

7 | Labour in Belgium

Labour law in Belgium is implemented on an international as well as national level and by the Collective Labour Agreements (*Collectieve Arbeidsovereenkomsten* or CAO's) agreed between the sectors and the respective Joint Committees (*Paritaire Comités*).

Regulation is extensive, complex and connected with the individual and collective employment relationship between employer and employee.

In general, employees are highly protected, since they are considered to be the economically weaker and dependent party. Therefore, sanctions for employers who violate these stipulations of the law are severe.

Moreover, the diamond industry in Antwerp consists of workers, traders and entrepreneurs of diverse nationalities, which makes it very complex to comply with all formalities and regulations.

In order to provide a general and comprehensive overview of the actual rules and regulations on labour in Belgium, we have made a brief summary of the most relevant subject areas to the diamond industry.

7.1 | Employment contracts

There are many different types of employment contracts possible under Belgian law, such as:

- A **fixed-term employment contract** is an employment contract made for a fixed period of time, whereby a specific date is set as to when the parties are released from their respective obligations. Successive fixed-term employment contracts are in principle prohibited but deviations are allowed under stringent conditions. This kind of employment contract is subject to stringent conditions.
- An **open-ended employment contract** is an employment contract whereby the parties have not made any provisions regarding the duration of the employment contract, so that they are deemed to have been made for an open-ended period of time.
- A **specific assignment employment contract** for clearly described work is an employment contract which does not stipulate a precise duration (e.g. working for ten months), but does precisely describe the work to be carried out. This kind of employment contract is subject to stringent conditions.
- A **replacement contract** is an employment contract made to replace an employee whose employment contract has been suspended for a reason other than lack of work due to economic causes, bad weather, strike or lock-out. This kind of employment contract is also subject to stringent conditions.
- A **temporary employment contract** (*interim contract*) is made between a temporary work agency (interim office) and an employee. This employment contract is only possible in specific cases and is subject to stringent conditions.

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7.2 | Recruiting employees

The procedures and obligations concerning labour in Belgium differ between employees from Belgium, the EEA and countries from outside the EEA.

7.2.1 | Belgian employees

When recruiting Belgian employees, employers need to fulfil the following obligations:

7.2.1.1 | Insurance for work-related accidents

Dutch: arbeidsongevallenverzekering

In Belgium, all employers are obliged to take out an insurance policy for **work-related accidents** for their employees, regardless of the duration of their employment.

To take out an insurance policy for work-related accidents you can turn to one of the insurance companies listed [here](#).

7.2.1.2 | Joining the Federal Public Social Security Service

Dutch: Rijksdienst voor Sociale Zekerheid

Social Security is a public system to **guarantee an income and/or healthcare** for workers and families, who are temporarily or permanently unable to provide (enough) income and/or healthcare for themselves.

Social Security grants benefits in many circumstances for example in case of retirement, illness, disability and possible unemployment.

In Belgium, every employer is obliged to contribute to Social Security. In this respect, all employers are obliged to register with the Federal Public Social Security Service.

To contact the Belgian Federal Public Social Security Service, please click [here](#).

This registration can be made directly at the Federal Public Social Security Service itself or you can request a social secretariat (*Sociaal Secretariaat*) to do it for you.

If you wish to do so, please contact one of the recognised social secretariats, which can be found [here](#).

7.2.1.3 | Joining the Child Benefit Fund

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Kinderbijslagfonds

The Child Benefit Fund is a fund that pays out **child benefits** to all employees for whom all legal conditions are fulfilled.

In Belgium, all employers are obliged to register with a Child Benefit Fund within 90 days after hiring an employee with or without children whereby the employer needs to fill out all the required details.

If there is no registration within 90 days, the employer will automatically be registered with the Federal Child Benefit Service for Employees. In this situation however, the employer will receive a default registration, which might result in higher payments.

For registration, please contact the [Federal Child Benefit Service](#) for Employees or another [Child Benefit Fund](#).

