

Navigating Mexican Labor Laws



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Table of Contents

01 Mexican Federal Labor Law

02 Mexican Labor Reform of 2012

03 Mexican Employment Contracts

04 The Work Week

05 Employee Training and
Productivity Audit

05 Employee Wages

06 Economic Regions

07 Overtime in Mexico

08 Employee Benefits

10 Vacation and Paid Time Off

11 Employee Termination

14 Employee Resignation

15 Retirement and Housing

16 Labor Unions in Mexico

Mexican Federal Labor Law

Current labor laws in Mexico were written into the constitution after the revolutionary war in 1917. With few updates, one most recently in 2012, the Mexican Federal Labor Law implements employee rights and provides a platform for sustainable living.

Many details are incorporated into the sections of the Federal Labor Law that help set workforce standards and provide a platform for greater efficiency and acquired skills. Modern day labor laws in Mexico enhance work relationships, payroll, benefits, contracts, and social security.

Mexico labor laws also implement a safe work environment and provide great working conditions, improved by the labor reform in 1970, and expanded by the more recent reform in 2012.



Mexican Labor Reform of 2012

The labor reform of 2012 garnered the first modifications since 1970 and provided modern insight for employers manufacturing in Mexico. The reform was supposed to enforce more accountability and transparency of union actions, allow temporary, part-time and trial periods for workers, and restrict striking rights.

The reform also provides some clarity to companies doing business in Mexico. Although there are mixed reviews about the impact this “modernized” reform has had on the labor market, or lack thereof, the middle class has been growing the past few years. Economic growth is attributed to an up-tick in manufacturing production, which can stem from investment in an efficient work environment.



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Mexican Employment Contracts

Mexican Employment Relationships

The Mexican Federal Labor Law regulates employment relationships, conditions, and employee rights in detail. There are two general types of employment relationships – individual and collective.

- An individual employment relationship is created when a person is hired to perform the required job duties and accepts the employment contract. The different types of individual labor contracts cover an undetermined period, a determined period, and a specific job title.
- A collective employment relationship is established when the employees are represented by a labor union, and the point of contact is with the union.

Mexican Labor Contracts

Unless specified, an employment relationship is established for an indefinite period to provide employees with job stability and tenure security. If the position is temporary, the promise of job stability and security does not apply.

The 2012 Mexican Labor Law reform now enables employers to staff part time, temporary, or seasonal work arrangements, and also allows for a 30 probationary period to ensure the employee is right for the job. Through this reform, employers can now hire for an hourly wage payment which must be at or above minimum wage.



The Mexican Work Week

The Mexican work week is based on the type of shift being worked, and spread over a six day work week beginning Monday and ending Saturday. During each shift, employees are entitled to a 30 minute food break, with an optional 15 minute break outside of the mandatory rest. There is no pay difference between the type of shifts, and overtime is paid if more hours are worked during the week of the stipulated shift.

The shifts are divided into:

- *Day Shift* - eight hours a day between 6:00am and 8:00pm, and 48 hours a week for a full-time job.
- *Night Shift* - seven hours a day between 8:00 pm and 6:00am, and 42 hours a week for a full-time job.
- *Mixed Shift* - seven and a half hours during both the day shift and the night shift, with at least 3.5 hours worked during the night shift. A full-time work week is 46 hours.



Employee Training and Productivity Audit

It is required by law to have a training curriculum registered and approved by the Ministry of Labor, where a mixed commission implements a training and development program.

The 2012 Labor Reform has extended a law that makes it mandatory for companies with 50 or more employees to form a joint Productivity and Training Committee that includes employer and employee representatives to plan and implement training. The committee regularly audits systems to increase productivity, industry knowledge, skills, and competence.

Employee Wages

Minimum Wage Basics for Manufacturing Considerations.

The Mexican Federal Labor Law establishes a minimum amount to be paid in cash, without deductions or withholding taxes on a weekly basis. A general minimum wage applies to all employees within each economic region, except for employees who qualify under certain categories defined by the Federal Labor Law as professional categories for which a specific professional minimum wage applies. For instance, direct and indirect labor costs can vary greatly depending on the city and the region.

