

LEGALISATION OF STAY AND EMPLOYMENT OF FOREIGNERS IN POLAND

FREQUENTLY ASKED QUESTIONS

PUBLICATION CREATED BY

**INVEST IN
POMERANIA**

IN COOPERATION WITH

**POMERANIAN
VOIVODESHIP OFFICE**

2021



Ladies and Gentlemen,

Dynamic economic development, open labour market and high quality of life in our region attract more and more foreigners to Pomerania. Among the immigrants who have decided to live in the Tricity and its surroundings, the majority are our neighbours from Ukraine and Belarus, but Pomerania as a place to work and live in is also chosen by many citizens of other countries, including more distant ones. Students from abroad appreciate the level of education provided, while highly-qualified professionals value career development opportunities and attractive salaries.

The Tricity has always been a multicultural melting pot and nowhere is it more evident than in Pomerania labour force. The diverse talent pool is a result of companies relocating key personnel to the region, international students who get jobs here after completing their studies or companies hiring from all over the world to work in their offices in the Tricity. All of these combined with the overall attractiveness of the region has attracted and continues to create an even more vibrant and multinational workforce, especially in the dynamically developing IT sector.

At Invest in Pomerania, we provide comprehensive post-investment services for companies located in the Pomeranian region. Within our service, we have established the role of on-duty Investor's Spokesperson, who makes sure that key processes related to conducting business in Pomerania run smoothly and without any major difficulties. We have observed that issues related to legalisation of employment and stay of foreigners in Poland still raise many doubts among employers, and even more often among their foreign staff. The growing number of inquiries concerning the procedure of obtaining a residence and work permit has prompted us, together with the experts at the Pomeranian Voivodeship Office, to prepare this publication with a list of FAQs concerning the procedure of applying for a residence and work permit in Poland.

We exercised due care to ensure that the content of this publication is consistent with the legal status as of 20/11/2020. Moreover, as the law changes, we will endeavour to update this publication on an ongoing basis. However, when using the guidance provided, please bear in mind that it refers to typical, standard cases and may not fully take into account the complexity of particular cases. If you have any doubts, we recommend that you contact the authority competent to deal with your individual case. If you are one of our investors, please reach out to us via your HR and let's discuss how we can be of help.

We sincerely hope that this publication will make it easier for you to navigate through the statutory regulations and make the process of legalisation of stay and employment of foreigners more efficient in our region.

LEGAL STAY IN THE POLISH TERRITORY

- I.E. HOW CAN I LEGALISE
MY RESIDENCE IN POLAND?



Question No. 1

WHAT ENTITLEMENTS ARISE FROM A VISA? WHAT IS THE DIFFERENCE BETWEEN A SCHENGEN VISA AND A NATIONAL VISA?

A visa is a basic document entitling the holder to cross the border or to stay in a foreign country / region for a specified period of time. It is issued to foreigners by diplomatic or consular offices of a given country.

The two most common types of visa in the EU are:

TYPE C VISA - uniform Schengen visa

The uniform Schengen visa is valid **within the Schengen area** and entitles the holder to stay in all Schengen countries. However, the length of the stay(s) **may not exceed 90 days in each 180-day period**.

TYPE D VISA - national visa

The national type "D" visa **entitles the holder to enter** the territory of the Republic of Poland and **to stay continuously or over several consecutive stays in that territory for a total of more than 90 days** during the visa validity period, **but not more than one year**. The national type "D" visa also entitles the holder to move within the territory of **other Schengen states for up to 90 days within a 180-day period**, during the term of validity of the visa. Its scope is therefore wider than that of type "C" visa.

The exact length of your stay is specified in your visa!



Question No. 2

CAN A VISA BE EXTENDED?

Yes, it is possible - applications for an extension of a Schengen or national visa should be submitted **to the voivode relevant for the foreigner's place of residence**.

The application should be submitted **no later than on the date of expiry of the period of legal stay in the territory of the Republic of Poland** (applications submitted after this date will be rejected). Once a foreigner has applied for visa extension before the specified deadline, the voivode places a **stamp** in the foreigner's travel document, which confirms the application has been submitted.

If the deadline for submitting the application has been met and the application does not contain any formal defects or if formal defects have been corrected before the deadline, the foreigner's stay in the territory of the Republic of Poland is **considered legal from the date of submission of the application until a final decision** on extending the Schengen visa or national visa has been issued.

The stamp of the voivode in the travel document **does not entitle the foreigner to travel within the territory of other Schengen states. EXCEPTION!** - the foreigner can leave for their home country.

REASONS FOR EXTENSION OF A SCHENGEN VISA

A foreigner staying in the territory of the Republic of Poland **may extend the period of validity of a Schengen visa** issued by a Polish authority or an authority of another Schengen state (with "C" symbol) valid also in the territory of Poland or the length of stay covered by that visa, if the foreigner has:

- demonstrated that for reasons of **force majeure or for humanitarian reasons**, it is not possible for them to leave the territory of the member state before the expiry of the visa or before the end of the authorised period of stay covered by the visa. In such a case, **the visa extension is free of charge**,
- provided evidence of **important personal reasons** justifying an extension of the period of validity or duration of stay. In such circumstances, a **fee of EUR 30** is charged for visa extension.

The period of stay in the Polish territory on the basis of an extended visa **should not exceed the maximum period of stay** provided for the given type of visa. Thus, a Schengen visa can be extended up to the **maximum of 90 days within a period of 180 days** (including the period of stay on the basis of the visa to be extended).

REASONS FOR EXTENSION OF A NATIONAL VISA

A foreigner staying in the territory of the Republic of Poland may extend the period of validity of a national visa issued by Polish authorities (with "D" symbol) or the period of stay covered by that visa **only once**, if the following conditions are **jointly** satisfied:



1. it is justified by **an important professional or personal interest** of the foreigner or for **humanitarian reasons** they cannot leave this territory before the expiry of the national visa or before the end of the permitted period of stay covered by the visa,
2. the events which are the reason for applying for an extension of the national visa occurred **independently of the foreigner's will and were not foreseeable** as on the date of submitting the application for a national visa,
3. the circumstances of the case indicate that **the purpose of the foreigner's stay** in the territory of the Republic of Poland **will not be different from the declared purpose**,
4. there are **no circumstances under which a national visa should be refused**.

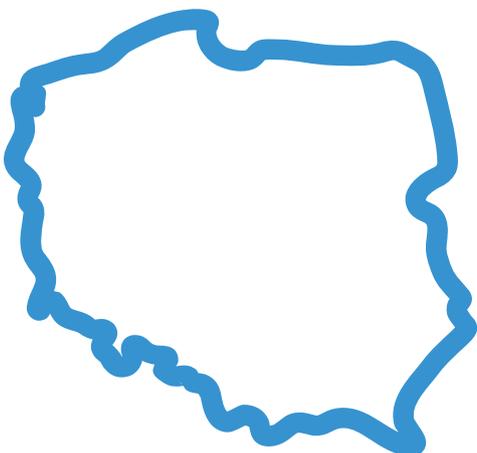
The period of stay in the territory of the Republic of Poland on the basis of an extended national visa **may not exceed the period of stay provided for the national visa**, i.e. 1 year (including the period of stay on the basis of the visa to be extended).

HOSPITALIZATION

A foreigner staying in hospital, whose **health precludes the possibility of leaving the territory of the Republic of Poland**, should have the period of validity of the national visa extended or the period of stay covered by that visa extended **until the day when their health allows them to leave that territory**.

Question No. 3

I WOULD LIKE TO STAY IN POLAND LONGER THAN MY VISA ALLOWS ME TO. WHAT DO I HAVE TO DO TO MAKE THIS POSSIBLE?

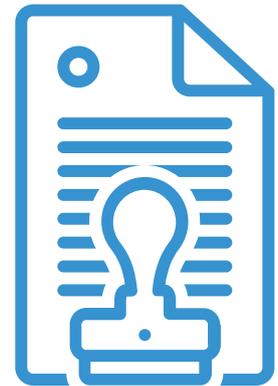


In order to extend their stay in Poland, a foreigner may apply for a **temporary residence permit** (*Zezwolenie na pobyt czasowy*). An application for such a permit should be submitted to the **voivode** (*Wojewoda*) **relevant for the foreigner's place of residence**. The permit will be granted if there are circumstances justifying the foreigner's stay in the territory of the Republic of Poland **for more than 3 months**.

These provisions do not apply to:

- a temporary residence permit granted on account of circumstances requiring a **short-term stay**, and
- a temporary residence permit granted for **seasonal work**.

