

Reference Information on Working Life

English translation of basic labor and social security laws in Turkey

*Produced in collaboration with the Ministry of Labor and Social Security in Turkey,
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Law 4817: **Regarding the work permits of Foreigners (1)**

Unless it is envisaged/stated in bilateral and multilateral treaties that Turkey partakes, foreigners must attain work permit before start working in employed or self-employed status.

All information regarding work permit process and procedures can be attained at the Internet address: www.calismaizni.gov.tr

Work permit, depending on the duration of contract and work itself, is given for a specific workplace/company and occupation and it is valid for a year.

After the period of one-year legal work, work permit can be extended up to three years in the same workplace/company and occupation.

At the end of three year legal work period, work permit can be extended up to six years for the same occupation and for any employer

Registration of the SGK insurance must be made, and based on at least the amount of wage declared to Ministry of Labor and Social Security, for domestic applications it must be made within 30 days after the start of work permit whereas for applications made outside the country it must be made within 30 days after the entry of foreigner into the country.

Employers who employ a foreigner without a valid work permit are fined 8.848 TL per foreigner; foreigner who works without a valid work permit will be fined as 881 TL and 3,536 TL with respect to type of employment. Late registration/declaration will be fined as 440 TL. Those fine amounts will be increased on a yearly basis.

Regulations Regarding Work Permits of Foreigners Under Temporary Protection (2)

Syrian Arab Republic citizens, stateless people and refugees who individually or collectively arrived in and crossed the Turkish border since 28/4/2011 due to the events taken place in Syria Arab Republic, are provided temporary protection.

Foreigners who are given temporary protection will work in accordance with labor regulations (on Work, Social Security, Health and Safety at Work) in Turkey.

Foreigners under temporary protection cannot work and cannot be employed without work permit.

Foreigners under temporary protection cannot be paid less than minimum wage and cannot be employed without insurance.

Foreigners under temporary protection can apply to Ministry of Labor and Social Security for work permit six months after their temporary protection registration.

Work permit applications are made by employer of foreigners under temporary protection through e-government.

Foreigners under temporary protection working in seasonal agricultural and animal husbandry will be exempt from work permit. Applications for exemptions will done through Turkish Employment Agency offices where they located at.

When work permits is given, based on the Temporary Protection regulations, cities where foreigners are allowed to reside are considered.

In the workplace where work permit application is made for, the number of foreigners under temporary protection cannot exceed 10 percent of the total number of Turkish citizens working in that workplace.

In the workplaces where there are less than 10 workers in total, one foreigner under temporary protection at most is permitted to be employed.

Occupations Disallowed for Foreigners (3)

Dentistry, nursing (in accordance with related regulation)

Pharmacy (in accordance with related regulation)

Veterinarian (in accordance with related regulation)

Managing director/responsible manager at private hospitals

Lawyers (in accordance with related regulation)

Notaries (in accordance with related regulation)

Security officer in private or public institutions (in accordance with related regulation)

Exporting fish, oyster, mussel, natural sponge, pearls, coral, working as diver, underwater searcher, guide, captain, machinist and mariner (in accordance with related regulation)

Customs consultancy (in accordance with related regulation)

Important Information for Persons Working According to Labor Law (4)

No discrimination based on language, ethnicity, race, gender, disability, political opinion, philosophical belief, religion and denomination and other reasons is allowed.

It is not permitted to pay lower wage to a particular gender for the same and equal value of labor.

According to the constitution, no one should be forced to work. "Angarya" is not permitted. 'Angarya' means the situation where some is forced to work without getting something in return of her/his labor.

Work contracts covering the duration of one year and more should be made in the written format.

Work contract is signed by both worker and employer and it is prepared as two copies, one copy is given to worker.

In cases where no written contract is made employer is supposed to provide worker,(within the period of two months at the latest) with a written document informing on the general and particular work conditions.

If the parties agree to include a probation period for worker, this period cannot be longer than two months.