In 2017, the daily minimum wage took measures to increase from \$73.04 MSD to \$80.04 MSD, or Mexican Pesos, a day, which comes out to around \$4 USD, depending on the exchange rate.

In many large manufacturing cities, the wage is usually adjusted around 10% - 15% higher to become the employer of choice, and keep up with the quality of life. Equally, border cities are adjusted between 10% - 25% higher than the minimum wage to compete with other manufacturing companies, as well as maintain the cost of living, which is similar to other cities along the U.S. border.

“Modern day labor laws in Mexico enhance work relationships, payroll, benefits, contracts, and social security.”

Economic Regions

The National Minimum Wage Commission determines the minimum wage, which varies within the country's three economic regions: North, Central, and South.

The Northern Region, specifically cities near the U.S. border usually provide a higher salary and more benefits to compete with other manufacturing companies, as well as maintain the cost of living, which is similar to other cities along the U.S. border.

The Central Region has a higher quality of life, and holds most of Mexico's population within many industrial cities. Wages here vary, where the highest minimum wage increase was 4.2% in 2016 in the city of Queretaro.

The Southern Region is the lowest economic region, not including tourism. Most of the smaller cities in this region live with an income around 10% lower than the average cost of living.

Overtime in Mexico

The maximum number of hours before an employee falls into weekly overtime is 48 for the day shift, 45 for the mixed shift and 42 for the night shift. The standard hours may be dispersed throughout the week as needed.

The first nine hours of overtime work is paid at 200% of standard pay, and overtime work exceeding nine hours is paid at 300%. An employer must not require its employees to work overtime for more than nine hours a week.

Each employee receives a paid mandatory full-day of rest each week, which usually lands on a Sunday. Working on Sunday is subject to a 25% addition, added to any overtime that may already apply.



Employee Benefits

Paid Vacation time – Employees can request an annual vacation of at least 6 working days and add 2 working days every following year. After 4 years, the 2 days will be added every 5 years.

Vacation premium – Along with the paid vacation time, employees get a minimum of 25% salary as a vacation premium. Labor unions sometimes try to negotiate the premium percentage up from the legal 25%.

Christmas Bonus (Aguinaldo) – Companies in Mexico are required to pay 15 days salary during the Christmas holidays under Mexico's Labor Law. Many companies also shut down their facilities between Christmas and the New Year Holiday.

Seniority Bonus - After 15 years of seniority, the employee is provided with a bonus and has the right to receive 12 days of bonus.

Sunday (7th- day) Rest Day – Mexican workers have a legally prescribed six- day work week of 48 - 42 hours (depending on their shift), and receive payment for seven days.

Rest Day (7th-day) Premium – If an employee works on Sunday, or a seventh day, he or she will receive and added 25% percent more of the regular daily wage.