7.2.1.4 | Federal Annual Holiday Department

Rijksdienst voor Jaarlijkse vakantie

In Belgium, all employers who recruit **manual workers (blue collar)** are obliged to register with a Holiday Allowance Fund.

Normally this is the Federal Annual Holiday Department, but some corporate sectors have their own Holiday Allowance Fund.

For manual workers in the diamond industry (manufacturing/no trade), employers can turn to the [Holiday Allowance Fund](#) for the Diamond Industry (*Rijksverlofkas voor de Diamantnijverheid*).

7.2.1.5 | External Service for Prevention and Protection at Work

Externe Dienst voor Preventie en Bescherming op het Werk

The instant an employer has an employee on his/her payroll; the employer is obliged to register with an External Service for Prevention and Protection at Work.

For registration, you can turn to one of the recognised [External Services for Prevention and Protection at Work](#).

7.2.1.6 | Internal Service for Prevention and Protection at Work

Interne Dienst voor Preventie en Bescherming op het Werk

In addition to being registered with an External Service For Prevention And Protection At Work, the

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employer also has to have in place Internal Service for Prevention and Protection at Work and implement **a welfare policy within the policy.**

Employers in the diamond sector are obliged to have a Committee of Prevention and Protection at Work when they employ an average of 10 to 49 employees.

Employers – who have joined the Syndicate of the Belgian Diamond Industry (*Syndikaat der Belgische Diamantnijverheid* or *SBD*) – are allowed to found a common service and a common committee.

For more information, please consult the [Royal Decree](#) (*Koninklijk Besluit*) from the 27th of March 1998 with respect to the Internal Service for Prevention and Protection at Work (published in the Official Gazette (*Belgisch Staatsblad*) on the 31st March 1998).

The contact details of the Syndicate of the Belgian Diamond Industry (*Syndikaat der Belgische Diamantnijverheid*), can be found [here](#)

7.2.1.7 | DIMONA report

Dimona aangifte

In Belgium, all employers are obliged to immediately report the commencement and termination of an employee's employment to the government.

This DIMONA report is a very simple report and can be made:

- By telephone with push buttons on the number: + 32 (0) 2 511 51 51;
- On [the website](#) of the Federal Social Security;
- Via your [social secretariat](#)

7.2.2 | Employees of the European Economic Area

7.2.2.1 | The principle of free movement of workers

In the 31 member states of the European Economic Area (EEA) - with the exception of Bulgaria and Romania - the **free movement of workers** is a fundamental right whereby citizens of a country belonging to the EEA may work in another EEA country under the same conditions as the citizens of that [member state](#) of the EEA. Consequently EEA workers are exempt from presenting a work permit (*arbeidskaart*).

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member states

Austria, Belgium, Bulgaria, (the Greek part of) Cyprus, the Czech Republic, Croatia, Germany, Denmark, Estonia, Finland, France, Greece, the United Kingdom, Hungary, Ireland, Iceland (EEA), Italy, Liechtenstein (EEA), Latvia, Lithuania, Luxembourg, Malta, Netherlands, Norway (EEA), Poland, Portugal, Romania, Slovenia, Slovakia, Spain and Sweden. Although Switzerland is not a member of the EEA, bilateral agreements are in place between the EEA and Switzerland, including an 'Agreement on free movement of persons. Therefore the EU rules of free movement of persons also apply on Switzerland.

7.2.2.2 | Employers' obligations when recruiting EEA employees

When recruiting [employees from the European Economic Area \(EEA\)](#) the same obligations apply as for recruiting Belgian employees.

employees from the EEA

Citizens from the following countries are considered EEA workers: Citizens of Austria, Belgium, Bulgaria, (the Greek part of) Cyprus, the Czech Republic, Croatia, Germany, Denmark, Estonia, Finland, France, Greece, the United Kingdom, Hungary, Ireland, Iceland (EEA), Italy, Liechtenstein (EEA), Latvia, Lithuania, Luxembourg, Malta, Netherlands, Norway (EEA), Poland, Portugal, Romania, Slovenia, Slovakia, Spain and Sweden. Although Switzerland is not a member of the EEA, bilateral agreements are in place between the EEA and Switzerland, including an 'Agreement on free movement of persons. Therefore the EU rules of free movement of persons also apply on Switzerland.