TYPES OF TEMPORARY RESIDENCE PERMIT:



- ➔ temporary residence and work permit (single permit) (*zezwoleńie jednolite*),
- ➔ a temporary residence permit for the purpose of working in a highly-qualified profession,
- ➔ a temporary residence permit for the purpose of working **within an intra-company transfer** - the aim is to perform work at the host entity, having its registered office in the territory of the Republic of Poland, as a managerial staff member, specialist or employee undergoing traineeship, within an intra-company transfer,
- ➔ foreigner's residence in the territory of the Republic of Poland in order to **benefit from short-term and long-term mobility within an intra-company transfer**,
- ➔ a temporary residence permit to perform work issued to a foreigner delegated by a foreign employer to the territory of the Republic of Poland,
- ➔ a temporary residence permit for the purpose of performing business activity,
- ➔ a temporary residence permit for the purpose of studying,
- ➔ a temporary residence permit for the purpose of performing research,
- ➔ foreigner's residence in the territory of the Republic of Poland in order to **benefit from short-term and long-term mobility of a researcher**,
- ➔ a temporary residence permit for a trainee,
- ➔ a temporary residence permit for a volunteer,

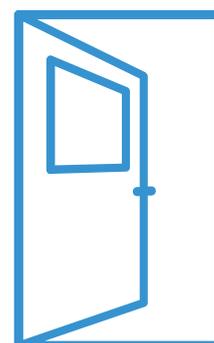
-  a temporary residence permit **for family members of Polish citizens** - granted to a foreigner who is **married to a Polish citizen** and the marriage is recognised by the law of the Republic of Poland, or to a foreigner who is a **minor child of a foreigner married to a Polish citizen** and who has a temporary residence permit as a family member of a Polish citizen or a permanent residence permit granted in connection with their marriage to a Polish citizen,
-  a temporary residence permit **for foreigners' family members** - granted to a foreigner who is **married to a foreigner residing in the territory of the Republic of Poland** on a specified basis and the marriage is recognised by the law, or who is a **minor child of that foreigner or a minor child of a foreigner married to a foreigner residing in the territory of the Republic of Poland**,
-  a residence permit for foreigners who are **victims of human trafficking**,
-  a temporary residence permit based on **circumstances requiring a short-term stay** - may be granted to a foreigner if:
 1. they are obliged to appear in person before a Polish public authority,
 2. the presence of the foreigner in the territory of the Republic of Poland is required on the basis of their exceptional personal circumstances,
 3. the presence of the foreigner in the territory of the Republic of Poland is required by the interest of the Republic of Poland,
-  a temporary residence permit based on **seasonal work**,
-  a temporary residence permit **based on other circumstances**.

The most common “other circumstances” include situations where the foreigner:

 - **is authorised to carry out work** in the territory of the Republic of Poland under the conditions laid down in Decision No. 1/80 of the Association Council of the Turkish Republic and the EEC of 19 September 1980 on the development of the Association, which was established on the basis of the Agreement establishing an Association between the European Economic Community and Turkey, signed in Ankara on 12 September 1963 (OJ EC L 217, 29.12.1964, p. 3685; OJ EU Polish Special Edition, chapter 11, vol. 11 p. 1)
 - **a graduate of a Polish higher education institution who is looking for a job** in the territory of the Republic of Poland or **plans to start a business activity** in that territory,

- intends to **undertake or continue education or vocational training** in the territory of the Republic of Poland,
- is a **clergyman, a member of an order or a person performing a religious function in a church or a religious association**, whose status is regulated by an international agreement or legal provisions in force in the territory of the Republic of Poland or who acts on the basis of an entry in the register of churches and other religious associations, whose stay in the territory of the Republic of Poland is connected to the function performed or to preparation for its performance.

It is worth stressing at this point that the Act, while using the phrase “other circumstances”, **does not limit the scope of reasons why a foreigner may apply for a temporary residence permit in Poland**. This can therefore also be based on circumstances not enumerated in the law. Thus, the foreigner may indicate virtually any reason for granting the permit, **provided that they meet the statutory general conditions for granting the permit** and the reason for which the permit is to be granted would **justify the foreigner’s stay in Poland for a period exceeding 3 months**.



A foreigner who has been granted a temporary residence permit is **obliged to notify** the voivode who granted the permit **within 15 working days** that the reason for granting the permit **no longer applies**. If a temporary residence permit was granted by the Head of the Office for Foreigners of the second instance, the notification should be addressed to the **voivode who ruled on granting the permit in the first instance**.

Question No. 4

HOW MUCH DOES IT COST TO APPLY FOR A TEMPORARY RESIDENCE PERMIT IN POLAND?

In case of applying for a temporary residence permit in Poland, the applicant (the foreigner) is obliged to pay **stamp duty**. This obligation arises when the application is submitted to the voivode. The stamp duty is paid **to the account of the competent tax authority**, which is the local authority head (municipal head or city mayor).

The applicant is obliged to **attach a proof of payment** of stamp duty to the application.

The amount of stamp duty is (as of September 2020):

- for the application of a temporary residence permit (*wniosek o udzielenie zezwolenia na pobyt czasowy*) - **PLN 340**,
- for the application of a temporary residence and work permit (*wniosek o udzielenie zezwolenia na pobyt czasowy i pracę*) - **PLN 440**,
- for the application of a temporary residence permit to perform work in a highly-qualified profession (*wniosek o udzielenie zezwolenia na pobyt czasowy w celu wykonywania pracy w zawodzie wymagającym wysokich kwalifikacji*) - **PLN 440**,
- for the application of a temporary residence permit for the purpose of performing work within an intra-company transfer (*wniosek o udzielenie zezwolenia na pobyt czasowy w celu wykonywania pracy w ramach przeniesienia wewnątrz przedsiębiorstwa*) - **PLN 440**,
- for the application of a temporary residence permit to facilitate long-term mobility of a managerial staff member, specialist or trainee, within an intra-company transfer (*wniosek o udzielenie zezwolenia na pobyt czasowy w celu mobilności długoterminowej pracownika kadry kierowniczej, specjalisty lub pracownika odbywającego staż, w ramach przeniesienia wewnątrz przedsiębiorstwa*) - **PLN 440**,
- for the application of a temporary residence permit due to seasonal work (*wniosek o udzielenie zezwolenia na pobyt czasowy ze względu na pracę sezonową*) - **PLN 170**,
- for the application for change of permit (*wniosek o zmianę zezwolenia*) - **PLN 10**,
- for a power of attorney (if an attorney is acting in the case) - **PLN 17**

Bank account number:

Pomorski Urząd Wojewódzki w Gdańsku
ul. Okopowa 21/27, 80-810 Gdańsk
93 1010 1140 0169 1313 9120 0000

reference: „Opł. skarb. - zezwolenie na” (*Stamp duty - permit for ...*)
lub „Opł. skarb. - pełnomocnictwo” (*Stamp duty - power of attorney*)



If the party fails to pay stamp duty at the time of filing the application, the authority conducting the proceedings sets a time limit for the party to pay the duty. **This period may not be less than 7 days nor more than 14 days.** If the payment is not made within the specified period the application is rejected.

Question No. 5

SHOULD I APPLY FOR A TEMPORARY RESIDENCE PERMIT IN PERSON? OR CAN I USE AN ATTORNEY?

As a rule, it is the **foreigner who is entitled** to apply for a temporary residence permit and **it is the foreigner who applies for such a permit.**

The request should be made **in person**. If, on the other hand, the foreigner has submitted the application by mail, which is also possible, the voivode will summon them to appear in person at the Voivodeship Office within a period of at least 7 days from the date of delivery of the summons, under pain of the application not being processed.

Exceptionally, in case of an application for a temporary residence permit:

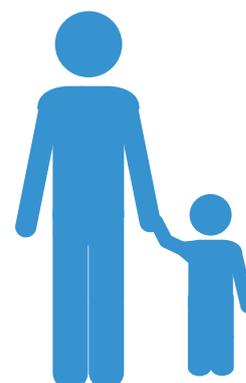


- **for the purpose of family reunion** - the application is submitted by a foreigner staying in the territory of the Republic of Poland on behalf of a foreigner staying outside of Poland. However, submission of the application requires written consent of that family member or their legal representative, unless the applicant is their legal representative.

- **in order to carry out work within an intra-corporate transfer** - the application is submitted by the host entity of the employee,
- **to facilitate long-term mobility** of a managerial staff member, specialist or trainee within an intra-company transfer - the application is submitted by the host entity of the employee.

In case of a foreigner who is:

1. **a minor** - an application for a temporary residence permit is to be submitted by the parents or court-appointed guardians or one of the parents or one of the court-appointed guardians,
2. **a fully incapacitated person** - an application for a temporary residence permit is submitted by a court-appointed guardian,
3. **a minor without care arrangements** - an application for a temporary residence permit is submitted by the guardian.



When submitting an application for a temporary residence permit for a foreigner who is a minor and who on the date of submission of the application is over 6 years old, **the foreigner's presence is required.**

A foreigner **may also act through an attorney**, unless the nature of the activity requires that they act personally. The party's attorney may be a **natural person with legal capacity.**

- the power of attorney should be granted **in writing**, in the form of an electronic document or recorded in official documentation,
- the attorney should provide **the original or an officially certified copy** of the power of attorney to be added to file,
- together with the power of attorney, **proof of payment of stamp duty** in the amount of **PLN 17** should be added to file.

Question No. 6

AM I REQUIRED TO PROVIDE FINGERPRINTS WHEN APPLYING FOR A TEMPORARY RESIDENCE PERMIT?

As a rule, in order to issue a residence card, foreigners should submit fingerprints - usually when submitting an application for a temporary residence permit, or if the application is submitted by post, within the deadline set by the voivode.

Failure to submit fingerprints when submitting an application for a temporary residence permit or within the deadline set by the voivode **results in a refusal to initiate the procedure** for granting this permit.

The data in the form of fingerprints taken for the purposes of issuing a residence card (karta pobytu) is kept in the relevant registers **until an acknowledgement of receipt of the residence card** by the authority issuing the residence card has been entered in those registers. The data is erased once the residence card has been issued.

If a decision is issued, which refuses to grant a temporary residence permit to a foreigner, data in the form of fingerprints is kept in the relevant registers until **information on the issue of such decisions has been entered in the registers** once the decisions have become final.



The obligation to provide fingerprints **does not apply to foreigners:**



- who are **under 6** years of age on the date of application, or
- who are **physically unable** to give fingerprints or
- who are the subject of an application for a temporary residence permit for the purpose of **family reunification** and who **were staying outside the Republic of Poland** on the date of submission of the application for this permit, or



- applying for a temporary residence permit for the **purpose of intra-company transfer** or a temporary residence permit for the **purpose of long-term mobility** of a managerial staff member, specialist or trainee worker within an intra-company transfer.

