



Employment

May 2011

Obtaining a work permit

Law no. 629 of 17 July 1957 outlines the conditions applicable to employment in the Principality of Monaco. A foreign national cannot work in Monaco unless he obtains a work permit (*Permis de travail*). Employees must also undergo a medical examination.

Initially the employer must send an offer of employment (*Offre d'emploi*) to the *Service de l'Emploi*. Pre-printed forms exist in which the job description must be set out. The *Service de l'Emploi* then check if anyone on their registers might be a suitable candidate. [NB This procedure does not apply in respect of domestic staff].

Within four working days, the *Service de l'Emploi* will notify the employer of appropriate potential candidates whom the employer must interview. Within a day of lodging the *Offre d'emploi* (where one is required), the *Service de l'Emploi* will acknowledge receipt of it. Once the employee is selected, a receipt must be

completed with the employee's details and sent to the *Service de l'Emploi* with a copy of the employee's ID.

The employer will then receive a form called a *Demande d'autorisation d'embauchage et de permis de travail* which must be completed and sent back immediately. Receipt will again be acknowledged and within a few weeks the formal work permit should be available.

The employee need not be resident in Monaco to obtain a work permit, but does need to be resident in the surrounding area. No strict geographical limits are specified.

If the employee changes job, a new application for a work permit must be made.

Each work permit authorises only the specific employment for which it was obtained.

Social security contributions

As well as obtaining an employment authorisation (*une autorisation*



d'embauche), each employer must register his employee(s) at the *Caisse de Compensation des Services Sociaux* (CCSS) and at the *Caisse Autonome des Retraites* (CAR).

Such registration entitles the employee to the following (subject to certain conditions):-

- Child benefit: the *chef de famille* (father or single parent) must be employed in Monaco. The level of benefit depends on the age of the child.
- In the event of illness, payment of half of the employee's salary together with reimbursement of a part of any medical costs incurred.
- Retirement pension: the employee must have worked for at least ten years in Monaco.

At present, the social security contributions are as follows:

- CCSS: 16% of the monthly gross salary paid exclusively by the employer up to a ceiling of €7,600.
- CAR: 13.19 % (7.04% of monthly gross salary payable by the employer, and 6.15% of monthly gross salary payable by the employee) up to a ceiling of €4,192.

The employer must also take out an insurance policy to cover accidents at work. The premium is calculated at about 0.60% of the total of the annual salary paid by the employer.

In addition, employers in Monaco must ensure that contributions are made to certain organisations, these contributions being the same as those made by employers in France. The contributions provide cover in the event of redundancy and also provide for supplementary pension benefits (the rate depends on whether the employee is an executive (*cadre*) or not) and life insurance cover.

At present, the rates payable are as follows:

- ASSEDIC: (unemployment cover) The contribution is 6.40% of the monthly salary (2.40% payable by the employee, and 4% payable by the employer) up to a ceiling of €11,784.
- UGRR: (supplementary pension for non-executives) The contribution payable is 7.5% of the part of the

monthly salary below €2,946, 3% payable by the employee and 4.5% payable by the employer.

For the part of the monthly salary between €2,946 and €11,784 the contribution is 20% of the salary, 8% payable by the employee and 12% payable by the employer.

- AMSF: (supplementary pension fund contribution, specific to Monaco) The employer must contribute 1.2% and the employee 0.8% for the part of the monthly salary below €2,946. For the part between €2,946 and €11,784, the contributions are 1.3% and 0.9% for the employer and the employee respectively.
- UGRC: (supplementary pension for executives) The employee must contribute 7.70%, and the employer 12.60% of the monthly salary in question (salary between €2,946 and €11,784). Monthly salary above a certain amount (at present this amount is at €23,568) will not be affected.
- Life insurance cover for executives. A contribution of 2.70% of €2,946 is paid (2.16% by the employer and 0.54% by the employee) and 3.60% of the monthly salary above €2,946 and up to a ceiling of €11,784 (2.88% paid by the employer and 0.72% by the employee). This contribution is obligatory for cadres, and provides cover for the employee's family in the event of his or her death.

On average, the various social security contributions payable by employers in Monaco amount to approximately 35% of the salary paid for non-executives and 48% for executives (excluding cover for accidents at work), bearing in mind that these contributions are limited by reference to the ceilings detailed above. The cost is lower than that due in France, where the employer pays around 40% for a non-executive and over 50% for an executive.

