



EMPLOYMENT IN PORTUGAL



The Portuguese Labour Laws governs the relationship between employees and employers of all types. People who work in Portugal can rely upon a minimum set of employment rights. Below is some key information about employment in Portugal, intended to provide a brief overview of employment law in Portugal. It is not intended as a substitute for professional legal advice and counsel.



WORKING TIME AND OVERTIME

The standard working week in Portugal is 40 hours per week. However, this may vary depending on occupations and what is included in the contract of employment. Overtime maximum limits are set as up to 48 hours per week, 150 hours per year for an employee working for a company with more than 50 employees and 175 hours per year with less than 50 employees.

If an employee works more than 5 consecutive hours they will be entitled to an unpaid break of 1 hour. A rest period of 11 hours is required between 2 working days.

ANNUAL LEAVE

Full-time employees are entitled to a statutory minimum of 22 calendar days' annual leave per annum (pro rata for part-time employees). There are 13 public holidays.

TRIAL PERIOD

Probation periods in Portugal are between 3 - 9 months. The more senior or technical the position the longer the probation usually is. Fixed contracts of more than 6 months a 30 day probation is applicable.

RESIGNATION AND DISMISSAL

The employee may unilaterally terminate the employment contract by giving the employer a notice in writing at least 30 or 60 days in advance, depending on whether the employee has worked up to 2 years or for more than 2 years. The employment contract may increase the notice period by up to 6 months for an employee who holds a management or executive position, or one who has representative or responsibility duties. An employer cannot unilaterally terminate employment without a just cause. The following situations can apply to termination.

Expiry, dismissal on disciplinary grounds subject to prior internal dismissal disciplinary procedure, collective dismissal e.g restructure, economical, dismissal for failure to adapt to a working position. There are strict processes, procedures, and notice periods for the various dismissal routes which will need to be adhered to mitigate any risk to the business. Notice periods do vary depending on length of service and also seniority. Employees will also be entitled to severance pay if they are subject to collective dismissal, dismissal from job redundancy and failure to adapt to the job position. Again, this can vary based on seniority and length of service.

Collective dismissals notice periods

A 15-day prior notice period for employees whose seniority is less than 1 year. 30-day prior notice period for employees whose seniority is between 1 year but less than 5 years. A 60 day prior notice period for employees whose seniority is between 5 years but less than 10 years. A 75 day prior notice period for employees whose seniority is 10 years or over.



RESIGNATION AND DISMISSAL CONT...

Individual dismissals notice periods

Generally, the notice periods for individual dismissals are in line with collective dismissal notice periods.

An employee and employer could also agree to terminate the employment, known as a separation agreement which will need to be provided in writing. An employee does have 7 days to revoke a termination agreement from the date of signing. The only exception is when this has been signed in the presence of a notary.

Women that have given birth in the last 120 days, those breastfeeding and employees on paternity leave have special protection from termination. Therefore, dismissal of any employees in these categories is illegal without a favourable opinion from the competent authority (Comissão para a Igualdade no Trabalho e no Emprego - CITE). If this CITE's opinion is not in favour, then the employer can only proceed with dismissal by obtaining a court decision recognising the validity of the reasoning.

RESTRICTIVE COVENANTS

The Portuguese Labour Code has a subsection on clauses that limit the freedom of work. These include, among others, provisions on non-competition covenants and minimum permanence duration agreement. Agreements to restrict the activity of employees during employment or after contract termination are allowed under certain terms and conditions. Exclusivity clauses during employment are allowed as are non-compete agreement to produce effects after the termination of the contract.

CONTRACT OF EMPLOYMENT

A contract of employment does not need to be in writing unless one of the following apply to the employment. Please be aware these are examples and are not exhaustive. Fixed term, part time, temporary, intermittent, non-competiton clauses, single contracts with multiple employers. It is always best practice to produce a contract of employment in writing with information such as job title, place of work, salary, start date, duration. If a company are employing a foreign national specifically from outside the EU then a written contract will be required.

MATERNITY AND PATERNITY LEAVE

Expectant mothers are entitled to 120 days maternity leave (licença maternidade), a maximum of 30 days can be taken before the birth. A minimum mandatory period of 6 weeks must be taken by the mother following the birth. Fathers are entitled to 15 days paternity leave (licença de paternidade) to be used within 30 days of the birth. Five of these days must be used immediately after the birth.

Maternity and paternity leave is paid for by social security and compensates for salary not received during this period.

SICKNESS LEAVE

Employees in Portugal are entitled to a sickness allowance from the social security system. A sick note issued by a medical professional such as a doctor will need to be submitted to the employer. The employer will be required to pay the first 3 days of the absence, after this payment falls with social security. Most salaried employees are entitled up to 1095 days of paid sick leave. There must be a minimum of 6 months payments into the social security system to be able to claim. The amount paid varies between 55% to 75% of salary. For the first 30 days this is 55%, days 31 - 90 is 60%, days 91 - 365 is 70% and days 365+ is 75%.



SOCIAL SECURITY

Social security (Segurança Social) in Portugal is a contributory scheme aimed to provide support to employees and self-employed who may lose their income due to a variety of factors such as sickness, maternity, paternity, unemployment, occupational diseases, disability, old age and death. Before employment takes place, an employer will be required to report the hiring of the employee and the main contractual terms to the social security office through its official website (Segurança Social Directa). The employer will also need to inform of any termination or suspension of employment, as well as any change on the agreed type of contract e.g fixed term, permanent.

HEALTHCARE AND INSURANCE

The employer does not have a duty to provide any benefits such as life insurance and health insurance. However, many companies will establish this in collective bargaining agreements and will be required to apply these accordingly. Some companies will also offer these on an individual basis or with certain groups of employees. These may also be issued in accordance with any benefit policies issued and adopted by the relevant company that the employee works for. If they are provided, they may be subject to social security contributions paid monthly by both the employee and employer. Employers are required to be in possession of insurance for the protection of employees against work related accidents.