7.2.3 | Recruiting non-EEA employees

7.2.3.1 | No free movement of labour

Non-EEA Member States do not enjoy the fundamental right of free movement of workers in the EEA, so they **need to apply for a work licence and/or a work permit** before starting their employment in an EEA state.

Three different situations can be distinguished:

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(1) Work licence and work permit B

If a non-EEA employee has not worked in Belgium before, the Belgian employer is required to apply for a work licence (*arbeidsvergunning*), and this *before* hiring the employee.

Following the granting of a work licence to the employer, the employee will receive a “work permit B” (*arbeidskaart B*), which gives the employee permission to work on the payroll of the Belgian employer for a specific period and a maximum of 12 months.

The Belgian employer must present his/her application for the work licence to the regional employment placement agencies. The competent agency varies depending on the place of employment. For diamond enterprises based in Antwerp with workers employed in Antwerp the competent agency is the [VSAWSE](#) (*Vlaams Subsidieagentschap voor Werk en Sociale Economie*).

The **following documents** must always be presented:

- An [application form](#) to be completed and signed by the Belgian employer: application for the employment of a foreign worker (*aanvraag tot tewerkstelling van een buitenlandse Werknemer*).
- A [medical certificate](#) (*geneeskundig getuigschrift*) in which the employee’s fitness to work is confirmed.
- A copy of the employment contract (*arbeidsovereenkomst*).
- A copy of the foreign identity card or a copy of the personal details on the international passport of the employee.
- If the employee is already in possession of a residence permit to stay in Belgium on a regular and legitimate basis, you also need to present an information sheet with identification data of the foreign employee and information about his/her residence permit.

(2) Work permit A

A Work permit A (*arbeidskaart A*) is given to non-EEA employees who, prior to their application for the permit, were already legitimately living in Belgium for a maximum period of 10 consecutive years and can prove that they have already worked with a work permit B for 4 years (4 times 12 months).

This work permit applies for all professions carried out in an employment context for an open-ended period of time.

Foreign employees must present their application for a work permit A by filling in the appropriate application forms. These application forms can be obtained from the regional employment placement agencies. There are three employment agencies in Belgium.

For blank application forms for applicants in Antwerp, please go to [this website](#) or contact the [VSAWSE](#).

If the work permit A is applied for by a person, who is regularly residing in Belgium, the application forms must be accompanied by an information sheet with respect to his identity, signed by the mayor of the municipality where the applicant is residing.

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More information on this topic and access to the forms can be found on [this website](#).

(3) Work permit C

A Work permit C (*arbeidskaart C*) is granted only to specific categories of foreign citizens who have limited or uncertain residence rights in Belgium (e.g. students, asylum seekers, etc.).

This work permit applies for all professions carried out in an employment context for a fixed period of time.

The procedure to apply for a work permit C is identical to the procedure for a work permit A.

A foreign employee must present his/her application for a work permit C by filling in the appropriate application forms. These application forms can be obtained on [this website](#) or you can contact the [VSAWSE](#).

The application must also be accompanied by an information sheet signed by the mayor of the municipality where the applicant is residing.

More information on this topic and access to the forms mentioned above can be found on [this website](#).

7.2.3.2 | Residence in Belgium

Non-EEA employees who wish to work in Belgium must arrange for a legitimate residence while being employed in Belgium.

A short overview of the three possibilities available for a non-EEA employee is given below. More information on this matter is available the following websites:

- [Website](#) of the Kingdom of Belgium: Foreign Affairs, Foreign Trade and Development Cooperation.
- [Website](#) of Portal Belgium.be: Coming to work in Belgium.