Employee Benefits *(continued)*

Profit Sharing in Mexico

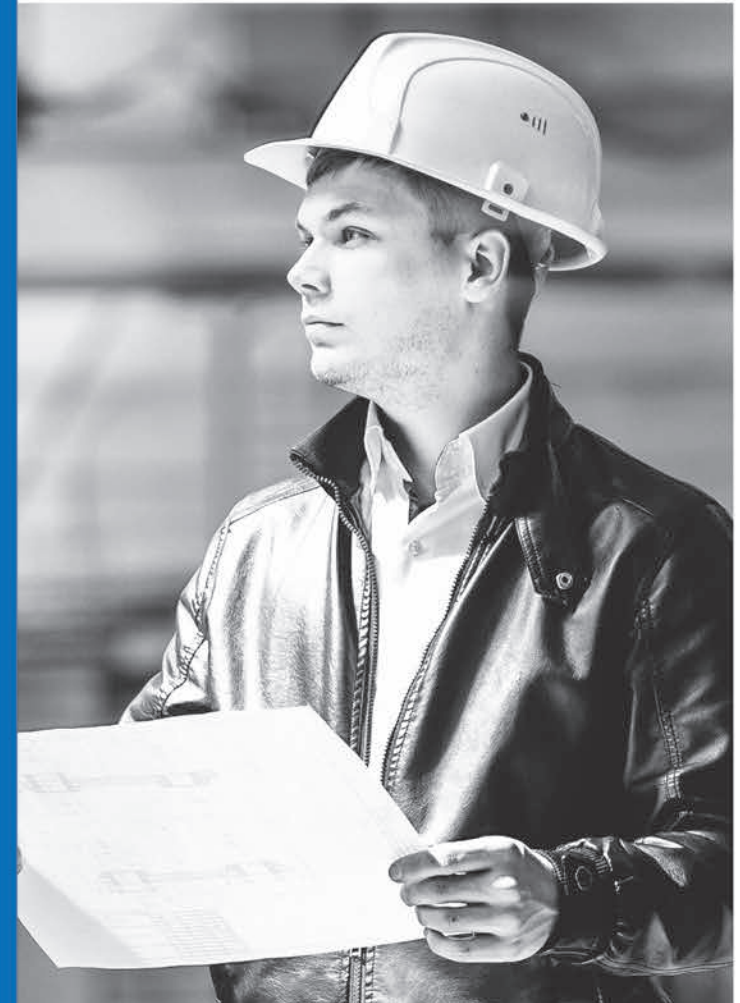
In Mexico, employees, except Directors, get a share of the company's earnings that is based on a percentage determined by the National Commission for Workers in the Profits of Business. The distribution must be made within 60 days following the last day to pay annual income taxes.

Voluntary Employee Benefits

Some employers may voluntarily include additional benefits. For example, productivity bonuses are sometimes provided in some industry sectors as incentives to meet specific company needs. To compete on a recruiting level, and to become the hiring company of choice, benefits such as savings funds, punctuality and attendance bonuses, cafeteria and transportation subsidies, and enhanced medical coverage are provided.

Maternity / Paternity Leave

All employers must provide female employees with a fully paid maternity leave of six weeks prior to their approximate delivery date and six weeks thereafter. After this 12-week period, employers must offer these employees their former positions, including benefits such as seniority and vacation leave pay. Shorter shifts new mothers who are nursing was recently introduced by the 2012 Mexican Labor Law Reform. The Mexican Social Security Institute normally covers the employer's expense during this time. Equally, the 2012 reform added a mandatory 5 day paid paternity leave.



“ Mexican employees are known for their powerful productivity at low costs that compete with global economic standards.”

Vacation Time and Holidays

Employees can receive an annual vacation of at least 6 working days for the first year, with an added 2 working days every following year. After four years, the vacation period will increase only 2 working days for every five years worked.

Employees required to work on any of these holidays must be paid at the rate of at least three times their normal wage:

January 1 (New Year's Day)

First Monday in February (Constitution Day)

Third Monday of March effective as of 2007 (Benito Juarez Day)

May 1 (Labor Day)

September 16 (Independence Day)

Third Monday in November (Revolution Day)

December 1, every 6 years, (new President inauguration)

December 25 (Christmas)