EMPLOYMENT OF FOREIGN NATIONALS

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

HIGHLY QUALIFIED PROFESSIONAL VISA (D3)

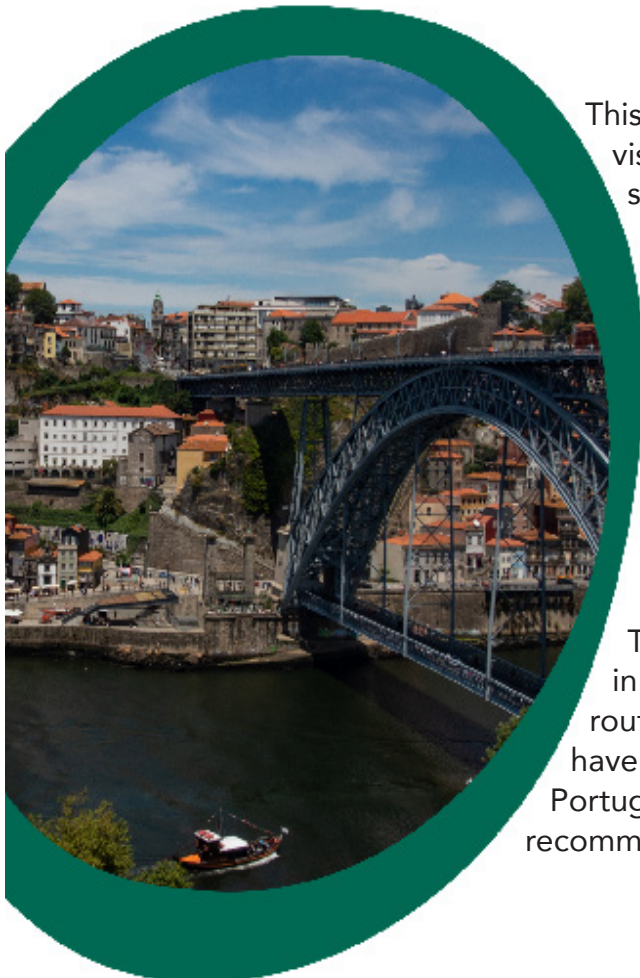
This visa is for highly qualified professionals that will either work in higher management positions or other areas such as information, technology, communication, scientists, teachers, and legal experts. The salary must be 1.5 times higher than the average salary in Portugal. The contract of employment must be for a minimum of 1 year. Applicants must have relevant higher qualifications or experience.

PASSIVE INCOME VISA (D7)

This visa is increasingly becoming Portugals most popular visa. The visa is aimed at those that have their own stable income such as pensions, property & dividends. The visa has also been used by remote workers as a way to live and work in Portugal. Applicants must be able to open a Portuguese bank account with at least €8,460 and have a monthly passive income of €705. This will increase with dependants. This will be valid for 1 year with the option to extend.

WORK VISA (D1)

This visa is for applicants who have accepted a job offer in Portugal. The visa is valid for over 12 months. The route of using this visa involves that any job offer must have have been advertised and could not be filled by a Portuguese or EU national. Generally, this visa route is not recommended for non-EU nationals.



Once an employee has entered Portugal on their valid visa, they must then apply for a residence permit in Portugal within 120 days.

SALARY AND SALARY TAXES

MINIMUM WAGE

In 2022, the national minimum wage in Portugal remained fixed at €822.5 per month, that is €9,870 per year, taking into account 12 payments per year.

INCOME TAX

The Portuguese 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.



Salary	Up to €7,116	€7,117 - €10,736	€10,737 - €15,216	€15,217 - €19,696	€19,697 - €25,076
Tax payable	14.5%	23%	26.5%	28.5%	35%
Salary	€25,077 - €36,757	€36,758 - €48,033	€48,034 - €75,009	€75,010+	
Tax payable	37%	43.5%	45%	48%	



SALARY PAYMENTS

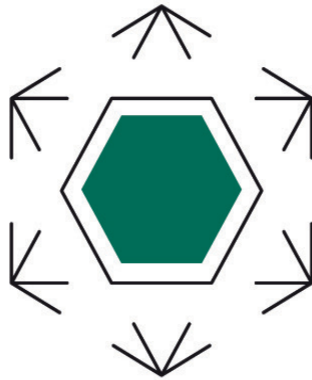
Salaries in Portugal are often paid in 14 instalments, 12 monthly payments and an additional payment in June and December. However, this can differ among companies and collective agreements.

SOCIAL SECURITY CONTRIBUTIONS

Social security contributions in Portugal 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. The total contributions currently stand at approximately 34.75%. The employer contributes 23.75% and the employee 11%.

Payment of an additional 1% must be contributed for the Work Compensation Funds (Fundo de Compensação do Trabalho and Fundo de Garantia de Compensação do Trabalho). The employer may bear the costs of contributing either under a public capitalisation scheme or under a supplementary scheme for voluntary personal insurance (in the form of pension savings plans, life assurance, etc.) to any employee or group of employees.

There is also a public capitalisation scheme under which an employee can voluntarily complement its old-age pension amount through the payment of additional contributions during working age, that are converted into retirement certificates. The value of contribution may be 2.4% or 6% (the latter only if the subscriber is over 50 years old) of the contribution base (as settled out in the context of compulsory contributions), according to the subscriber's choice. The total amount of contributions and income generated by the capitalisation will be available at the date of the subscriber's retirement, who may also choose to convert it into an annuity or to transfer it to children or spouse, if they are subscribers too.



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