There are several types of visas or residence permits depending on the duration of the residence in Belgium:

(1) Employment of a non-EEA worker for a short period of time

Maximum: 3 months.

Upon arrival in Belgium, the employee must register with his/her municipality of residence.

If the foreign employee has the intention to reside in Belgium for a maximum period of 3 months, he/she must also apply for a visa type C at the relevant Embassy or Consulate of Belgium in his/her home country.

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(2) Employment of a non-EEA worker in Belgium for more than 3 months (not permanent)

Employees only intending to stay in Belgium for a short period of time, have to register with their municipality of residence. Then the employee must apply for a visa type D at the relevant Embassy or Consulate of Belgium in their home country.

(3) Employment of a non-EEA worker in Belgium for permanent residence in Belgium

If an employee wishes to apply for a permanent residence in Belgium he/she must firstly register with his/her municipality of residence in Belgium, or start a procedure in order to obtain a permanent stay in Belgium from his/her home country.

In order to obtain the correct residence permit for a permanent stay in Belgium or in another country of the European Union, extensive and complex formalities must be fulfilled.

A non-EEA citizen can use several grounds to acquire a permanent stay in Belgium or in another country of the European Union.

Considering the fact that the procedure for permanent stay is complex and detailed, it is advisable to contact a specialised lawyer for further assistance.

More information on this subject can be obtained on [this website](#).

7.2.3.3 | Employers' obligations when recruiting a non-EEA employee

When recruiting employees from outside the EEA (European Economic Area), the same obligations apply as for recruiting Belgian employees or employees from within the EEA (please click [here](#) for more information).

7.3 | Specific case of secondment

A secondment (*detaching*) means a situation whereby a foreign employer **detaches one of his employees in Belgium** to carry out professional activities in Belgium, whilst remaining an employee of the foreign employer.

During the period of secondment a foreign employer is bound to comply with the rules of Belgian labour law.

Secondment is **strictly regulated** by the following legislation:

- Directive 96/71/EG the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services (Official Journal of the European Communities No L 18 of 21st January 1997)
- Belgian Law of 5th March 2002 implementing Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework

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of the provision of services, and introducing a simplified system for the maintenance of social records by undertakings that post workers to Belgium (Belgian Official Journal or Gazette from 13 March 2002)

In the case of secondment, one of the most important obligations is the **LIMOSA report**, which must be filed by the foreign employer. Every form of employment in Belgium of foreign salaried or independent employees by a foreign employer must be reported to the Belgian authorities. The report of the employee can be made in writing or online (click [here](#)).

For more information, please consult the following websites:

- Federal Public Service Employment and Labour: [General information](#).
- Federal Public Service Employment and Labour: [Legal rules](#) applicable to secondment.

7.4 | Relocation assistance and integration

The practical side of a relocation, whether it be for foreign employees, executives or expats, is always complicated. There are specialized companies, such as Be Welcome, who offer all-round guidance of foreign employees, executives and their families relocating to Belgium. They also offer legal advice and execution of immigration & social security matters in relation to international employment, such as obtaining visa and work permits.

Even more so, it is possible to have your foreign employees attend a general cultural training, which assist in the integration in Belgian day-to-day life for the employee and their family or even to attend an intercultural management training, specialized in offering cultural management training for business leaders.

Please consult the [contact list](#) for contact details.

7.5 | Public holidays in Belgium

Belgium has **ten Public Holidays** which need to be considered as extra days off. These days are paid as if they were regular working days. Please find an overview of the public holiday calendar below:

Official public holiday	Date	Dutch
New Year's Day	1st January	<i>Nieuwjaar</i>
Easter Monday	First Monday after Easter	<i>Paasmaandag</i>

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Labour Day	1st May	<i>Dag van de Arbeid</i>
Ascension Day	6th Thursday after Easter	<i>Onze Lieve Heer Hemelvaart</i>
Pentecost Monday	8th Monday after Easter	<i>Pinkstermaandag</i>
National Holiday	21st July	<i>Nationale feestdag</i>
Assumption of Mary	15th August	<i>Onze-Lieve-Vrouw Hemelvaart</i>
All Saints	1st November	<i>Allerheiligen</i>
Armistice Day	11th November	<i>Wapenstilstand</i>
Christmas Day	25th December	<i>Kerstmis</i>

In addition to these Public Holidays, sectorial agreements (*Collectieve Arbeidsovereenkomsten or CAO's*) might add sectorial holidays. For example, sometimes, the Flemish Holiday (11th July, *Vlaamse Feestdag*) is included as an extra paid holiday.