However this trial period can be extended up to 4 months by collective bargaining agreement.

Employer must notify Social Security Institution (SGK) of the insured worker a day before worker starts working at the latest (in construction, agricultural and fishing sectors on the day worker starts working at the latest)

Employers must insure –social security- all the workers.

Children who are younger than fifteen are not allowed to be employed. However, children who just turned 15 and who completed their compulsory primary education can be assigned to some easy tasks.

As indicated in Labor Law, weekly total work hours should be 45. Work that exceeds weekly limit of 45 hours is considered overtime work.

Night shift (taking place between 20:00pm-06:00am) should not exceed the duration of 7.5 hours.

Children who turned 15 and who completed their primary education should not work more than 7 hours a day and 35 hours a week.

Adolescent –juvenile- workers who turned 16 but do not turned 18 yet can work up to 8 hours a day and 40 hours a week.

Total overwork hours cannot exceed 270 hours within a year.

Worker's consent for overwork is ought to be asked.

Breaks between Shifts (5)

15 minute break for each 4 hours period of work, or less

30 minute break for work of more than 4 hours up till (including) 7.5 hours.

One-hour break should be taken after 7.5 hours of work.

Breaks are not counted as working hours.

Annual Paid Leave (6)

Annual paid leave is given if worker completes a year after the start date of his contract at work (this includes the probation period).

Duration of annual paid leave cannot be shorter than the following criteria:

If worker has served 5 years, the duration of leave cannot be shorter than 14 days

If worker has served more than 5 years and less than 15 years, the duration of leave can not be shorter than 20 days

Between (including) 15 years of service and more requires at least 26 days of leave.

Workers under 18 years and workers aged 50 or older should get at least 20 days of leave.

It is not permitted to renounce annual paid leave. Its use is mandatory.

When a worker's contract comes to an end for some reason, unused annual paid leave days are calculated (based on the wage at the end of the contract) and paid to worker or her/his beneficiaries.

Compassionate Leave (7)

In case of marriage, adoption of a child, the death of worker's mother, father, spouse, brother or child, three days of paid leave is given, whereas in case of birth of a new member in the family worker is eligible for 5 days paid leave.

If a worker who has a child with a special health condition - (at least 70 percent handicapped and dealing with chronic disease - are given 10 days of leave as long as the case is supported by doctor's medical note and only if one spouse/parent in the family uses this leave. workers who are eligible for this leave can use it either at once or in different periods/dates.

The kinds of leave and their durations mentioned above are taken into account when weekly holidays are calculated, these days of leave are seen equal to regular workday.

Workers Ineligible for Overtime Work (8)

Workers who have not turned 18 yet.

Workers whose health conditions were documented by a physician (such as workplace physician, Social Insurance Institution's physician)'s note.

Pregnant, new mothers and breast-feeding workers.

Part-time contract workers (who work less than 30 hours)

Weekend Holidays (9)

According to Labor law, worker who has worked 6 days take the seventh day, at least 24 consecutive hours of rest (weekend holiday)

Weekend holidays of child and adolescent workers should be at least 40 consecutive hours. Weekend holiday payment is given without any work anticipated in return.

National Holiday and Statutory holidays (10)

Whether workers are supposed to continue working during nation holiday and statutory holidays is determined by collective or individual contract. Unless it is

included in contract, working in those days depends on worker's own consent.

Child and adolescent workers cannot be assigned work during national holiday and statutory holidays. Moreover, these holidays are calculated as regular paid work day.

Wage Right (11)

Minimum monthly wage during year 2016 is 1,300.99 TL

Employer must pay wages via bank transaction system in case more than 5 workers are employed

Wage must be paid at least once in a month. This length of time may be reduced to one week in certain contracts and collective agreements.

If worker is not paid 20 days since the payday (unless it is due to a compelling reason) worker may withdraw his/her labor and refuse to work.

If worker's wage is not calculated correctly and paid on time in accordance with provisions of law and contract terms, worker justifiably has the right to termination of her/his contract.