Question No. 7

CAN I CONTINUE TO RESIDE LEGALLY IN POLAND AFTER APPLYING FOR A TEMPORARY RESIDENCE PERMIT?

Once a foreigner has submitted an application for a temporary residence permit, the voivode relevant for the foreigner's place of residence puts a **stamp** in their travel document **confirming submission of the application**, unless:

- the time limit for submitting an application has not been observed or
- the application contains formal defects or
- formal defects have not been remedied in time,

On the basis of the stamp, the foreigner's stay in the territory of the Republic of Poland is considered **legal from the date of submission of the application until the date on which the decision on granting a temporary residence permit becomes final**.



In case of suspension of the procedure for granting a temporary residence permit at the foreigner's request, **their stay during that time will not be considered legal**.

Importantly, placing a stamp in a travel document by a voivode **does not entitle the foreigner to travel within the territory of other Schengen states**. The foreigner can leave for their country of origin, **but in order to return to Poland, they should obtain a visa** if they come from a country to which a visa requirement applies.

Question No. 8

CAN I WORK LEGALLY IN POLAND AFTER APPLYING FOR A TEMPORARY RESIDENCE PERMIT?

Unfortunately, even though having a stamp in your passport confirming submission of an application for a temporary residence permit allows you to continue to stay legally in Poland, **it does not allow you to start working legally in the territory of the Republic of Poland.**

However, the foreigner will be able to work legally while waiting for a temporary residence permit to be issued if on the day of submission of the application for temporary residence:

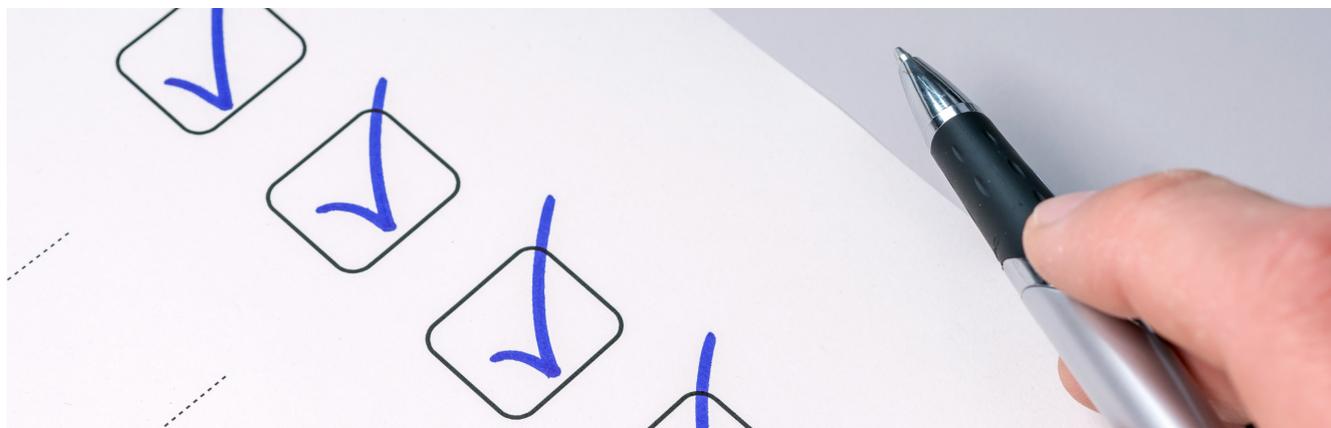
- they **had the right to work in Poland** (e.g. a declaration on entrusting work to a foreigner from a District Employment Office or a work permit) **and currently they still hold such a right;**

Likewise, if a foreigner:

- has submitted **another application for a single residence and work permit** for the same company and the same post, based on the same type of contract (continuation of employment);
- at the date of application for a single residence and work permit **they had a valid type A work permit** and the application submitted concerns the same company and the same post and the same type of contract (continuation of employment) which the issued type A work permit concerns;
- on the date of application for the single residence and work permit **they held a valid declaration on entrusting work to a foreigner** (*oświadczenie o powierzeniu pracy cudzoziemcowi*) from the District Employment Office issued on the basis of an employment contract based on which **they have worked continuously for more than 3 months** and the submitted application concerns **the same company and the same position and the same type of contract** (continuation of employment), which the issued declaration concerned;
- on the date of application for the single residence and work permit they held a **valid declaration on entrusting work to a foreigner** from the District Employment Office issued on the basis of an employment contract based of which **they have worked less than 3 months**, if the submitted application did not contain any formal defects and its submission was confirmed with a stamp (i.e. the foreigner is waiting for the decision on stay) - they may work **only until the end of the term of validity of the declaration**, unless the employer additionally submits an application for type A work permit after a full 3 months of work of the foreigner on the basis of the declaration, but before its expiry, and type A work permit will concern the same company, position and type of contract as the statement from the District Employment Office;
- there are **other circumstances that exempt the foreigner from obtaining a work permit.**

Question No. 9

WHAT DOCUMENTS SHOULD I SUBMIT WITH MY APPLICATION FOR A TEMPORARY RESIDENCE PERMIT?



- application form in two copies** filled out according to the instructions (i.e. **capital letters in the Polish language**, entered in the appropriate boxes, according to the factual state of affairs);
- four photographs:**
 - undamaged, in colour, good resolution, 35 mm x 45 mm size,
 - taken no earlier than 6 months before the date of application submission,
 - showing the foreigner's face from the top of the head to the upper part of the shoulders, so that the face occupies 70-80% of the photograph,
 - on a uniform, bright background,
 - in the frontal position, looking straight ahead with open eyes, uncovered hair, with a natural facial expression and closed lips, as well as reproducing the natural skin colour, clearly showing the foreigner's eyes, especially pupils,
 - without head coverings or dark glasses (exceptions possible where appropriate.
 - the foreigner's eye line should be parallel to the upper edge of the photograph;
- photocopy of a valid travel document** (the original should be available for inspection). In particularly justified cases, a foreigner may present another document confirming their identity);
- two photocopies of the passport page** with personal data and photo.

Lack of any of the abovementioned documents constitutes a formal defect of the application, which, if it is not rectified after being asked to do so by the voivode processing the case, will **result in the application not being processed!**

- documents necessary to confirm data contained in the application and circumstances justifying the application for temporary residence permit,
- confirmation of **stamp duty** payment,
- evidence of health insurance** held by the foreigner (e.g. a policy or a certificate from ZUS - Social Insurance Institution)
- documents confirming **possession of a stable and regular source of income** sufficient to cover the costs of living of the foreigner and their dependants (e.g. PIT statement indicating the amount of income gained, ZUS certificates, etc.)
- documents confirming **sufficient financial resources to cover their subsistence and return trip to their country of origin or residence or transit to a third country which will authorise entry** (e.g. traveller's cheques, credit limit certificates, information on scholarships granted, etc.).
- documents confirming the **place of residence in the territory of the Republic of Poland** (e.g. certificate of registered residence or apartment lease agreement)



REMEMBER!

Applications and documents concerning legalisation of foreigners' stay in the territory of the Republic of Poland should be:

- prepared in **Polish**,
- **originals** (original application for a temporary residence permit should be submitted) or **copies officially certified as true copies** (instead of the original document, a party may submit a copy of the document if it has been certified as consistent with the original by a notary public or by the party's attorney acting in the case and being a solicitor or legal adviser or an authorised employee of the authority conducting the proceedings (voivode) to whom the original document has been presented together with a copy) – **not applicable to identity (travel) documents**,

- **translated into Polish by a sworn translator** – in case of documents drawn up in a foreign language that serve as evidence in the proceedings, e.g., foreign civil registry records, contracts, etc. The obligation to provide a translation **does not apply to the travel document**.

Question No. 10

WHAT IS THE EASIEST WAY TO FILL IN AND SUBMIT AN APPLICATION FOR A TEMPORARY RESIDENCE PERMIT IN POLAND?

The Pomeranian Voivodeship Office, as part of the “Safe Harbour” project, co-financed from the National Asylum, Migration and Integration Fund Programme, has launched a special **generator of applications** submitted in matters of legalisation of stay and employment of foreigners.

GENERATOR.GDANSK.UW.GOV.PL

The screenshot shows the website interface for the Pomeranian Voivodeship Office in Gdansk. The header includes the office logo and name, and flags for Poland, Germany, and the UK. The main content area is titled "Select application form, that you want to fill in" and contains a 3x3 grid of buttons for various application types.

Select application form, that you want to fill in		
Application for the temporary residence permit	Annex 1 to the application for the temporary residence permit	Annex 2 to the application for the temporary residence permit
Application for work permit for the foreigner	Application for the permanent residence permit	Application for the residence permit for the long-term resident of the European Union
Application to enter the invitation into the invitation register	Application for the issue/ replacement of residence card	Notification of loss or damage of document

The generator makes it possible to fill in the following documents electronically:

- Application for a **temporary residence permit**
- **Annex 1** to the application for a temporary residence permit
- **Annex 2** to the application for a temporary residence permit
- Application for work permit for the foreigner
- Application for a **permanent residence permit**
- Application for a **long-term EU resident's residence permit**
- Application to enter an invitation in the register of invitations
- Application for the issue/replacement of a residence card
- Notification of **loss or damage of a document**

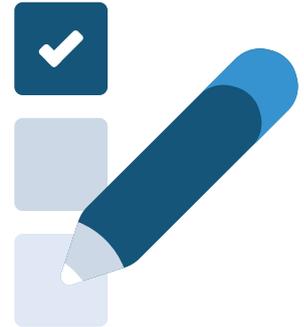
The generator **makes it easier to fill in the application** as it is possible to use suggested entries, available both from drop-down lists and checkboxes. The system also reminds the user if they have skipped a field, signalling the need to fill it in.