Contracts of employment

In most cases, it is advisable to prepare a written contract, giving details of the functions to be carried out by the employee, the conditions of employment, and so on. Care should be taken that the terms of any contract habitually used by the employer do not conflict with Monegasque law in any way, nor with any

applicable labour agreement (*Convention Collective*) such as the *Convention Collective Nationale* or the *Convention Collective des Banques*.

The maximum hours of work are detailed in *Ordonnance–Loi n° 677*. In general, the length of time a salaried employee will work is 39 hours per week. An employer may prolong the working week to 47 hours per week in certain limited circumstances. The average hours worked during a period of 12 consecutive weeks must not be more than 46 hours.

The minimum wage is €9 per hour increased by 5% in accordance with Monaco texts.

Holidays

Employees have the right to paid annual leave of five weeks a year. The holiday year in Monaco runs from 1 May to 30 April.

Breach of contract of employment

It is always important to think about a potential breach of contract when an employee is taken on.

This subject is vast but it should be noted that dismissal of an employee must generally be motivated by a real and serious cause, and that the employer must respect the requisite procedures which will involve sending a registered letter stating that the employee must change his behaviour, subsequent to an interview with him. Though not compulsory, a copy should also be sent to the *Inspection du Travail* in Monaco.

After at least one formal warning the employer may dismiss the employee, provided he does not intend to prejudice the employee or act irresponsibly.

There will always be a notice period to comply with, save where there has been a *faute grave* (serious misconduct which results in instant dismissal without indemnity). Otherwise, the following rules apply, based on the time spent with the employer, unless the employee has a more favourable contractual arrangement:

- If less than six months: no legal requirement but usually the employer gives two weeks' notice;
- Between six months and twenty four months: one month's notice;

- More than two years: two months' notice.

If the employer does not want the employee to work through the notice period, he must pay salary in lieu of notice.

There are various justifiable reasons for dismissal other than *faute grave*:-

- Illness

If an employee is ill for an uninterrupted period of six months he may be dismissed.

If an employee is ill a great deal the employer may ask the authorities to investigate the case.

In addition, each time an employee is ill the employee should produce a medical certificate for the employer within 24 hours.

- Physical inaptitude

Provided it is medically established and the employer cannot propose another job within the office suitable to the employee's physical condition.

- Change of workplace necessitating a change of residence which is refused by the employee.

- Redundancy

This list is not exhaustive: other reasons can be invoked by the employer relating to the non-fulfilment of the employee's obligations.

Indemnities To Be Paid In Respect Of Dismissal

Save where instant dismissal for *faute grave* is justified, indemnities will be due:

- *Indemnité de congédiement*

This is due by the employer when there are reasonable grounds for dismissal provided the employee has been employed for at least two years. It is based on 20% of the monthly salary for each year worked.

Example: if an employee is paid € 2,000 per month and is dismissed after five years he is paid (2,000 x 20%) x 5 = € 2,000

- *Indemnité de licenciement*

This is due by the employer when the courts decide that the dismissal was unreasonable. This is based on one day's salary per month not exceeding six months' salary. It cannot be accumulated with the *indemnité de congédiement*.

If the employer has already paid the *indemnité de congédiement* but is then ordered by the courts to pay the *indemnité de licenciement*, he will pay only the difference between the two sums.

Example: if an employee is paid € 3,000 per month and is dismissed after five years and two months' employment, he is then paid 62 days' salary, that is:

$(€3,000 / 169\text{hrs}) \times 7.8 \times 62 = € 8,583.90$ (7.8 being the average number of working hours per day).

■ Damages

Damages may be due on top of the *indemnité de licenciement* when the courts decide that the dismissal was unfair and that the employer intended to prejudice the employee or acted irresponsibly (*légèreté blamable*). Damages will be calculated in accordance with standard legal principles and all facts will be taken into account (e.g. the circumstances of the employment, breach of contractual terms, ability to find alternative employment etc.)

How can we help?

Our office has existed in the Principality since 1979. We are the only English based international law firm in the Principality. Between our Monaco and London offices we have the strength and depth to offer a full legal service to both local and international clients. We aim to advise our clients in an efficient and cost effective manner and with a particular emphasis on commerciality and confidentiality.

We speak a number of languages in Monaco including English, French and Icelandic. We have a client base which includes entrepreneurs, banking and financial companies, fund managers, entertainers, sporting personalities and international families from many jurisdictions.

Beyond its London, Dubai and Monaco offices LG has strong relationships with law firms throughout the US, Asia and around the world. These relationships enable us to advise comprehensively on any matters with an international dimension.

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