The limit for regular weekly work hours is 45 hours and any hour of work that exceeds this limit is considered overtime work. Each overtime work hour must be paid with a premium of 50% more than regular work hour.

No overtime work is allowed during night shifts.

Overtime work payment is calculated as follows:

$(\text{Gross or net wage}/225) * 1,5 * \text{amount of total overtime work hours within a month}$

National holidays and statutory holidays are the followings: October 29 is National holiday. January 1, April 23, May 1, May 19, August 30, the Ramadan and Sacrificial Holidays are all considered statutory holidays. 28-29 October is considered 1.5 day holiday whereas January 1, April 23, May 1, May 19, August 30 are considered 1 holiday for each date; the Ramadan Holiday is considered 3.5 days; and the duration of the Sacrificial Holiday is 4.5 days. The total of national and statutory holidays within a year is 14.5 days.

In case there is no activity at plant/factory due to national holiday and/or statutory holidays, employer must still pay the full amount of wage for those days. If worker

works in these special days she/he must be given a day's wage per each extra day of work.

For instance, worker who takes the day of on April 23's statutory holiday and who works for the rest of workdays is eligible for 30 days worth of wage whereas worker who works on April 23 is eligible for an additional day's wage and therefore receives 31 days worth of wage.

Employer must provide worker with a statement/payroll stub (with the logo of company) for the payments made to worker either at workplace or through banking system.

Who Can Benefit From Job Security? (12)

In workplace where there are more than 30 workers,

Workers with at least 6 months of seniority

Workers working under an indefinite duration of employment contract

When employer terminates contract of a worker under job security;

Worker's defense statement must be received

Reason of contract termination must be clear explained

Contract termination must be given in a written document

Otherwise contract termination becomes invalid

Worker can file a lawsuit to the court of labor within a month after the notification of termination if contract is terminated unlawfully or without any valid reason.

Notice Compensation (13)

When worker quits his/her job without complying with the notification rules or when employer does not comply as he/she terminates worker's contract, they are supposed to pay a compensation called Notification Compensation.

The Parties should give 2-week notice for the period of 6 months of work

4 week notice for the period between 6 months and 1.5 years

6 week notice for the period between 1.5 year and 3 years

8 week notice for the period of work that takes more than 3 years

Otherwise the parties should pay notification compensation for the periods mentioned above.

Permission for New Job Search (14)

In the course of notification, employer is obliged to give new job search permission to worker during work hours and without making any pay cut.

The duration of job search cannot be shorter 2 hours per day; worker may combine these hours and use them at once. In case of the latter, worker should use these days before quoting his/her job and should inform employer in advance.

If employer does not give job search permission or gives insufficient permission, worker must be paid for this duration of time.

If employer makes worker work during the period job search permission, employer pays 100% more per day in addition to regular daily wage.

Seniority Compensation, Severance Pay (15)

If worker does not comply with ethical rules and act in good will, employer does not pay seniority compensation when contract is terminated.

If worker is eligible for seniority compensation in case of worker righteously terminates his/her contract.

In case of regular military service.

In case of female worker's contract is terminated within a year starting from her marriage date.

In case of worker wants to receive retirement pension pay or disability pay either on a monthly basis or in sum.

In case of worker completes 3,600 days of social security premium payment and 15 years of social security registration limits.

Employer should pay seniority compensation -- severance pay -- which equals to 30 days gross salary of the worker for each year that he/she worked for the employer.

Additional Legal Rights of Female Workers (16)

Worker informs employer in case of pregnancy and breast-feeding. Pregnant workers are given paid leaves to have regular check ups.

Female workers are given 1.5-hour total break time to breast-feed their child younger than 12 months. Worker decides how to distribute and use this time. This period of time is considered part of regular work hours.

Female workers should not work 8 weeks prior to and after birth giving. Pregnancy to more than one baby involves an addition two-week leave. If female worker's consent and her health condition is appropriate and her doctor gives approval, female worker can work up till prior to three weeks before the birth of her baby. This duration of work time is added to her work hours after the birth giving.