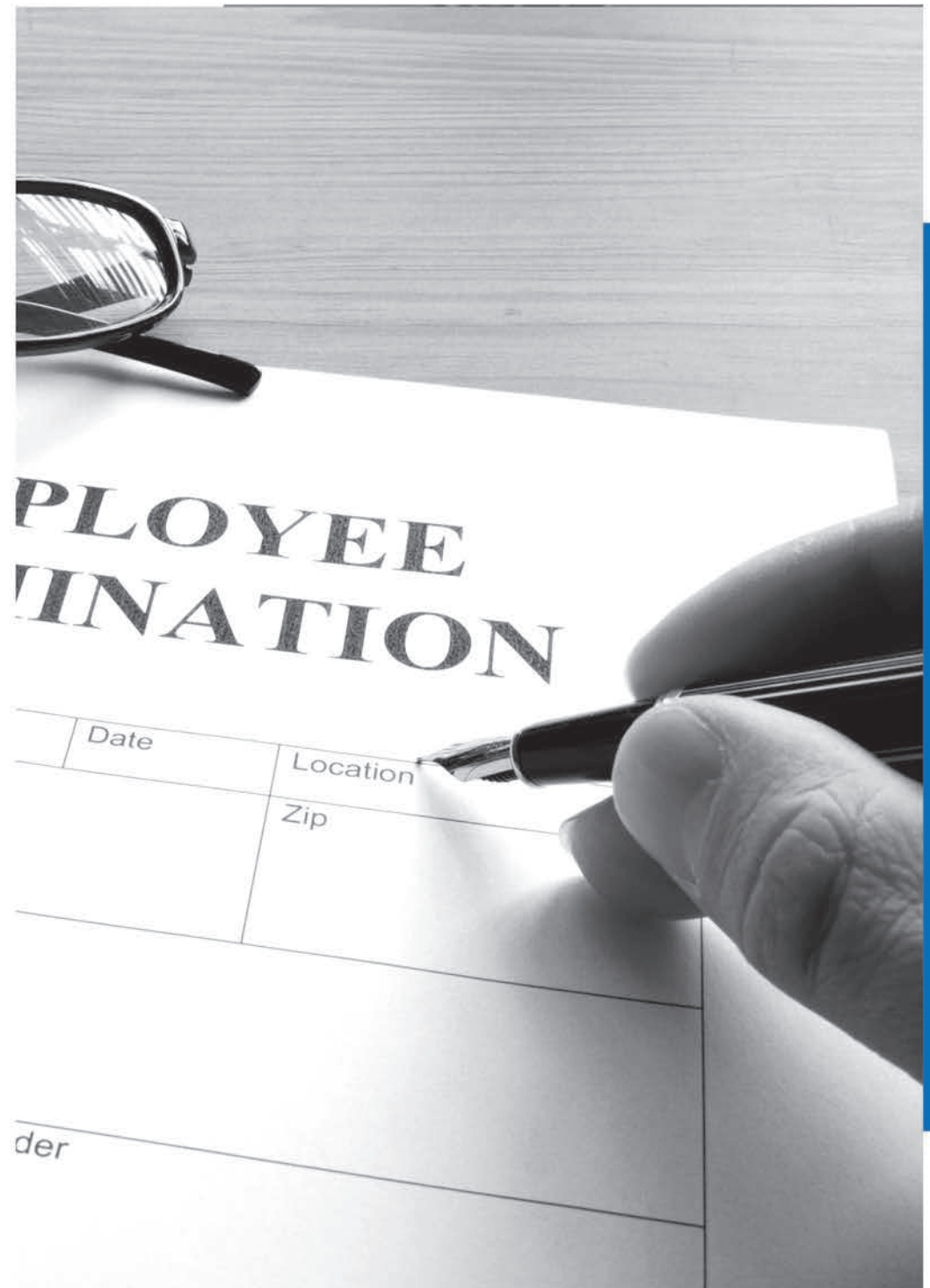
And days determined by the federal and local electoral laws as election days



Employee Termination

Under Mexican Labor Law if an employee is terminated without cause, they have the right to file for reinstatement or compensation. The employee that has been let go is provided with 3 months of wages and an additional pro-rated 20 days per every year employed beginning at the time of dismissal. Until the wages are provided, normal wages accumulated during the days after the event are required to also be paid to the employee.

If the file for reinstatement is approved by the courts, the employee will receive all the wages that would have been earned throughout the process - the 2012 Mexican Labor Law reform changed the compensation process to limit up to 12 months and a 2% monthly interest over 15 months of salary because of the excessive delays in court proceedings.