REMEMBER!

The generator **is not used for the application submission process but only for filling in the application.**

Once the application has been completed using the generator:

- a. **Generate application form** in pdf format.
- b. **Print out** the generated form.
- c. **Check** the correctness and completeness of the data.
- d. **Sign** the application form with a legible signature(s).
- e. **Submit the application to the Office**
(by submitting it in person or by traditional mail).



The aim of the tool is to **facilitate the correct completion of applications** submitted by foreigners. Data from applications filled in with the generator can be **automatically imported into the foreigner service system, which allows for faster registration** of individual cases. Correct completion of the application form and minimising any formal defects **can contribute to shortening the handling and processing period.**

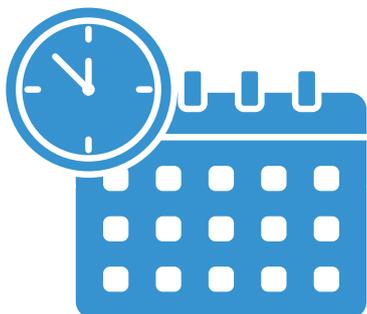
Although recommended, the use of the application generator **is not obligatory** - an application can still be submitted in traditional forms.

Question No. 11

HOW LONG DOES IT TAKE ON AVERAGE TO ISSUE A DECISION ON GRANTING A TEMPORARY RESIDENCE PERMIT?

This is a difficult question to answer. In accordance with the general principle laid down in the Polish Code of Administrative Proceedings, a decision to grant a permit **should be issued within 1 month from the date on which the proceedings were initiated.** If the case is **particularly complicated**, the time limit for its processing is longer, but the case should be resolved **no later than within 2 months from its initiation.**

Meanwhile, before issuing a decision on granting a temporary residence permit or a permanent residence permit and a long-term EU resident's residence permit - the relevant **voivode is obliged to apply to the commanding officer of the Border Guard division, the voivodeship Police chief, the Head of the Internal Security Agency** and, if necessary, **also to other authorities**, for information whether the foreigner's entry and stay in the territory of the Republic of Poland may pose a threat to state defence or security or the protection of public security and order. This requirement does not apply to children under 13 years of age at the date of application.



The designated authorities are in principle obliged to provide the information requested within **30 days** from the date of the request for information. **In particularly justified cases, the 30-day period may be extended up to 60 days.** They often use all the time available to them to communicate their position on the case. **This means that in practice, the procedure for issuing a temporary or permanent residence permit takes longer than the basic one-month period.**

The time necessary to process cases concerning the issue of a temporary or permanent residence permit may also be affected by circumstances such as:

- the **correctness** of the submitted application,
- number of **formal defects** of the application (e.g., lack of required annexes or lack of adequate translation of documents),
- the **time needed for the defects to be remedied** by the party,
- the total **number of applications submitted to the Voivodeship Office in a given period.**

herefore, to be safe, it is not a good idea to submit an application at the last minute, and it is better to be prepared for the fact that even though the employees of the Voivodeship Office exercise due care to issue a decision on a permit for a temporary or permanent stay of a foreigner in Poland as soon as possible, the processing time **may take more than one month.**



Question No. 13

WHAT ARE THE MOST COMMON MISTAKES MADE BY APPLICANTS WHEN APPLYING FOR A TEMPORARY RESIDENCE PERMIT?

The most common mistakes include:

- submitting applications using the **wrong forms** (e.g., using the residence card application form),
- submitting an application **without the application form** (e.g., only Annex 1),
- **not filling in all required fields** of the application form,
- **lack of legible signature** of a person authorised to represent the entity entrusting work on Annex 1,
- **submitting copies** of documents **not certified as true copies**,
- **submitting copies or scans** of information from the starost **instead of the originals**.

Many of these errors can be avoided by using the **application generator** - more information about this tool can be found in the answer to question number 10.

Question No. 14

HOW CAN I MAKE AN APPOINTMENT TO THE FOREIGNERS RESIDENCE LEGALIZATION DEPARTMENT IN GDAŃSK ?

Personal submission of an application to the Foreigners Residence Legalization Department in Gdańsk is possible **only after prior registration of a visit** via the Internet:

[KOLEJKAGDANSK.AJHMEDIA.PL](https://kolejkagdansk.ajhmedia.pl)

In order to make an appointment, you should appear at the Foreigners' Residence Legalization Department **at least 5 minutes before the scheduled time of the appointment**.

Arriving at the Office, approach the **ticket machine** of the queuing system located **on the left-hand side from the entrance** to the customer service room of the Department. On the ticket machine screen, select the language of service, then select the option: "Appointment by phone/internet", **then enter the four-digit PIN number generated for the booking** (the PIN number will be in the return message sent to the e-mail address indicated during the visit registration process). You should keep the generated ticket and **await your referral** to the appropriate workstation.

PLEASE, BEAR IN MIND, THAT:

- arriving after the appointed time of the meeting and not generating a ticket **will result in the automatic cancellation of the reservation.**
- **the appointment booking time is approximate.** The start of service may change slightly, depending on the completion of service for the previous customer.
- booking a visit for a group of people (family members, employee groups) **requires obtaining separate reservations for each person** (including minor children).

If the deadline for booking appointments available at the Foreigners' Residence Legalization Department designated by the system **exceeds the deadline for the foreigner's legal stay in Poland**, the application for legalisation of stay **should be submitted to the General Secretariat of the Pomorskie Voivodeship Office in Gdansk** or sent by post to ul. Okopowa 21/27, 80-180 Gdańsk.

The submission of applications and the receipt of documents in matters relating to the registration of invitations in the register and the residence registration of citizens of the Member States of the European Union **do not require a reservation of an appointment with the Office.**

Question No. 15

HOW CAN I CHECK THE PROGRESS OF MY TEMPORARY RESIDENCE PERMIT APPLICATION?

For this purpose, the **Customer Portal** was created, where you can, among others:

- view the progress of the case concerning legalisation of stay handled by the Pomeranian Voivode,
- determine any missing information or defects in the submitted documentation,
- find out if the residence card is ready for collection.

In order to use the Customer Portal, please visit:

KLIENT.GDANSK.UW.GOV.PL

and then provide the login data, i.e., the **system case number** and **password**, which were provided in the first written correspondence or during a personal appointment at the Pomeranian Voivodeship Office.

LEGAL WORK IN THE POLISH TERRITORY

**- WHAT FORMALITIES DO I NEED TO TAKE
CARE OF TO BE ABLE TO LEGALLY EMPLOY
A FOREIGNER?**



Question No. 16

WHEN EMPLOYING A FOREIGNER WHO IS A CITIZEN OF THE EU, EEA OR SWITZERLAND, DO I NEED TO TAKE CARE OF ADDITIONAL FORMALITIES?

Citizens of the member states of the European Union, countries belonging to the European Economic Area, and citizens of Switzerland may stay in Poland for **up to 3 months without meeting any residence conditions other than holding a valid travel document**. They are therefore not required to obtain a visa, residence permit, or work permit.



After 3 months, the further residence of EU, EEA, and Swiss citizens in Poland is subject to **compulsory registration**. The application for registration of the foreigner's stay should be submitted in person to the voivode relevant to the place of the foreigner's stay, **no later than on the day following the 3 months from the date of the foreigner's entry into the territory of Poland**.

An EU, EEA, or Swiss national whose residence has been registered should **receive a certificate of registration of residence of an EU citizen**.

The obligation to register the residence rests **solely with the foreigner** - failure to do so cannot serve as the basis for imposing sanctions on the foreigner's employer!

Question No. 17

CAN FAMILY MEMBERS OF A FOREIGNER WHO IS A NATIONAL OF THE EU, EEA OR SWITZERLAND ALSO RESIDE AND WORK IN POLAND WITHOUT HAVING TO APPLY FOR A PERMIT?



Yes, if the family members are staying in the territory of Poland accompanying a citizen of the EU, EEA, or Switzerland, **they do not have to have a separate residence or work permit**.

However, it should be pointed out that the regulations consider a family member to be either:

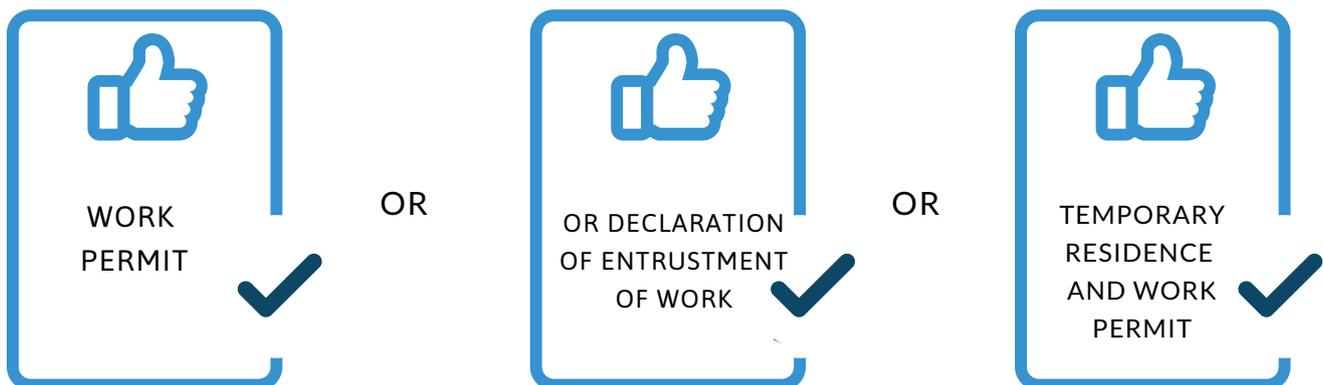
- a **spouse**,
- a **child** of an EU, EEA, or Swiss national **or of their spouse, aged under 21**, provided that the child is a dependant of the said national or of their spouse,
- a **parent** of an EU, EEA or Swiss national, provided that the parent is a dependant of the said national or of their spouse.

