



GOBIERNO
DE ESPAÑA

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MINISTERIO
DE TRABAJO
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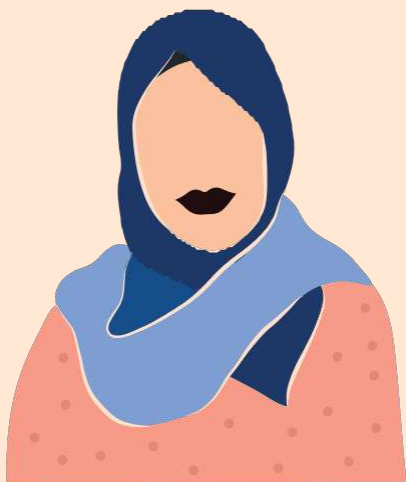


GOBIERNO
DE ESPAÑA

MINISTERIO
DE INCLUSIÓN, SEGURIDAD SOCIAL
Y MIGRACIONES

Domestic Workers Guide

Royal Decree-Law 16/2022, of 6 September, for the improvement of working conditions and Social Security of domestic workers, makes it possible to equate the working conditions of this group with that of the rest of workers employed in the workplace and in Social Security.



Providing services in the family home has traditionally been characterised as having a differentiated treatment, both because it is carried out in a private sphere and not in a company, and because of the high variability of the working hours or the number of employers.

The regulation also makes it possible to put an end to an unjustified undervaluing of domestic work.

I. CONTRACTS

I am a domestic worker. Can I demand a written contract?

Yes, the contract must be in writing. If it has not been formalised in writing, the contract will be presumed indefinite and full-time, unless it can be proven to be contrary.

Both the worker and the employer may demand that the contract be formalised in writing at any time.

The worker must be informed about the essential elements of the contract and their working conditions, such as possible remuneration in kind, the details of the distribution of times present and duration, as well as the regime of the overnight stays at the address where services are provided, if applicable.

What salary should a domestic worker receive?

It must at least conform to the SMI (minimum professional salary).

Therefore, it is currently €1,000/month in 14 payments and €1,166.67/month in 12 payments. In the case of hourly pay, it amounts to €7.29/hour. If including holidays, it reaches €7.82/hour.

■ **Is there a trial period for a domestic worker?** The contract may include a trial period that may not exceed two months. The employment relationship may be terminated within this period by either party, and a notice period may be agreed upon that may not exceed seven calendar days.



II. UNEMPLOYMENT BENEFITS

■ **Since when can I contribute for unemployment as a domestic worker?**

The contribution for unemployment and to the Salary Guarantee Fund (FOGASA) will be mandatory for domestic employers and employees as of 1 October 2022.

The contribution bases for unemployment will be those corresponding to the contingencies of work accidents and professional illnesses.

The contribution rate applicable between 1 October and 31 December 2022, will be 6.05 per cent, of which 5 per cent will be paid by the employer and 1.05 per cent by the employed person.

When will I be entitled to unemployment benefits? You will be entitled to unemployment if you have contributed to unemployment for at least 360 days by the end of your contract. You will also be entitled to assistance subsidies if the requirements set forth in them are met. The contributions made in any of the Social Security schemes for which unemployment is paid will be taken into account.

III. CONTRIBUTIONS

What are the new contribution obligations?

Royal Decree-Law 16/2022, of 6 September, amends the General Social Security Law to establish the contribution for the unemployment contingency and for the Salary Guarantee Fund (FOGASA) with respect to people who maintain an employment relationship at the service of the family home.

How much am I going to pay now for my domestic worker's contribution?

The contribution will be increased by the rates of contribution for unemployment and FOGASA applicable to the contribution base, determined according to the salary received by the person at the service of the family home.



Between 1 October and 31 December 2022, the contribution rates will be as follows:

- **For unemployment:** 6.05%, of which 5% will be paid by the employer and 1.05% by the employee.
- **For the Salary Guarantee Fund:** 0.2% paid exclusively by the employer.
- **For example, for the average contribution base per household which, according to our data, is 655.22 euros, the corresponding contribution would be:**
 1. FOGASA: 1.31 euros
 2. Unemployment (employer contribution): 32.76 euros
 3. Unemployment (employee contribution): 6.88 euros



• **Once the 80% bonus is applied, where appropriate, the corresponding fee would be:**

1. FOGASA: 0.26 euros
2. Unemployment (employer contribution): 6.55 euros
3. Unemployment (employee contribution): 6.88 euros

As of 1 January 2023, the contribution rates will be those established in the corresponding General State Budget Law for each financial year.

Do I have to do anything to change to the new contribution of my domestic worker or will Social Security do it themselves?

The contribution to the Special System for Domestic Employees is made in accordance with the simplified settlement system, which implies that the contribution will be liquidated and collected by the General Treasury of the Social Security itself.

Regardless of the fact that the contribution for unemployment and the Salary Guarantee Fund is going to be made by the General Treasury of the Social Security itself, it must be remembered that this entity must be notified, through Importass, the Social Security Portal for domestic employers, of the changes in the remuneration paid to domestic employees when said changes occur.