Employee Termination *(continued)*

The employer can terminate the relationship based on:

- Deception or scam by the employee relative to their capabilities
- Delinquency or injuries by the employee
- Behavior outside of the workplace that affects the employer, and other personnel
- Deliberate damages or bigotry to the employer or their assets while working
- Negligence by the employee placing the business or personnel in an unsafe situation
- Immoral acts at the place of business by the employee
- Revealing trade secrets of the employer
- More than 3 absences from work within 30 days, without justification or permission
- The employee's refusal to obey orders or work
- Rejection by the employee to adopt precautionary measures to avoid accidents
- Drunkenness or drinking at the place of work
- Imprisonment of the employee

An employer can choose not to reinstate the employee if:

- The employee's manager has been with the company for less than a year
- The manager and the employee are absolutely not able to work together
- The employee was working as a temporary worker
- The services provided were the rendering of socially learning municipal services issued by the authorities or law.

Employee Termination *(continued)*

Justifiable Suspension of employment happens when:

- The employee has a transmittable sickness
- The employee is temporarily incapable to work due to an accident or illness
- Preventive detention of the employee, followed by an absolving decision
- The arrest of the employee
- Representation of socially oriented public services imposed by law or order issued by authority
- When the employee does not have certain credentials required by law to work (sanitation cards, driver's license)
- Representation of socially oriented public services imposed by law or order issued by authority
- When the employee does not have certain credentials required by law to work (sanitation cards, driver's license)



Employee Resignation

When an employee resigns, the employer has to pay the employee their unused vacation days and a year-end bonus. If the employee worked for more than 15 years, they receive an additional sum equivalent to a 12 day salary for each year they worked for the employer (calculated on the last salary received prior to resigning).

If the employee worked for the employer for less than one year, the employee is compensated with a sum equal to half the salaries of the time they worked. If this period is greater than one year, then the compensation is equal to six months salary of the first year, and 20 days per year for each of the following years. To determine the amount payable for compensation, the employers are to use the employee's base salary corresponding to when the right to receive payment occurs.



Retirement and Housing in Mexico

Retirement

When someone is hired, a personal “AFORE” savings account is created, which is an account where the employer is required to deposit 2% of the salary for retirement. This payment is part of the social security program, IMSS (Instituto Mexicano del Seguro Social), and acts as a retirement saving account.

Housing Subsidies

INFONAVIT (Instituto Nacional para el Fomento a la Vivienda para Trabajadores, or, The National Institute for Development of Living Quarters for Workers) is a financial institution that subsidizes housing purchases for qualified Mexican employees. 5% of the employee’s salary is deducted from each paycheck and is put towards their housing under INFONAVIT. The percentage is also used to support the small housing communities for the worker population.



Labor Unions

Mexican labor unions are important organizations with the potential to grow production value and maintain communication with workers. Production workers in Mexican industrial enterprises that employ more than 25 workers, hold more than 90% of labor union affiliations, and are the most organized professional workers in the country.

Labor unions are allowed to negotiate for and represent employees in a company if it can show that at least 20% of the employees are members with them. The unions facilitate collective labor contracts that are signed between representatives of both the employer and the union. Labor unions' collective contracts are reviewed every two years.

Understanding which unions are prominent in your area is important for communicating your needs and negotiating employee benefits. Finding a trusted union organization is key to running a smooth collaboration and an efficient work environment.



Labor Unions *(continued)*

Labor unions facilitate most strikes in Mexico and some employees might not know when they are happening. Dealing with a strike is not a common situation, but if it were to happen, once the strike begins, the employer is not allowed to perform any kind of work and is forbidden to cross the “picket line.” During a strike, employees are not allowed inside the employer’s premises.

Strikes in Mexico usually have objectives that are limited to:

- Obtaining balance between production efficiency and labor rights.
- Obtaining an implementation and signed document of a Collective Bargaining Agreement and demanding its revision upon expiration.
- Demanding compliance with the Collective Bargaining Agreement if employee rights have been violated.
- Demanding compliance with the legal provisions on profit sharing.



Contact us to learn how we can help you answer these and other questions pertinent to any due diligence effort regarding the startup and ongoing operation of a manufacturing presence in Mexico.

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