In case of premature birth giving, unused birth-giving leave days that she is eligible before the birth giving are added to the duration of leave day after the birth of her baby.

In case passing of mother during or after birth giving, father used those unused leave days after the birth giving. If three year old (or younger) is adopted, one spouse in that family is given 8-week leave upon the delivery of the child to that family.

After the completion of 8 week post-birth leave, female worker who gave birth or the father/mother of adopted child are given unpaid leave for the half of each week within the next 60 days for the first birth, 120 days for the second birth and 180 days for the third birth. In case of birth of multiple babies, 30 days is added to durations of leave mentioned above. In case of a baby with disability 360 days are given. This period does not include breast-feeding regulations.

Female workers can not be assigned to night shifts during one year period when their pregnancy is documented with doctor's note and when they breast feed their baby starting from baby's birth date.

Employers who run a company with 100-150 female workers (regardless of their marital status) must provide a breast-feeding room detached from the premises and within 250 meters distance (at most).

Employers who run a company with more than 150 female workers (regardless of their marital status) must provide a daycare center where female workers drop off their children (aged between 0-6) and breast-feed them. This daycare facility should be detached from the workplace and must be close enough to the premises. If it is far from 250 meters, employer must provide transportation service to the daycare center.

Law 4447: **Regarding Unemployment Insurance (17)**

Conditions to benefit from unemployment pay (18)

- Person who becomes unemployed other than at one's own will or failure
- Person who has paid premium and worked during the last 120 days prior to his/her contract termination
- Person who has paid 600 days of unemployment insurance premium
- Person who applies to the nearest ISKUR unit (in person or online) within 30 days after termination of contract

Application for Unemployment Pay (19)

Applications have to be made to the nearest ISKUR unit within 30 days after termination of contract. Applications can be made in person or online at www.iskur.gov.tr. Excluding compelling excuses, unless application is made within those 30 days, duration of delay is deducted from his/her benefits.

When unemployment insurance application is made, applicant is registered as a job searcher and his/her information is updated. As a result, insured unemployed person may benefit from occupational counseling, job placement and occupational training.

First unemployment payment is made until the end of month where person becomes eligible for unemployment pay. Insured unemployed persons can receive their unemployment pay by applying to any PTT –postal office- branch with their identity cards.

Duration of Unemployment Pay: Within three years prior to termination of contract (20)

Workers who has worked 600 days under insurance and paid their premiums receive 180 days.

Workers who has worked 900 days under insurance and paid their premiums

receive 240 days.

Workers who has worked 1080 days under insurance and paid their premiums receive 300 days of unemployment pay (given that all other legal conditions are met).

Benefits Under Unemployment Insurance (21)

ISKUR provides the recipients of unemployment insurance with the following services:

- Unemployment pay
- Assistance for health insurance payments
- Assistance for finding a new job
- Training for finding job, occupational advancement and development

Amount of Unemployment Pay (22)

Calculation of daily amount based on 40% of the average of the worker's last four months salaries. Maximum amount top be paid should not be more than 80% of the legal minimum wage.

Law 6356: Regarding Unions and Collective Agreement (23)

Union membership and becoming eligible for membership: (24)

Workers who turned 15 can become member of union

It is up to worker to become union member. No one can be forced to –or not to– become a union member.

Union membership is acquired when application is made though Ministry's electronic application system (<https://giris.turkiye.go.tr/Giris>) and designated authority of union by-law approves this application.

Strike (25)

When workers collectively agree or follow the decision made by an institution to withdraw their labor or considerably slow down the production process it is called strike.

If workers go on strike unless legal conditions are met it is considered illegal.

Law 6331 Regarding Health and Safety (26)

Employer is not allowed to reflect the cost of health and safety measures (such as medical checkups, providing protective equipment, providing training) on workers.

Employers are obliged to monitor (alongside workers) work related risks and take measure against these potential risks.

