

THE RIGHTS OF THE FOREIGN WORKER IN THE HOTEL AND CATERING SECTOR

SUMMARY

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WORK PERMIT

In order to work in French Polynesia, non-French persons (Other countries of European Union included) must hold a work permit issued by the Minister in charge of employment and of a residence permit issued by the French State. Applications should be lodged to the SEFI.

When the employer is granted a work permit for the employee, the employer cannot keep the employee's passport.

When a work permit is granted, it is valid for a specified duration, position and employer.

The employee holder of a work permit has the same set of rights as a Polynesian employee.

WORKING TIME

WORKING HOURS

Working hours are 39 hours per week, from Monday to Saturday, 169 hours per month. The employee is entitled to two (2) day rests per week, determined by the employer.

Hours worked on Sundays are paid 15% in addition.

Overtime worked over 39 hours is paid in the following manner:

Day overtime (from 06:00 a.m. to 08:00 p.m.) from the 40th hour: 30% in addition.

Exceptionally, the employee may exceptionally work 10 hours a day and 48 hours per week at most.

DOES THE EMPLOYER PAY A WAGE WHEN NOT SUPPLYING WORK ?

The employer is in the obligation to supply work to the employee throughout the term of the signed contract. When the employer fails to provide work, the employer shall pay the wage.

WAGE

IS THERE A MINIMUM WAGE ?

Yes. The employee cannot be paid less than 904.82 XPF per hour, 152,914 XPF for 169 hours (guaranteed minimum wage = SMIG). Mandatory contributions are deducted and directly taken from the wage, particularly for health insurance and retirement.

In addition to the wage, the employee is entitled to meals during working hours. The employee may receive in-kind benefits (for example: accommodation). Contributions are also deducted for the wage, based on the value of the benefits.

Example (for information purposes, on the basis of 2016 SMIG and 2016 CPS contribution rates):

| | | |
|---|---------|--|
| | 152,914 | XPF (gross wage) |
| + | 19,906 | XPF (1 meal per day, that is 22 meals/month x 904.82 XPF) |
| - | 21,101 | XPF (health, retirement... contributions) (12.21% of the gross wage) |
| - | 1,434 | XPF (CST – territorial solidarity contribution) |
| - | 19,906 | XPF (contribution deducted on in-kind benefit) |
| | 130,379 | XPF (net wage), wage paid to the employee |

PAYMENT OF THE WAGE

Wage is paid each month.

Monthly wages are made no later than eight (8) days from the end of worked month.

METHOD OF PAYMENT

Wage payment in cash is limited to 119,300 XPF. Any larger amount is made by check or bank transfer.

Monthly wages are made no later than eight (8) days from the end of worked month.

WAGE SLIP

HOW TO CHECK PAID WAGES ?

The employer shall provide the employee with a pay slip each month. Pay slip details wage calculation on the basis of the number of hours worked.

The employee has within 5 years to reclaim unpaid hours worked.

PAID HOLIDAY

IS THE EMPLOYEE ENTITLED TO PAID HOLIDAY ?

An employee is entitled to 2.5 working days of paid holiday per month worked that is 30 days of paid holiday per year.

Working days are counted from Monday to Saturday.

IS THE WAGE OF THE EMPLOYEE MAINTAINED DURING PAID HOLIDAY ?

Yes the employer shall pay paid holiday amounting to at least the wage.

WHEN TO TAKE PAID HOLIDAY ?

The employee may choose her/his holiday period, in agreement with the employer. In case of disagreement, the employer determines the holiday period.

OTHER PAID HOLIDAY AND LEAVE OF ABSENCE

OTHER PAID HOLIDAY ?

Yes, public holidays and leave of absence for family events.

Public holiday in the hotel and catering sector are: 1st January, 5th March, Good Friday, Easter Monday, 1st May, 8th May, Ascension Day, Whit Monday, 14th July, 15th August, 1st November and 25th December. These paid public holidays (the employee does not work but is paid). When the employer determines to have the employees work during public holiday, he shall pay the employee an additional indemnity equal to the number of hours worked.

The employee is entitled to paid holiday for her/his marriage (4 days), marriage of a child (1 day), birth of a child (3 days), death of the spouse (4 days), death of a child (2 days), death of a parent (2 day), of a brother or a sister (1 day). To get this holiday, it is necessary to provide a document confirming this information).

OTHER PAID HOLIDAY ?

In case of sickness, wage is paid to the employee, who must produce a medical certificate to the employer.

Employee victim to an accident at work must inform the employer at the earliest opportunity.

SPECIFIC RIGHTS

IS THE EMPLOYEE ENTITLED TO ASK FOR A TRANSLATION OF THE WORK CONTRACT ?

Yes, the employee may ask the employer, translation of the work contract into her/his language. Only the text written in French is self-authenticating.

WHO PAYS TRAVEL EXPENSES ?

“Round trip” travel expenses of the foreigner coming to work in French Polynesia will be borne by the employer.

The employer shall not ask the employee reimbursement of travel expenses

In the event of problems, please contact the following departments:

- **DIRECTION DU TRAVAIL**, (Employment directorate) when the employer does not respect your rights.
BP 308 – 98 713 Papeete, Tel: 40 80 50 00; Fax.: 40 50 80 05 ; directiondutravail@travail.gov.pf
- **SEFI**, on matters relating to issuance of work permit
BP 540 - 98 713 PAPEETE, Tel.: 40 46 12 12; Fax.: 40 46 12 19 ; etrangers@sefi.pf
- **DIRAJ** on matters relating to conditions of entry and residence in French Polynesia.
BP 115 – 98 713 Papeete - Tel.: 40 46 86 05 / 40 46 86 07 ; Fax.: 40 46 86 29 ; etrangers@polynesie-francaise.pref.gouv.fr
- **DPAF** on matters relating to conditions of entry and residence in French Polynesia
BP 6362 – 98 702 Faa'a - Tel.: 40 80 06 00; Fax.: 40 80 06 18 ; dpaf987@interieur.gouv.fr
- **Gendarmerie** of the concerned island, except for the island of Tahiti
- **Your consulate**

Reference texts : Labour code

Article Lp. 1211-2

Articles Lp. 3211-1, Lp. 3211-12, Lp. 3211-13

Articles Lp. 3231-1, Lp. 3231-12, Lp. 3231-16

Articles Lp. 3331-3, Lp. 3331-4, A. 3331-2 and A. 3331-3

Article Lp. 3332-2

Articles Lp. 3333-1, Lp. 3331-5, Lp. 3334-1

Articles Lp. 5322-3, A. 5321-11