You can access Importass through the website <https://portal.seg-social.gob.es/> or through this QR code.



Is there any kind of reduction or bonus? Are they for everyone?

Reductions of 20% are established in the business contribution to the Social Security contribution for common contingencies and a bonus of 80% in the business contribution for unemployment and to FOGASA for all people who have contracted or who, under any contract modality, hire a person at the service of the family home and they are registered in the General Social Security Scheme, as long as they are, at the time the worker begins the activity, up to date with Social Security and in the compliance with their tax obligations.

Large families will be able, until 31 March 2023, to access a 45% bonus, in which case, the 20% quota reduction on the business contribution for common contingencies will not apply, bonuses of the 80% on the business contribution for unemployment and Salary Guarantee Fund.

It is planned that, as of 1 April 2023, a new quota bonus will be established, based on certain requirements of assets and/or income of the family or cohabitation unit, which will be an alternative to the reduction of quotas of 20%, but maintaining, in any case, the quota bonus of 80% with respect to the quotas for unemployment and Salary Guarantee Fund.

To qualify for the new bonuses, do I have to request it or are they applied ex officio?

The aforementioned 20% reduction in the business contribution to the Social Security contribution for common contingencies and the 80% bonus in the business contribution for unemployment and FOGASA, will be applied ex officio by the General Treasury of the Social Security.

The alternative bonus of 20% will require prior determination of the right to the same by the State Public Employment Service, which must notify the General Treasury of the Social Security.



We are a large family, will the bonus be maintained? Are they going to help us in any way?

The bonuses for the hiring of caregivers in large families that were being applied as of 1 April 2023, under the terms provided in article 9 of Law 40/2003, of 18 November, on the protection of large families, will continue to be valid until the date of discharge of the caregivers who are entitled to them.

Such bonuses will be incompatible with the 20% reduction in the business contribution to the Social Security contribution for common contingencies.

Do I have to register and contribute for a person who performs tasks in the home regardless of the number of hours and even if they provide services in other homes? What happens if I don't do it?

Yes, you must register and contribute for people who perform tasks in the home regardless of the number of hours and even if they provide services in other homes.

As of 1 January 2023, it will no longer be possible to agree with people at the service of the home who perform less than 60 hours of work per month per employer, to the latter's assumption of the obligations in terms of contribution and affiliation and registration in Social Security.

If these obligations are not fulfilled, if the General Treasury of the Social Security is aware of this situation, the registration may be carried out ex officio in Social Security and the enforcement procedure will be initiated for the collection of the contributions owed for the undeclared registration period.

In the event that this situation becomes known as a result of the action of the Labour and Social Security Inspectorate, the official registration will also be carried out and the corresponding settlement certificate will be drawn up for the collection of the contributions owed and, where applicable, record of infraction.

III. PURPOSE OF THE EMPLOYMENT RELATIONSHIP

I want to terminate the contractual relationship with my domestic worker. How can I end the employment relationship?

The employer must send a written communication to the worker in which they must clearly state both the will of the employer to terminate the employment relationship and the reason why this employment relationship is terminated

Is it possible to terminate an employment relationship without alleging any cause?

No. The option of withdrawal is no longer possible. Therefore, any employment termination of a domestic worker must include the cause on which it is based.

Are there specific causes for a dismissal of a domestic worker?

In addition to the causes provided for other groups of workers, the employment relationship may be terminated for any of the following reasons, provided they are justified:

- a) Decrease in the income of the family unit or increase in its expenses due to a supervening cause.
- b) Substantial change in the needs of the family unit that justify being able to do without the domestic worker.
- c) Loss of confidence of the employer, based on a reasonable and proportionate manner, in the behaviour of the worker.



■ **Should the domestic worker receive prior notice of job termination?**

If the provision of services has lasted more than one year, the employer must grant prior notice of at least twenty days from when the decision to terminate is communicated to the worker. In all other cases, the prior notice shall be seven days.

■ **Should the domestic worker receive prior notice of job termination?**

In addition to salary concepts pending payment such as salary, overtime, holidays not taken and extra payments in proportion to the working time together with the amount corresponding to the period of notice (if it must be paid).

To this settlement, compensation must be added, which will be 12 days per year worked with a limit of 6 monthly payments if it is duly justified that the special causes are in line with those provided for this special relationship or the one provided for dismissals in the Workers' Statute.

■ **What happens if the employer declares insolvency?**

Starting now, the Salary Guarantee Fund (FOGASA) will be responsible for the compensation that corresponds in these cases. Therefore, it improves the protection of domestic workers who will be able to receive the amounts that correspond to them even in the event that the employers cannot cope with them.

■ **Can the domestic worker look for a job during their working day?**

During the period of prior notice, the person who provides full-time services will be entitled, without losing their salary, to a leave of six hours per week in order to seek new employment. The employer may replace the notice with a compensation equivalent to the salaries corresponding to the corresponding prior notice period.

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