Question No. 18

WHEN CAN I LEGALLY ENTRUST WORK IN THE POLISH TERRITORY TO A FOREIGNER WHO IS NOT A CITIZEN OF THE EU, EEA, OR SWITZERLAND?

This is possible if:

- as the employer, you obtain a **work permit for the employee**, or
- you issue the employee with a **declaration on entrusting work to a foreigner**, and it is entered in the register of declarations of the District Employment Office (this solution applies only to the citizens of Ukraine, Belarus, Russia, Moldova, Georgia, and Armenia), or
- the employee obtains a **temporary residence and work permit on their own** (so-called single permit).



Moreover, the foreigner needs to have a **document confirming their legal residence in Poland** - e.g., a visa or residence card. The basis for their stay in Poland needs to at the same time enable the foreigner to perform work in the territory of Poland (therefore, it cannot be e.g., a tourist visa)

Question No. 19

ARE THERE ANY SITUATIONS WHERE I CAN EMPLOY A FOREIGN NATIONAL FROM OUTSIDE THE EU, EEA OR SWITZERLAND WITHOUT THE REQUIREMENT FOR THEM TO HOLD A WORK PERMIT?

As a general rule, in order to be able to employ a foreigner from outside the EU, EEA, or Switzerland in Poland, the employer should obtain a work permit for that person or issue and register a declaration of entrusting work to a foreigner. It is also possible to employ a foreigner who has received a residence and work permit in Poland. However, **there is a set of exceptions to this rule.**

An employer may employ a foreigner who is a citizen of a country outside the EU, EEA, or Switzerland without the need to obtain a work permit for them if the foreigner holds:

- **refugee status,**
- **subsidiary protection,**
- **permanent residence permit,**
- **long-term EU resident's stay permit,**
- **tolerated stay permit,**
- **valid Pole's Card,**
- **temporary or humanitarian protection,**
- **is a victim of human trafficking,**
- **is applying for international protection and holds a valid certificate issued by the Head of the Office for Foreigners,**
- **holds entitlements under the Agreement establishing an Association between the European Economic Community and Turkey.**



The exemption from the obligation to have a work permit also applies to:

- **the spouse of a Polish citizen** holding a temporary residence permit in the territory of Poland granted in connection with entering into the marriage,
- **full-time students or full-time doctoral students,**
- **graduates** of Polish secondary schools and of full-time studies, full-time doctoral studies,

- **foreign language teachers** working in kindergartens, schools, institutions, centres, teacher training establishments or colleges,
 - **athletes** performing up to 30 days of work in a calendar year for an entity based in Poland in connection with sports competitions,
 - **foreigners who have submitted a complete application for a temporary residence permit on time** (also in case of a subsequent permit), **if they had the right to work** without a permit immediately before submitting the application.
-

Question No. 20

WHEN DO I NEED A WORK PERMIT FOR AN EMPLOYEE?

As a rule, always, when the future employee is a foreigner who is not exempt from the obligation to have a work permit or who is not entitled to perform work without a permit under other regulations.

- Then **the employer, as the entity entrusting the work**, should apply for a work permit for the foreigner.
 - The party to the proceedings is **ONLY the employer!** However, the employer is **obliged to inform the foreigner about any actions** taken in connection with the current proceedings.
 - In Pomeranian Voivodeship, applications for a work permit should be **submitted to the Branch for Legalisation of Employment of Foreigners** (Oddział ds. Legalizacji Zatrudnienia Cudzoziemców) **in Gdynia**.
-

WHAT CONTRACTS AND FUNCTIONS REQUIRE A WORK PERMIT?

The obligation to obtain a work permit for a foreigner includes:

1. **employment, i.e., employment relationship** (contract of employment), service-based relationship and outwork contract,
2. **other gainful employment, including civil law contracts**, e.g., commission contract, specific work contract, agency contract, and harvest assistance contract within the meaning of the farmers' social security regulations,
3. **holding positions on boards of legal entities** which have been entered into the Register of Entrepreneurs under the National Court Register regulations (e.g., limited liability companies and joint-stock companies) or which are capital companies in organisation,
4. **handling the affairs of a limited partnership or a limited joint-stock partnership as a general partner,**
5. **acting as a proxy.**

IMPORTANT!

In the situations indicated in points 3-5 above, a work permit is required if – in connection with holding a position in the management board or managing the company’s affairs as a general partner, or granting proxy rights – the foreigner stays in the Polish territory for a period **exceeding 6 months in total over 12 consecutive months**.

A work permit is issued by the **voivode responsible for the seat of the company or the employer's place of residence** (if the employer is a natural person). Appeals against the voivode’s decisions should be submitted **to the minister of labour**.

Administrative fee for submitting an application is as follows:

- **PLN 50** – if the employer intends to entrust a foreigner with the performance of work for **up to 3 months** or
- **PLN 100** – if the work is to last **longer than 3 months** or
- **PLN 200** – if a foreign employer applies for a **“D” type permit**.

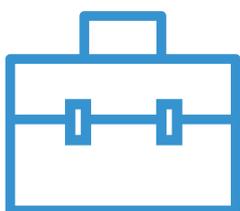


The voivode's examination of the application for extension of a work permit requires payment of **half** of the aforementioned amounts, i.e., respectively: **PLN 25, 50, and 100**.

The applicant is obliged to attach to the application **proof of payment** of the administrative fee due, with reference to the full name of the concerned foreigner. If the party fails to pay the fee when the application is filed, the application will not be filed correctly - this is referred to as a formal defect.

WORK PERMIT TYPES:

A - concerns foreigners **working in the territory of the Republic of Poland on the basis of a contract** with an entity whose registered office or place of residence or a branch, plant, or other form of organised activity is located in the territory of the Republic of Poland,



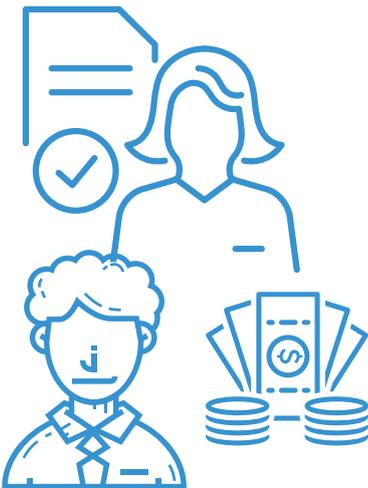
B - concerns foreigners performing work consisting in **performing a role in the management board** of a legal entity entered in the register of entrepreneurs or being a capital company in organisation **for a period exceeding 6 months over 12 consecutive months**,

C - concerns foreigners who work for a foreign employer and **have been delegated to the territory of the Republic of Poland for a period exceeding 30 days in a calendar year** to a branch or plant of the foreign entity or an entity associated with the foreign employer,

D - concerns foreigners who work for a foreign employer without a branch, plant or other form of organised activity in the territory of the Republic of Poland and **have been delegated to the territory of the Republic of Poland in order to provide a temporary and occasional service (export service)**,

E - concerns foreigners who work for a foreign employer and **have been delegated to the territory of the Republic of Poland for a period exceeding 3 months over 6 consecutive months for a purpose other than that indicated in points B-D**.

The work permit is issued FOR A SPECIFIC FOREIGNER. It specifies:



- the **entity** entrusting work to the foreigner,
- **position or type of work** performed by the foreigner,
- the **lowest monthly remuneration** of the foreigner in the given position,
- **working hours** or number of hours per week or month,
- **type of contract** on which the work is based and
- **period of validity** of the permit.

The work permit is issued in **three copies**, two of which are given to the entity which entrusts the performance of work (the **employer is obliged to give one of the copies to the foreigner**). If the permit is issued in the form of an electronic document, one written copy of the permit should additionally be issued. The employer is obliged to make a copy of the document entitling the foreigner to stay in Poland and to **keep it for the entire period of employment**.

After receiving a permit to employ a foreigner, the employer is **obliged to sign a contract with the foreigner** (on conditions not less than those specified in the permit) and, as a rule, **register the foreigner for social security purposes** (unless the form of employment does not require so, e.g., in case of a specific work contract).

Question No. 21

WHAT CONDITIONS MUST BE MET IN ORDER FOR THE VOIVODE TO ISSUE A TYPE “A” WORK PERMIT?

In addition to the conditions described above, the voivode checks whether:

1. **The remuneration** specified in the contract with the foreigner is **not lower than the remuneration** of employees performing work of a **comparable type or on a comparable position**.
2. The remuneration specified in the contract with the foreigner **will not be lower than the minimum remuneration for work**. This requirement also applies to civil law contracts concluded with a foreigner.
3. **Information from the starost (district head)** responsible for the main place of performing work by the foreigner, which should be attached to the application, **confirms the inability to meet the employer's HR needs with the workforce from the local labour market**.



If the voivode issues an extension of a work permit for the same foreigner and at the same position, a new labour market test is not required.

Question No. 22

HOW LONG IS THE WORK PERMIT ISSUED FOR?

As a rule, a work permit is issued for a **definite period, not exceeding 3 years, and may be renewed**.