For more information, please visit Belgium.be

7.6 | Legal paid annual leave in Belgium

The number of days of legal paid annual leave an employee is entitled to, is determined on the basis of the number of days that he/she has effectively worked or the equivalent inactive days the year before.

For more information on this matter, please consult [this website](#).

7.7 | Salary

In Belgium, **minimum salaries** are set by Joint Committees (*Paritaire Comités*) via Collective Labour Agreements (*Collectieve Arbeidsovereenkomsten or CAO's*).

A Joint Committee is a consultative committee between the employers' union and the union of employees' representatives, with as its aim to negotiate Collective Labour Agreements (*Collectieve Arbeidsovereenkomsten or CAO's*) about work conditions, minimum salaries, bonuses, etc. of employees within a certain sector.

There is a **Joint Committee No. 324** for the Diamond Industry and Trade (*Paritair Comité 324 voor*

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de Diamantnijverheid en -handel) which applies for blue collar employees in general and their employers with the activities set out below:

- Cutting and polishing of diamonds
 - This applies to the following employees: manual workers, students and technical intellectual workers
- Cutting and polishing of coloured gemstones
 - This applies to the following employees: manual workers, students and technical intellectual workers
- Trading in diamonds
 - This applies to the following employees: manual workers and students

The white collar employees in the diamond business are covered by the **Joint Committee No. 218**, with respect to the international trade.

An employer in the Diamond Industry and Trade is obliged to be compliant with the rules of the Joint Committee No. 324 and No. 218. This means, amongst other things, that the minimum salaries agreed therein must be taken into account, as well as the pay scale salaries included in these rules.

Collective Labour Agreements which have been made within Joint Committee No 324 and No. 218 can be viewed on [this website](#), under the topic 'social negotiations' (*sociaal overleg*).

7.8 | Personnel / staff administration

When starting an independent activity requiring the recruitment of personnel/staff, it is necessary to perform a number of administrative formalities imposed by social security legislation.

These administrative formalities consist of processing and calculating salaries, premiums, etc., registration with a Child Benefit Fund and an Annual Holiday Fund (only in the case of recruitment of manual workers), tax returns for withholding tax and the three-monthly returns and payments to the Federal Public Social Security, setting up a staff register, social documents, etc.

Because of the complexity of the administration involved, it can be useful to appeal to a recognised social secretariat to take care of these complex formalities on your behalf.

Several recognised social secretariats can be found [here](#).

7.9 | Internal Compensation Fund

Based on the law of 12th of April 1960 establishing the Internal Compensation Fund and the Royal Decree of 21st of November 1960 establishing the statutes of the **Internal Compensation Fund**, all natural and legal persons who have an activity in the diamond trade or diamond industry (whether it be full time or part time), are obliged to pay a trimestral contribution to the Internal Compensation Fund in order to allow employers of diamond workers (being cutting, adjusting, ..) to pay out benefits to the diamond workers.

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The compensation payable is 0,006% of the value of each diamond transaction. A transaction is each commercial agreement creating an increase in value. It does not include simple shipments or consignments in such cases where no profit is established.

Furthermore, the compensation of 0,006% is not payable for the first turnover amount of 5.000.000 euro in transactions, per company and over a period of one year.

The compensations are paid to the Fund, at the end of each trimester, as defined in the laws on social security.

An employer who wishes to benefit from the Fund, can send an application for compensation-benefits to the Fund.

For more information, please contact the Fund at 03/213.50.30 .

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