



EU Posted Worker Directive

A new EU Posted Worker Directive came into effect on **30th July 2020**. All EU countries had until that date to transpose this directive in their national law. Here is a brief overview of the Posted Workers Notification in Luxembourg.

Important points to remember :

1. Employers Obligation
2. Inspectorate Of Labour And Mines (Itm)
3. Social Security For Posted Workers
4. Conditions Of Residence And Stay For Posted Workers In Luxembourg
5. Luxembourg Labour Law And Posted Workers
6. Taxation Of Posted Workers
7. Businesses In Luxembourg Receiving Posted Workers

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Employers Obligation

Employers based abroad may temporarily post their employees to Luxembourg to carry out work within the framework of a transnational provision of services between the employer established abroad and a business or individual client established in Luxembourg.

Employers also have to :

- ensure that their employees are authorised to stay/work in Luxembourg;
- prove that their employees are covered by social security;
- declare the posted work to the Inspectorate of Labour and Mines (Inspection du Travail et des Mines - ITM) as soon as the work in Luxembourg begins and communicate the necessary elements required for receiving the social identification badge (badge social). Employers also have to designate a natural or legal person in Luxembourg who will be the main contact person for the ITM and the competent authorities in matters of respect of posting conditions;
- respect labour law and income tax which apply to posted workers.

2

Inspectorate Of Labour And Mines (Itm)

Each business, irrespective of the place of their registered office or the nationality of the posted workers must first, prior to any posted work, submit a posting declaration in order to obtain a social badge for each posted worker. The social identification badge contains the employee's identity details and a barcode which enables the ITM to access the data provided by the company in the posting declaration.

Before the posted work can start, the company is required to designate a natural or legal person in Luxembourg who will be the main contact person for the ITM and the competent authorities in matters of respect of posting conditions

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Social Security For Posted Workers

Depending on the place of establishment of the posting business, the administrative formalities for posted workers with regard to the registration for social security may vary.

A difference must be made between :

- businesses established in the EU;
- businesses established in a country treated as an EU Member State;
- businesses established in a country that has signed an agreement with Luxembourg;
- businesses established in a country with no agreement with Luxembourg.

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Conditions Of Residence And Stay For Posted Workers In Luxembourg

The conditions of residence and stay in Luxembourg during the posting depend on the country of establishment of the posting business and the nationality of the posted workers.

Workers who are posted by a business in the EU must have:

- an ID card or passport if they are a EU citizens;
- a passport and a residence permit if they are third-country nationals. Within 3 months of arrival in Luxembourg, third-country nationals must apply for a residence permit for a worker from a service provider established in the EU.

Posted workers from businesses established in third countries must hold:

- an ID card or passport if they are a EU citizens;
- a temporary authorisation to stay, a passport and a visa if they are a third-country national. Within 3 months of arrival in Luxembourg, third-country nationals must apply for a residence permit for posted worker.

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Luxembourg Labour Law And Posted Workers

When a foreign business posts workers to Luxembourg, it must comply with the public provisions in matters of labour law, with the exception of the provisions concerning employment contracts, part-time work, fixed-term employment contracts and the provisions which apply to company collective agreements.

These provisions namely apply to:

- the social minimum wage
- the duration of work, rest breaks, daily and weekly rest hours;
- paid leave and collective leave where applicable;
- public holidays;
- the regulations regarding interim work and labour leasing;
- the provisions on part-time work and fixed term contracts;
- protective measures which apply to young people, pregnant women and women who have recently given birth;
- non-discrimination;
- illicit or illegal work, including the provisions regarding work permits for third-country nationals;
- the health and safety of employees in the workplace in general and more particularly the minimum requirements in terms of health and safety;
- mandatory collective agreements

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Taxation Of Posted Workers

In principle, the person is a tax resident in the country where he has his permanent place of residence.

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Businesses In Luxembourg Receiving Posted Workers

In the event of a posting of a third-country national in the framework of a provision of services, the business or the client where the worker will be posted must:

- **verify** the posted worker's temporary authorisation to stay/permit before the worker undertakes any work;
- **request a copy** of the posted worker's temporary authorisation to stay/permit and keep said copy for the whole duration of the assignment.

Source :

<https://guichet.public.lu/en/entreprises/ressources-humaines/mobilite/detachement/detacher-personnel.html>

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