

# Biz Latin Hub's

## Snapshot of Employment Law in Chile

### WORKING HOURS

The standard 45 hour working week is divided into no less than five and no more than six consecutive days. An average working day is nine (9) hours long.

For most employees there is a 45-hour cap per week divided into no less than five (5) and no more than six (6) consecutive days. On average, the employee should work nine (9) hours per day.

The employee can be legally exempted from the abovementioned norms by being labelled as “trusted” or “of the trust of the employee” in their contract. This started as a clause for Managers and Executives, but with the passage of time it has been implemented for a wide range of employees.

### TYPES OF EMPLOYMENT CONTRACT



There are three (3) main types of employment contract in Chile:

#### Fixed-term employment contract:



Can be for a period of days, weeks, months, or years. The general rule is that these types of contracts cannot exceed one (1) year. Exceptionally, they can last up to two (2) years for people with professional or technical qualifications.

#### Indefinite-term employment contract:



These contracts will only terminate when both parties agree or when one can legally act unilaterally, such as in the case of a resignation or termination by just cause.

#### Specific task or project employment contract:



This is regarded as an “undetermined contract” as there is no specific or clear date for when the task or project will be completed. It is key to determine a priori clear objective markers or thresholds so there are no ambiguities regarding when the project will be completed.

### STATUTORY CONTRIBUTIONS

#### Employee Deductions:

1

- Pension Fund (AFP) contribution: Paid to the pension fund previously selected by the employee, with an average 11% deducted (dependant on the AFP the employee is affiliated)
- Unemployment Insurance: Paid through the same pension fund mentioned previously, managed by the AFC, with an average 0.6% to be deducted
- Health Insurance: Paid to the National Public Health Insurance organization FONASA, at a rate of 7% to be deducted

#### Employer Contributions:

2

- Unemployment Insurance: Paid through the same pension fund the Employee is affiliated with, at a rate of 2.4% to be deducted
- Disability Insurance: Paid through the same pension fund the Employee is affiliated with, at a rate of 2.3% to be deducted.
- Accident Insurance: Paid to the National Public Accident Insurance (ISL), at a general rate of 0.93%, but with the percentage determined according to risk associated with the job role being undertaken

#### Profit Sharing:

3

By law in Chile, if a Company experienced profits during the last year, it must share some of them with its employees. Specifically, a Company must share 30% of its annual net profits with its employees in a proportion based on each employee's salary. This obligation can be complied with either on a monthly or annual basis, depending on the system chosen by the employer.

### VACATIONS, LEAVE, AND OTHER ABSENCES

#### Statutory vacation allowance / paid time off (PTO)

Fifteen (15) PTO days are accrued per calendar year (1.25 per month), but only when the employee has been with the Company at least one (1) year. PTO days can only be accrued for up to 2 periods, i.e. 30 days accrued over a two (2) year period.

Article 70 of the Chilean Labor Code states that if an employee has accumulated two consecutive periods, the employer has to “grant” / “instruct to use” at least one of them (15 days) before the completion of a third period which will accrue another 15 days of vacation for the employee.



In other words, it is the employer's responsibility to make sure the employee uses at least one of these periods before the third one kicks in. If the employer does not do this, then the employee has the right to use all of their accrued days over the 2-period cap (40 days for example).

#### • Maternity and paternity leave:

Maternity leave allowance is six (6) weeks prior to the due date and 12 weeks after the child is born. This is paid by the Government or by the Health Provider. Fathers are entitled to five (5) days of paid paternity leave, however seven (7) weeks after the birth of a child, the mother can transfer some or all of her remaining maternity leave to the father.

#### • Sick leave:

Employees have two (2) working days to present a notification of sick leave signed by a registered physician to the employer in private companies. In order for the employee to get paid all of the days they were off work, the leave must last at least 11 straight days. If the leave is for less than 11 days, the worker will not get paid for the first three (3) days. That is to say, if sick leave totals five (5) days, the employee will get paid for two (2) of those days. In general terms, sick leave is paid by the employer's health provider, or “ISAPRE”.

#### • Bereavement:

Bereavement leave stands as follows:

- Seven (7) working days when a spouse or Civil companion passes away
- Seven (7) working days when a son or daughter passes away
- Three (3) days when a parent passes away