In order to identify potential risks for workers, all workers must go through checkups. These checkup must be renewed when worker starts his job, changes his job or after the breaks given due to work accident and occupational disease.

Work accidents and occupational diseases must be notified by employer to Social Security Institution within three workdays.

Drills/practices and trainings with full attendance of workers must be organized for emergency preparation.

A worker representative should be appointed to liaison between workers and employer regarding the issues of health and safety.

Only special personnel with special gear can enter areas posing serious and imminent danger. Other workers may not continue their work.

In case serious and imminent danger cannot be controlled, workers will be evacuated.

Workers who work in high-risk and very high-risk class workplaces, must provide documents about completion of their occupational training.

Workers who fail to provide this document cannot work in that workplace.

When a worker faces serious and imminent danger she/he can request the health and safety committee or employer (in case there is no such committee) to take measures and prevent the situation. In the mean time worker has the right to withdraw her/his labor. Worker may terminate her/his contract if no action is taken despite worker's request.

Workers still get paid when they exercise their right to withdraw labor while H&S measures are being taken.

Regulations Regarding Work Conditions of Seasonal Agricultural Workers (27)

Workplaces and companies with less than 50 workers in Agriculture industry are exempted from Labor Law.

Minimum working age shall not be lower than completion of compulsory education or 15 years as described in ILO's minimum age convention C138 which has been ratified by Republic of Turkey in 1999.

In Terms of Social Security and Insurance (28)

The rights and obligations of workers in agricultural sector are regulated by Social Insurance and General Health Insurance Law 5510.

Accordingly it is assumed that most of seasonal agricultural workers working on temporary status.

Workers falls under this category –working on temporary status- should complete the registration form named “Employment Registration Document for Workers Working at Agriculture Sector on Temporary Basis” which can be found on SGK – social security administration-’s webpage and get approval from Mukhtar and Local Directorate of Provincial Food Agriculture and Livestock offices and then deliver it to local SGK offices.

Agricultural Work Intermediaries (29)

Turkish Employment Agency –ISKUR- is the main agency that makes arrangements for agricultural jobs. In some cases sole proprietor or corporate persona can be authorized to do so.

Unless authorization attained from the institution, it is prohibited to act as agent

Agents/intermediaries cannot demand any fee from workers. Employer pays the fees.

Only certified persons can act as agent/intermediary, it cannot be hand down to another person or exercised by proxy.

It's a legal requirement to have written agreements on wages and working conditions between the parties –agent/intermediary-employer-employee-.In case of there is no agent/intermediary involvement , an agreement between employer and employee should be signed. Employment contract template at the annex of “Regulation on Intermediaries on Agriculture Sector” will be used as standard employment contract between the parties and one copy of the signed contract will be delivered to SGK within ten workdays.

Temporary Protection in Seasonal Agricultural Jobs (30)

Foreigners under temporary protection cannot work or cannot be employed without work permit.

However foreigners under temporary protection who work in seasonal agricultural (animal husbandry) sector may be exempt from requirement of work permit; applications for exemption should be made to ISKUR offices.

Foreigners under temporary protection may attain their work permit exemption in seasonal agricultural and animal husbandry jobs six months after their temporary protection is registered.

When work permit exemption is granted, it is only valid on the city where temporary protection identity card was originally issued.

Employer who employs foreigner without proper work permit will be fined 8.448 TL per foreigner. This fine is updated on a yearly basis.

Foreigners under temporary protection are only exempt to work w/o work permits in agricultural and animal husbandry sectors. They cannot benefit from this exemption in other industries/jobs.

Foreigner under temporary protection must present his temporary protection identity card/foreigner identification document.

Whether foreign under temporary protection is granted exemption can be checked and confirmed at Foreigner Work Permit Inquiry System (www.calismaizni.gov.tr) by entering foreigner's id number.

Foreigners under temporary protection must re-apply to ISKUR offices if they want to keep working after the expiry date of their exemption.

