvency
- Economic, technical, or structural
- Force majeure i.e. acts of God
- Forced liquidation or dissolution by court order

Employees collectively dismissed for economic, technical, and structural reasons will be entitled to the following compensation.

- 22 days for each complete year of service up to 8 years
- 10 days for each additional year up to 4 years
- 7 days for each additional year up to 4 years

Employees in Peru are entitled to certain notice procedures prior to separation. Generally, an employer will need to provide a period of written notice no less than 6 calendar days so the employee can submit a written defence to any charges against them. Or to provide 30 calendar days to prove an employee's capability or to correct any error.



RESIGNATION AND DISMISSAL CONT...

An employer will not be required to provide written notice if the employee has displayed serious misconduct, which it would then be unreasonable for the employer to continue the employment relationship. An employer will always be required to communicate in writing to the employee, or as required a trade union or other representative the dismissal decision and reason. Examples of misconduct are failure to comply with employment obligations, attending work under the influence of drugs or alcohol, violence, deliberate damage to company property, failing to attend work without reason for three consecutive days, repeated lateness where written warnings have already been provided, unprofessional conduct towards employer inside and outside of work.

If an employee is terminated without a justified cause they will be entitled to compensation as below.

- 45 days for each completed year of service, a minimum of 90 days up to a maximum of 8 years
- 30 days for each additional year up to 8 years
- 15 days for each additional year up to 8 years

Fractions are paid for twelfths and thirtieths, provided that the compensation exceeds the minimum amount.

RESTRICTIVE COVENANTS

Non-compete obligations are not legally regulated in Peru. Any non-compete clauses would be a contractual provision that equates to the employee's legal obligation not to compete unfairly with their employer. It is generally advisable to include a non-compete clause in a written employment contract.

CONTRACT OF EMPLOYMENT

Contracts of employment can be written or verbal in Peru. However, it is always best practice for these to be provided in writing, in the local language. The contract should include an overview of benefits, compensation, and termination procedures. Fixed term contracts must always be in writing and are permitted for up to 5 years. Employers are required to register fixed-term contracts with Peru's Labour Ministry. Companies in Peru may only employ foreign workers if the proportion of foreign employees does not exceed 20% of total employees within the company. Contracts of employment for foreign employees must always be writing and cannot exceed 3 years but can be extended.

MATERNITY AND PATERNITY LEAVE

Expectant mothers in Peru are entitled to 14 weeks paid maternity leave. This is split so 7 weeks are taken before the birth and 7 weeks after. To qualify for maternity benefits the employee must have worked 3 consecutive months or 4 non-consecutive months of the 6 months before maternity leave. The National Health System (EsSalud) or the Private Health System (Entidades Promotoras de Salud or EPS) compensates maternity leave. Fathers are entitled to 10 days of paid paternity leave after the birth.

SICKNESS LEAVE

Employees are entitled to 365 days of sick leave (1 year). The first 20 days of sick leave are paid by the employer. After the first 20 days the sick pay is then paid by social security. After one year, if the employee is not fit to return to work, they can apply for a disability pension. To qualify for the social security fund sick payments, an employee must have at least 3 months continuous service.



SOCIAL SECURITY

Both employers and employees are required to make contributions towards social security in Peru. Generally, the employer will contribute 9% based on an employee's salary towards the health insurance side. Through this, an employee can receive medications, consultations, and treatments in case of illness or accident. The employee will contribute 12.5% - 13% for the pension funds. Within the pension system, there are two options for workers: the SNP, or national pension system, and the SPP, or private pension system. The contributions with the national pension system (SNP) are 13%, contributions with the private pension system (SPP) are between 10% - 12.5%.

HEALTHCARE AND INSURANCE



Most of the Peruvian population are covered by some type of type of health coverage. Health insurance in Peru is split between the state -subsidised Comprehensive Health Insurance (SIS) and the Social Health Insurance (EsSalud). There is also the Private Health System (Entidades Promotoras de Salud or EPS). 25% of the amount paid to the EPS can be used as credit against EsSalud contributions. Employers may also provide supplemental health insurance. CTS (Service Time Contribution) is a social benefit provided to an employee similar to a 'mandatory savings' that will help them face future possible issues such as termination of employment and supporting family whilst seeking employment. An employee will receive money accumulated in the CTS fund.

Employees working within the private sector are entitled to this benefit and must have worked for at least one month with their employer and work a minimum of 20 hours per week. The employer will need to make payments within the first 15 days of the months of May and November.



EMPLOYMENT OF FOREIGN NATIONALS

Most foreign nationals will need an employment visa to work in Peru. Below are the two most common visas. Any documents must be translated into Spanish by a certified translator or a sworn public translator.

WORK VISA

Work visas need to be applied for with the General Directorate of Immigration and Naturalisation (DIGEMIN) which issues the Peruvian work visas. Applicants will need to have a contract of employment for at least 12 months approved by the Peruvian Labour Ministry for a resident work visa. Applicants with a contract duration of less than 12 months or with a probation period will need to apply for a temporary work visa. If an applicant is already in Peru on a tourist visa, they will need a permiso para firmar contratos (a special permission to sign contracts) before they can legally sign the contract.

PROFESSIONAL WORK VISA

Applicants can apply for a visa for independent professionals or Peru professional visa so they can work as a freelancer whilst living in Peru. This gives the right to work in Peru as a freelancer, whilst not being employed under a contract.





SALARY AND SALARY TAXES

MINIMUM WAGE

The national minimum wage in Peru increased in May 2022 to 1,025 PEN (Sol) per month.

INCOME TAX

The Peruvian 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. One unit is equal to approximately 4,400 PEN. Non-residents are subject to flat tax rate of 30% on total taxable income.



Salary	Up to 5 Units	5 Units - 20 Units	20 Units - 35 Units	35 Units - 45 Units	45 Units +
Tax payable	8%	14%	17%	20%	30%



SALARY PAYMENTS

Salaries in Peru are generally paid on a monthly basis. A 13th and 14th month salary payment is mandatory. These payments are both equal to a month's salary and are paid in July around Peru's Independence Day and December around Christmas.

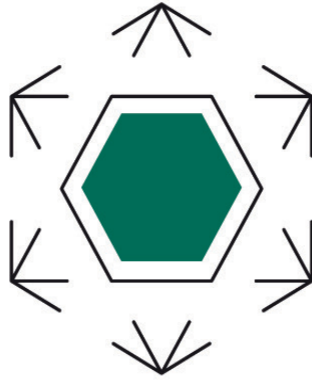
SOCIAL SECURITY CONTRIBUTIONS

Social security contributions in Peru are the responsibility of the employer to deduct from an employee's salary before payment. Both the employer and employee are subject to social security contributions. Below are approximate contribution rates for employers and employees, please note that these can vary.

	Employer Percentage	Employee Percentage
Health System	9%	N/A
Pension	N/A	13%
CTS	9.72%	N/A

CTS is only mandatory for the private sector and has minimum eligibility such as working a minimum of 4 hours per day, 20 hours per week and the company be over a certain size.

The pension percentage varies depending on the scheme. Generally, it is 13% for employees associated with the National Pension System or 12.5% for employees associated with the Private Pension System.



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