

# EMPLOYING FOREIGNERS

## Information for employers who plan to employ foreigners in Wroclaw agglomeration



The number of foreigners for whom Wroclaw agglomeration is an attractive job destination is growing. When planning to employ a foreigner, an employer needs to remember to meet a number of obligations under the national regulations. Knowledge of the basic principles will allow for the efficient legalization of residence and work of the future employee.



### THE PROCEDURE DEPENDS ON THE COUNTRY OF ORIGIN

Formalities that need to be fulfilled in employing a foreigner depend, first and foremost, on the foreigner's country of origin. There are basically three "groups" that differ from one another in terms of rules concerning employment:

#### 3 BASIC GROUPS:



**GROUP 1** - citizens of the EU, Norway, Liechtenstein, Iceland and Switzerland

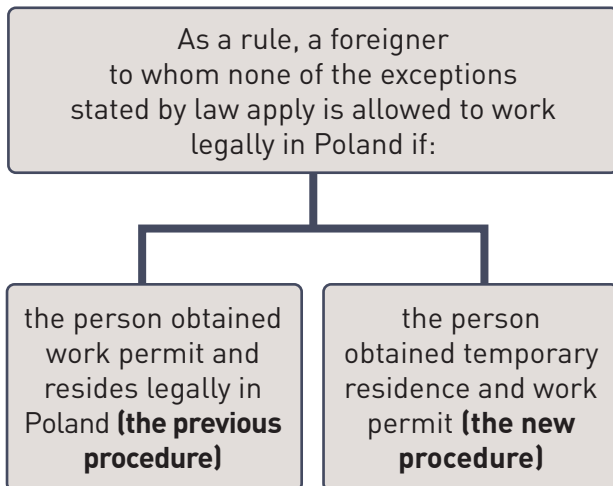


**GROUP 2** - citizens of Russia, Moldova, Georgia, Armenia, Belarus and Ukraine



**GROUP 3** - citizens of third countries, not listed above

#### What are the possibilities of legalising the work of a foreigner from the 3rd group in Poland?



#### 1 Citizens from the 1st group – minimum formalities

Foreigners from the first group can legally work in Poland on the same conditions as the citizens of Poland.

#### 2 2<sup>nd</sup> and 3<sup>rd</sup> group: more requirements

Foreigners classified in groups two and three will have many more conditions to meet regarding legalization of their residence and work in Poland. The general rule is that to be able to work in Poland, they need to legalize both their residence and work by obtaining appropriate permits. A certain relaxation in requirements is provided for the citizens of Russia, Moldova, Georgia, Armenia, Belarus and Ukraine. Polish law enables them, under certain conditions, to make use of the **simplified procedure**.

**inf.** More information on the simplified procedure is available in our brochure for employers.

#### 3 Employing a foreigner from the 3rd group

Before May 2014, the basic method of legalising the work of a foreigner was a two-step procedure consisting of the following steps:

**step 1** - Obtaining the work permit issued on the basis of an application submitted by the **employer**; and

**step 2** - Legalizing - based on work permit obtained - the residence of a foreigner in Poland (**the previous procedure**).

### THE NEW PROCEDURE

The **new procedure** was introduced to Polish law in **May 2014**, when the new Foreigners Act entered into force, in order to improve the course of the procedures of legalizing the residence and work of foreigners in Poland. It is a single-step procedure and allows a foreigner to legalize their residence and work in Poland by applying for a **temporary residence and work permit**. The application needs to be **submitted by the foreigner in person**, no later than on the last day of their legal residence on the Polish territory. **Therefore, when submitting their application, a foreigner needs to be in Poland legally.**

**inf.** More information on the residence and work permits available in our brochure for employers.

# PREVIOUS PROCEDURE – types of work permits

Depending on circumstances, the employer should apply for one of the following types of work permits:

- typ A** – when the foreigner is going to work in Poland based on a contract with an employer whose seat is located in Poland;
- typ B** – when a foreigner will remain in Poland for **more than 6 months in the aggregate in the period of the following 12 months**, in connection with their function in the management board of a legal person;
- typ C** – when a foreigner works for a foreign employer and is to be delegated to the territory of the Republic of Poland for a period of **more than 30 days in the calendar year** to a branch or an establishment of the foreign company, or its related entity;
- typ D** – when a foreigner works for a foreign employer who does not have a branch, an establishment or other form of organized business activity in Poland and is delegated to Poland to perform a service which is temporary and occasional in character (export service);
- typ E** – when a foreigner works for a foreign employer and is delegated to Poland for a period longer than 30 days in the following 6 months for purposes other than indicated above.

## Work permit - procedure

**Work permit** is issued by the Voivod (Governor) after the completion of the proceedings by **the Voivod Office**.



- 1 To obtain a work permit, **the employer** should fill out an application (available on the Voivod Office website)



- 2 and submit it to the Voivod Office, **along with the required documents.**

**!** Please remember that in the procedure of issuing a work permit, it is the employer who is the applicant and the party to the proceedings!  
**Contact details of Lower Silesia Voivod Office are available in the box at the bottom of the page.**



### What documents should be attached to the application?

The documents required along with the application largely depend on **the type of work permit one applies for**. For that reason, it is recommended to seek advice on the type of documents the Office requires for a given type of permit.

## Labour market test

Apart from the exceptions provided for in the law, the condition for issuing type A work permit is for the employer to demonstrate that they do not have the possibility to satisfy their staffing needs by employing a resident of Poland or the European Union. That condition is fulfilled after the completion of a procedure called the labour market test, which results in obtaining information **from the Starost (District Governor) confirming the completion of the above condition.**

### Contact details of the Lower Silesia Voivod Office:

Dolnośląski Urząd Wojewódzki - Wydział Spraw Obywatelskich i Cudzoziemców  
pl. Powstańców Warszawy 1, 50-951 Wrocław  
☎ +48 71 340 67 02 🌐 [www.duw.pl/pl/obsługa-klienta/cudzoziemcy](http://www.duw.pl/pl/obsługa-klienta/cudzoziemcy)

## Deciding on the type of procedure

The choice between the new and the previous procedures should always be made with consideration of all the circumstances of a given case. Since **the residence and work permit application** must be submitted by the foreigner in person, they need to be legally in Poland. Hence, applying the new procedure will not always be possible or convenient.

Additionally, this type of permit is not available for all foreigners planning to work in Poland. For example, an employer delegated to Poland to work in a branch of a foreign business still needs to first obtain a work permit, and then, on that basis, can legalize their residence in Poland.

## Obtaining a permit is not the end of legal obligations!

Please remember that after obtaining a work permit, the employer is obliged to inform the Voivod in writing, within seven days, about the following circumstances:

- The foreigner started work of a different character or in a different position than those specified in the work permit;
- The seat, name or legal form of the employer has changed, or the company has been taken over by a different employer;
- The person representing the foreign employer before the Voivod has changed;
- The foreigner has not taken up the job within 3 months from the permit's validity starting date;
- The foreigner has interrupted work for a period exceeding 3 months;
- The foreigner has finished work earlier than 3 months before the expiry of the work permit.

**AR** Wrocław Agglomeration  
**AW** Development Agency

This brochure was prepared by Wiewiorski Law Firm that specializes in providing services for foreign businesses and foreigners, especially regarding legalization of work and stay in Poland.

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