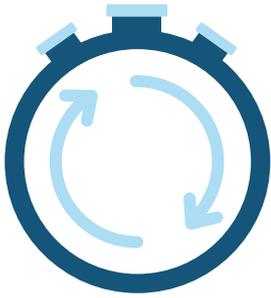


However, there are exceptions to this rule:

- if a foreigner holds a position in the management board of a legal entity which as of the date of submitting the application employs more than 25 persons, the voivode may issue a work permit **for a period not longer than 5 years**,
- if a foreigner is delegated by a foreign employer to perform an export service, the voivode issues a work permit **for the period of the delegation**,
- when setting the criteria for issuing work permits for foreigners, **the voivode may limit the period** for which work permits are issued.

Question No. 23

CAN A WORK PERMIT BE EXTENDED?



Yes, it is possible to extend the term of validity of a permit. For this purpose, the employer, as the entity entrusting the performance of work to a foreigner, should submit an appropriate application **to the voivodeship office** responsible for its seat or place of residence. However, if the specific character of the foreigner's work does not make it possible to indicate the main place of work performance, **the permit is issued by the Mazovia Voivodeship Office in Warsaw.**

Importantly, the application should be submitted in writing **no earlier than 90 days and no later than 30 days before the expiry of the permit.**

Question No. 24

WHILE AWAITING EXTENSION OF A WORK PERMIT, CAN THE EMPLOYEE CONTINUE TO WORK LEGALLY IN POLAND?

If the employer employs a foreigner on the basis of an employment contract and submits an application for the extension of their work permit for the same position **within the deadline, and the application does not contain any formal defects** (or they have been rectified before the deadline), continued work of the foreigner on the basis of the employment contract **is considered legal from the date of submitting the application until the date on which the decision on the extension of the work permit becomes final.**



However, **this does not release the foreigner from the obligation to have a valid basis for stay** (e.g., a visa or residence card) in the territory of Poland, which does not exclude the possibility to perform work. Foreigners waiting for an extension of or renewal of residence permit can also continue to work legally.

The same rule applies when a foreigner working on the basis of an employment contract has applied for a temporary residence and work permit or a long-term EU resident's stay permit in order to continue working at the same entity, in accordance with their work permit or previous temporary residence permit. In such a case, they **usually continue their stay in the territory of Poland on the basis of a stamp in their passport**, confirming that the application for a further stay permit has been submitted and verified by the voivodeship office in formal terms - i.e., that the application does not contain formal defects or that they have been rectified in time.

Question No. 25

WHAT INFORMATION SHOULD BE INCLUDE IN THE APPLICATION FOR A WORK PERMIT? WHAT DOCUMENTS SHOULD BE SUBMITTED WITH THE APPLICATION?

An application for a work permit for a foreigner in the territory of the Republic of Poland **should indicate the following:**

- **type** of permit;
- information about the **entity entrusting work** to the foreigner;
- information about the **foreigner**;
- information concerning the **work to be entrusted** to the foreigner.



THE APPLICATION SHOULD BE ACCOMPANIED WITH:

1. **proof of payment of stamp duty** for the application,
2. **photocopy of the identity card** (if the employer is a natural person) **or an excerpt from the Register of Entrepreneurs of the National Court Register** (if the employer is a legal person),
3. original or certified copy of the **company's articles of association** and, if the employer is a joint-stock company, also the original or certified copy of the **notarised deed of incorporation of the joint-stock company**,
4. **declaration of no criminal record** of the entity entrusting work to the foreigner,
5. **copy of the foreigner's travel document**,
6. originals or certified copies of documents **confirming professional qualifications** of the foreigner,
7. **information from the starost** (district head) on the possibility of satisfying the HR needs of the entity entrusting work to the foreigner (you can read more on whether information from the starost is required under question 26),
8. **originals or certified copies of documents confirming** that the foreigner or the employer applying for a work permit **meets all of the requirements**,
9. information on **employment level** in the entity entrusting work to the foreigner,
10. **statement of income or loss** achieved by the entity entrusting work as a CIT payer in the tax year preceding the application.

REMEMBER

- Documents drawn up in a foreign language, with the exception of identity cards or travel documents, serving as evidence in the proceedings for issuing a permit, **shall be submitted together with their translation into Polish prepared by a sworn Polish translator.**

Question No. 26

WHAT IS THE EASIEST WAY TO APPLY FOR A WORK PERMIT?

An application for a work permit for a foreigner in the territory of the Republic of Poland, as well as an application for its extension, can be submitted **online**, via the portal:

PRACA.GOV.PL

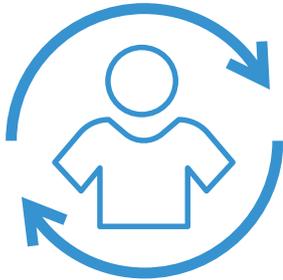


The website is available **only in polish language**. The portal **makes it possible to fill in the application form electronically and attach scans of all required documents**. To submit an online application, you need to **sign it with a qualified electronic signature or a Trusted Profile**.

The Office will contact the applicant if it is necessary to remedy a formal defect or if it is necessary to produce the original copies of the scanned documents attached.

Question No. 27

DO I NEED TO GET A NEW WORK PERMIT TO PROMOTE AN EMPLOYEE TO ANOTHER POSITION?



As a rule, a work permit issued enables the employer to employ a **specific person (indicated by the name), under the conditions set out in the work permit:** including the position indicated in the application, for a specified period of time, for a specified minimum wage.

If any of these elements changes, e.g., in connection with the employee's promotion to a higher position, the **employer is obliged to submit an application to change the work permit.** Entrusting an employee with a new position or increasing the working hours will only be possible **after the employer has received a positive decision to change the work permit.**

Not every change in the circumstances of employment **requires a new work permit.**

NO CHANGE OF PERMIT IS REQUIRED FOR THE FOLLOWING:

- change of the registered office or place of residence of the entity entrusting work,
- change of employer's name,
- change of the legal form of the entity entrusting the work to a foreigner,
- takeover or transfer of the establishment or its part to another employer,

However, in the case of the abovementioned circumstances, **the employer is obliged to inform the voivode in writing about them within 7 days from the date of their occurrence.** Failure to comply with the obligation to provide information may result in a fine.

Replacing a civil law contract with an employment contract, **DOES NOT REQUIRE changing the work permit nor informing the voivode!**

EMPLOYEES, PLEASE REMEMBER!

A work permit entitles you to work **only for the employer indicated in the permit.** To work for another employer, the new employer has to apply for a **new work permit.**



Question No. 28

WHAT IF AN EMPLOYMENT CONTRACT IS ULTIMATELY NOT CONCLUDED WITH THE FOREIGNER FOR WHOM A PERMIT HAS BEEN OBTAINED?

OR IF THE EMPLOYMENT CONTRACT WITH THE FOREIGNER IS TERMINATED BEFORE THE END OF THE PERIOD FOR WHICH THE PERMIT WAS ISSUED?

If the foreigner:

- **does not take up work within 3 months** from the initial date of validity of the work permit,
- **stops working for more than 3 months** or
- **terminates work earlier than 3 months** before the expiry of the work permit,

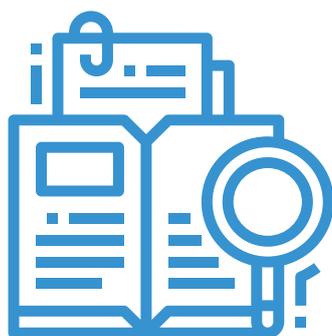


THE EMPLOYER MUST INFORM THE VOIVODE IN WRITING WITHIN 7 DAYS!

Failure to comply with the obligation of the employer to provide information **may be punishable with a fine** in the amount of PLN 100 to PLN 5,000!

Question No. 29

WHAT IS THIS INFORMATION FROM THE STAROST ALSO CALLED THE “LABOUR MARKET TEST”?



As a rule, the employment of a foreigner in a given position is possible **only if there are no registered unemployed persons on the local labour market who would have relevant competencies and could be employed by the employer** applying for the permit. This results from the general rule that Polish citizens have priority over foreigners in accessing the local labour market.

Therefore, before submitting an application for a work permit for a foreigner, the employer should apply to the **district employment office** responsible for the main place of work of the foreigner **to carry out a labour market test**, as part of which the officials will verify whether there are persons meeting the criteria set by the employer looking for an employee for a given position among the currently registered unemployed persons and job seekers in the region.

If, as a result of a labour market test, it is confirmed that **it is not possible to employ a person currently registered as unemployed** at the given position, the **starost will issue information about the inability to meet the employer's HR needs on the local labour market.**



The information from the starost needs to be issued **no earlier than 180 days before** the application for a work permit, or seasonal work permit is submitted, and in cases justified by the starost - **90 days before** the application is submitted.

A labour market test is not always necessary. **The employer is not obliged to ask for it if:**

- the work to be performed by a foreigner is **included in the list of shortage occupations** published in regulation by the voivode competent for the main place of performance of work by the foreigner,
- the profession to be held by a foreigner is **included in an appendix to the regulation of the Minister of Labour and Social Policy** (these are, among others, doctors, nurses, programmers, database designers, elderly caretakers, bricklayers, painters, locksmiths, bus drivers),
- it involves **care work or domestic work** to be done by citizens of: Armenia, Belarus, Georgia, Moldova, Russia or Ukraine,
- it involves **work as a sports coach or athlete**,
- it involves work of a **dentist or doctor** undergoing training or specialised training programme,
- it concerns a foreigner **authorised to represent a foreign entrepreneur at its branch or representative office located in Poland**,
- the work is to be performed by a foreigner who is a **relative of a diplomatic employee or an employee of a branch of an international organisation in Poland** or who works as a **private domestic staff member** for such employees,

- the work is to be performed by a foreigner who is a **doctoral student** at a Polish university or **has graduated from a university in Poland, the European Union, Switzerland, Norway, Iceland, or Liechtenstein in the last 3 years**,
- the work is to be performed by a **foreigner who has lived in Poland continuously for 3 years before submitting the application** (however, the foreigner's stay is considered uninterrupted if there was no break longer than 6 months and if all the breaks in total have not exceeded 10 months!),
- the work is to be performed by a **citizen of Armenia, Belarus, Georgia, Moldova, Russia, or Ukraine** who, in the period immediately preceding submission of the application for a work permit, **was employed for a period of at least 3 months by the same employer and at the same position** - in accordance with the declaration on entrusting performance of work to a foreigner entered in the register of declarations - provided that the declaration on entrusting performance of work to a foreigner entered in the register of declarations and the employment contract and documents confirming payment of social security contributions are presented.

Information from the starost includes, among others:

1. **details of the entity entrusting work** to the foreigner;
2. **assessment of the adequacy of the remuneration level** to the position/type of work in relation to rates on the local labour market;
3. **assessing the adequacy of the requirements** in relation to the job/type of work;
4. **assessment of the possibility of obtaining employees** for the given position/type of work based on local market resources.



Question No. 30

HOW LONG CAN IT TAKE TO OBTAIN INFORMATION FROM THE STAROST ON THE POSSIBILITIES OF SATISFYING THE EMPLOYER'S HR NEEDS ON THE LOCAL LABOUR MARKET?

According to the Act, the starost should issue information about the possibility of satisfying the employer's HR needs within the following timeframe:

- **no more than 14 days** from the date of submitting a job offer to the district employment office, if the analysis of the registers of unemployed persons and job seekers does not show that it is possible to organise recruitment;
- **no more than 21 days** from the date of the job offer being submitted in case of organising recruitment among the unemployed and job seekers.

Question No. 31

WHAT IS THE SIMPLIFIED PROCEDURE FOR EMPLOYING A FOREIGNER?

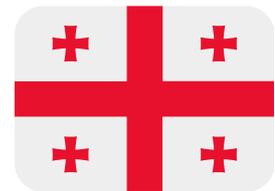
This procedure applies to foreigners coming from:



ARMENIA



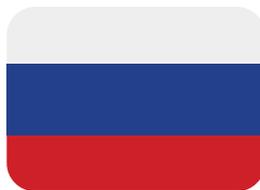
BELARUS



GEORGIA



MOLDAVIA



RUSSIA



UKRAINE

The said simplification consists in the fact that the **employer may entrust the citizens of the abovementioned countries with performing work in the territory of the Republic of Poland without the need to obtain a work permit.**

This rule applies not only to employment contracts but also to civil law contracts.

The employer should submit **two copies of the declaration** of intent to entrust work to a foreigner **to the competent local employment office**. It should be **accompanied by a letter confirming willingness to sign a contract with the foreigner and the fact that the foreigner is performing work under the conditions indicated in the declaration.**

The procedure of registering the declaration at the employment office is subject to a fee of **PLN 20**.

However, it should be stressed that the possibility to work under such conditions is **limited in time**. A national of one of these countries may be employed without a permit **for a maximum period of 6 months over 12 consecutive months**, no matter how many entities have commissioned their work. The work does not have to be performed continuously, however, the total period of employment may not exceed 6 months and needs to fit within 12 consecutive months.

A declaration of intent to entrust work is **the basis for applying for a national work visa**. Therefore, **one copy of the document should be sent to the foreigner** residing abroad so that they can apply at a Polish consulate for a residence permit to perform work.

The employment contract with the employee should be made **in writing**. Failure to conclude an agreement in this form constitutes an offence for which the employer may be fined.

After 6 months of employment, if the employee would like to stay in Poland, **they should apply for a temporary residence permit**. If that person is to continue to work for the current employer, it will be necessary for the employer to obtain a work permit or to apply for a single permit - for temporary residence and work.

Question No. 32

WHAT IS A SINGLE PERMIT?

The single permit is a **simultaneous temporary residence and work permit** in Poland. This is a type of temporary residence permit. The advantage of applying for such a permit is that **all formalities with regard to legalising the foreigner's stay and employment are dealt with under one administrative procedure**.



Since the single permit combines a temporary residence permit and work permit, **the voivode verifies both the conditions** for issuing a residence permit and the statutory conditions related to the issue of a work permit.

A foreigner may apply for the single permit if they **have not applied for a temporary residence permit** at the same time and they **intend to take up or continue working** in the territory of Poland, **provided that these circumstances justify the foreigner's stay in the territory of the Republic of Poland for more than 3 months**.

The foreigner should also meet the conditions with regard to having:

- health insurance,
- a source of stable and regular income sufficient to cover the costs of living of the foreigner and their dependent family members
- and a place of residence secured in the territory of Poland.

IMPORTANT!

Only the foreigner is a party to the proceedings for issuing a residence and work permit. The employer has no right to submit applications or appeal against the decisions!

The employer acts in the proceedings as the entity entrusting the performance of work to a foreigner - for this reason, it is obliged, among other things, to apply for information from the starost, and after obtaining it, to hand over the document to the foreigner, who should submit it to the voivodeship office in order to add it to the file in the proceedings for granting the single permit.

Foreigners **cannot apply** for this permit if:

- they are **employees delegated by an employer based outside** of Poland,
- they are staying in the territory of Poland **on the basis of commitments set out in international agreements** facilitating the entry and temporary stay of certain categories of natural persons engaged in the trade or investment activity who conduct business activity in Poland,
- they are performing **seasonal work** in Poland,
- they are staying in the territory of Poland **on the basis of a visa issued by a Polish authority for tourist purposes or for visiting family or friends**,
- they are staying in the territory of Poland for **tourist purposes or for visiting family or friends on the basis of a visa issued by another Schengen state**.

The decision on granting a temporary residence and work permit to a foreigner should indicate, apart from the period of validity of the permit:



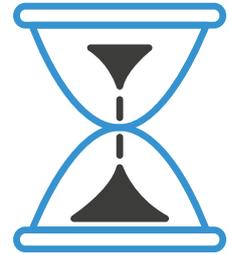
- the **entity entrusting the performance of work**, and if the foreigner will be a temporary employee - also the user's employer,
- **the position** in which the foreigner is to perform work,
- **the lowest remuneration** that the foreigner may receive in the given position,
- **working hours**,
- **type of contract** under which the foreigner is to perform work.

This rule is waived if the foreigner meets the conditions for exemption from the obligation to hold a work permit, specified in separate regulations.

Question No. 33

FOR WHAT PERIOD OF TIME IS THE “SINGLE PERMIT” ISSUED?

A temporary residence and work permit is granted **for a period necessary to achieve the purpose of the foreigner's stay** in the territory of Poland of **over 3 months up to 3 years**, with the possibility to apply for further permits.



Unlike a work permit, if a foreigner wishes to extend a temporary residence and work permit, they should **reapply for such a permit**. There is no separate application for permit extension.

Question No. 34

WHAT DOCUMENTS SHOULD I SUBMIT IN ORDER TO APPLY FOR THE “SINGLE PERMIT”?

The application for a residence and work permit **should be submitted in person, not later than on the last day of legal residence in the Polish territory**. In Pomeranian Voivodeship, applications for a residence and work permit should be submitted to the Branch for Legalisation of Residence of Foreigners (Oddział ds. Legalizacji Pobytu Cudzoziemców) **in Gdańsk** or to the Local Branch of the Department of Civil Affairs and Foreigners (Oddział Zamiejscowego Wydziału Spraw Obywatelskich i Cudzoziemców) **in Słupsk**.



If the application is not submitted in person or is sent by mail - after the application has been delivered to the voivode, the foreigner will **be summoned to appear in person within a period not shorter than 7 days from the delivery of the summons** under pain of the application being left unprocessed. During the appointment, fingerprints will also be taken from the foreigner.

In order to submit an application for a residence and work permit, it is necessary to fill in:

- **the standard application form** for granting a temporary residence permit to a foreigner, in which in the field: “the main purpose of stay” the option: “**performing work**” should be selected; **two copies of the application should be submitted.**
- **the attachments required** to submit an application for a temporary residence permit, i.e.:
 - four photographs meeting the set requirements,
 - a photocopy of a valid travel document (the whole document, including pages with no entries or stamps),
 - two photocopies of the passport page with personal data and a photo,
 - proof of payment of stamp duty for issue of the permit.
- if in a given case the applicant is not exempt from this obligation, they should also attach **information from the starost competent for the main place of work of the foreigner about the inability to satisfy the employer's HR needs** established on the basis of the registers of the unemployed and job seekers or about a negative result of recruitment organised for the employer. Lack of such information does not constitute a formal defect.

IMPORTANT!



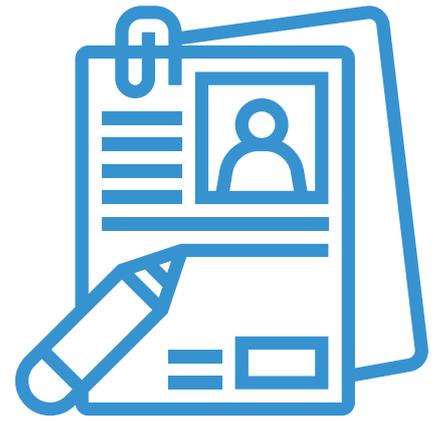
The application also needs to be submitted with a document called **Annex 1** to the application for granting a temporary residence permit to a foreigner - **it should be filled in and signed by a person representing the entity entrusting work.** The person signing the Annex (i.e., placing a legible signature in the space provided on page 6 of the Annex) is, therefore:

- a. **the owner of the company** (in case of a natural person conducting business activity),
- b. **a person (or persons) listed in the company's excerpt from the National Court Register, in the part concerning the representation of the entity** (in case of companies). These persons may also authorise another person to sign Annex 1 (this is not possible in case of natural persons conducting business activity).



The document indicates:

- data concerning the **entity entrusting a foreigner with work**,
- **legal basis** for the performance of work by a foreigner (whether it is an employment contract or a civil law contract),
- **position or type of work** to be performed,
- **working hours**,
- proposed **monthly or annual gross remuneration** and, in case of civil law contracts, **gross hourly rate** and **scope of basic duties** at the workplace.



The section with declarations on pages 4-5 of Annex 1 **also has to be completed**.

Instructions can be found on the first page of the Annex.

Lack of any of the aforementioned documents will result in the foreigner being requested to **supplement it within a period not shorter than 7 days** from the delivery of the request under pain of the application being left unprocessed.

The application should also be submitted with other documents confirming the circumstances indicated in the application:

- in case of meeting the conditions for exemption from the obligation to have a work permit – **a document confirming the fulfilment of these conditions** (e.g., the Pole's Card or a diploma from a Polish university),
- proof of **secured residence**,
- **employment contract, commission contract as well as bills from the last three months** (if the party is already performing work), **specific work contract**,
- **certificate of employment from the previous employer** (if the foreigner has previously performed work for another employer),
- **PIT returns** showing the amount of the foreigner's income for the previous tax year or a relevant certificate from ZUS (Social Insurance Institution), or other documents to confirm the source of stable and regular income sufficient to cover the costs of living of the foreigner and their dependent family members,
- documents confirming **health insurance**.

If there is a need to clarify or provide more details regarding the case evidence held by the authority during the proceedings, **the foreigner may be called upon to provide other documents or to give evidence confirming the circumstances referred to in the application**.

Question No. 35

WHAT IS THE BLUE CARD AND FOR WHAT PERIOD OF TIME IS IT ISSUED?

The Blue Card (*Niebieska Karta*) is a common name of the temporary residence permit to perform work in a **highly-qualified profession**. It is a type of temporary residence and work permit used under the European Union's Blue Card programme. The aim of the initiative is to attract the best specialists from outside the region to Europe. Foreigners can apply for this permit if:

- their purpose of staying in the territory of the Republic of Poland is to **perform work in a profession that requires having a higher education degree or having at least 5 years of professional experience at a level comparable to the level of qualifications obtained as a result of higher education studies**, which are necessary to perform this work,
- they have concluded an **employment contract or a civil law contract** on the basis of which they perform the contracted work **for a period of at least 1 year**,
- they have **health insurance**,
- their **gross annual remuneration is not less than an equivalent of 150% of the average remuneration in the national economy in the year preceding the conclusion of the agreement**, as announced by the President of the Central Statistical Office,
- if there are circumstances justifying the foreigner's stay in the territory of the Republic of Poland **for more than 3 months**.

What distinguishes a temporary residence permit for highly-skilled employment is its **term of validity**. It is granted for a period **3 months longer than** the period of performing work, **but not longer than 3 years**, with the possibility to apply for further permits.

A foreigner who has obtained a temporary residence permit to work in a highly-skilled profession in the territory of Poland is issued with a residence card in the form of the **EU Blue Card**. After obtaining this permit, the foreigner may perform work in Poland under the conditions specified in this permit, **without the need to have an additional work permit**.



Question No. 36

WHAT DOCUMENTS SHOULD I SUBMIT IN ORDER TO APPLY FOR A TEMPORARY RESIDENCE PERMIT FOR A HIGHLY-SKILLED EMPLOYMENT?



The application for a temporary residence permit to perform highly-skilled work should be submitted in person, **not later than on the last day of legal residence in the Polish territory**. In Pomeranian Voivodeship, applications for this permit should be submitted to the **Branch of the Voivodeship Office for Legalisation of Residence of Foreigners in Gdańsk**.

If the application is not submitted in person or is sent by mail - after the application has been delivered to the voivode, the **foreigner will be summoned to appear in person within a period not shorter than 7 days** from the delivery of the summons under pain of the application being left unprocessed. During the appointment, fingerprints will also be taken from the foreigner.

In order to submit the application for a temporary residence permit to perform work in a highly-qualified profession, the following documents need to be completed:

- **standard application for a temporary residence permit** for a foreigner, in which in the field: “the main purpose of stay” the option: “**performing work in a highly-qualified profession**” should be selected; **two copies** of the application should be submitted.
- **attach the annexes required** to submit an application for a temporary residence permit, i.e.:
 - four photographs meeting the set requirements,
 - photocopy of a valid travel document,
 - two photocopies of the passport page with personal data and a photo,
 - proof of payment of stamp duty for issue of the permit.
- if in a given case the applicant is not exempt from this obligation, they should also attach **information from the starost** responsible for the main place of work of the foreigner about the inability to satisfy the employer's HR needs established on the basis of the registers of the unemployed and job seekers or about a negative result of recruitment organised for the employer. Lack of such information does not constitute a formal defect.



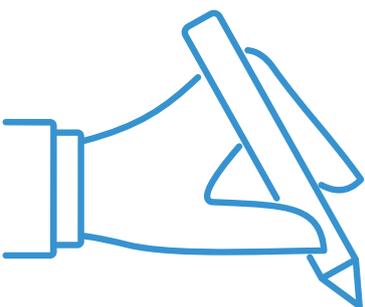
IMPORTANT! The application should also contain a document called **Annex 1** to the application for granting a temporary residence permit to a foreigner, which is filled in and signed by a person representing the entity entrusting work AND a document called **Annex 2** to the application for granting a temporary residence permit to a foreigner, in which the foreigner should indicate:

- **type of qualifications** held
- **evidence** of formal qualifications
- **whether they have previously resided in another member state** of the European Union for at least 18 months on the basis of a residence permit marked as “EU Blue Card”, issued by that state.

Lack of any of the aforementioned documents will result in the foreigner being requested to **supplement it within a period not shorter than 7 days** from the delivery of the request under pain of the application being left unprocessed.

The application for a temporary residence permit for the purpose of performing highly-qualified work **should be submitted with other documents confirming the circumstances indicated in the application:**

- if the conditions for an exemption from the obligation to hold a work permit are met – a **document confirming the fulfilment of these conditions** (e.g., Pole’s Card or a diploma from a Polish university),
- a document **certifying professional higher-education qualifications;**
- a document **certifying fulfilment of the qualification requirements and other conditions** if the foreigner intends to work in a regulated profession;
- **consent of the relevant authority** to hold a specific position, pursue a profession or engage in other activities where the obligation to obtain it prior to the conclusion of the contract results from separate provisions;
- **employment contract, outwork contract, civil law contract** concluded for a period of **at least 1 year** on the basis of which the foreigner performs work, provides services, or remains in a service-based relationship;
- documents confirming **health insurance.**



If there is a need to clarify or provide more details regarding the case evidence held by the authority during the proceedings, the foreigner may be called upon to provide other documents or to give evidence confirming the circumstances referred to in the application.

Question No. 37

CAN I FREELY CHANGE JOBS WITH A BLUE CARD?

Please note that the Blue Card is issued for the purpose of performing work in a highly-qualified profession for a specific employer indicated in the application. Thus, **a foreigners' access to the labour market is limited.**



During the first 2 years of the foreigner's stay in the territory of the Republic of Poland on the basis of a Blue Card, the foreigner cannot:

- start working for an entity other than that specified in the permit,
- change the position in which they are employed,
- receive remuneration lower than those specified in the permit

- without changing the permit.

However, a **change of the permit is not required in case of a change in the name or legal form of the entity** entrusting the foreigner with the performance of work **or in case of another entity taking over the workplace or its part.**

Therefore, a foreigner who, in the first two years of their stay in Poland (importantly, stay on the basis of a Blue Card, not stay in general) would like to change their employer, **has to apply for a change of their permit.** For this purpose, a request to amend the decision is sufficient (there is no mandatory form used for such an application).

The application should be accompanied with:

- **Appendix No. 1** to the application for granting a temporary residence permit to a foreigner, filled in by the new employer,
- **an employment contract or civil law contract** concluded with the new employer for **at least 1 year,**
- **information from the starost** confirming that the employer's HR needs cannot be met if such information is required for the job,
- and **confirmation of payment of stamp duty** in the amount of **PLN 10.**

The foreigner will be able to start working for the new employer only **after** receiving the decision to change the permit has been issued.

It is also possible for a new employer to **apply for a work permit** for an employee staying in Poland on the basis of a Blue Card. After receiving it, the foreigner will be able to start working for the new employer **immediately** and **apply for a change of permit while working at the new place.**

The period of validity of an amended permit **cannot exceed 3 years from the date of issue of the permit which was changed**. After its expiry, the foreigner may apply for a new temporary residence permit in order to perform work in a highly-qualified profession.

After working for 2 years on the basis of a Blue Card, the foreigner gains free access to the labour market (within the validity term of their permit) and may take up employment with a new employer without the need to change their permit or apply for an additional work permit.

Question No. 38

DO I HAVE TO INFORM THE VOIVODE IF I LOSE MY JOB?

A foreigner residing in the territory of Poland on the basis of a temporary residence permit in order to perform work in a profession requiring high qualifications is obliged to inform the voivode relevant for the place of the foreigner's current stay (or the Head of the Office for Foreigners, if it issued the permit in the second instance) about the following circumstances:

- **loss of a job** - within **15 working days** from the date of loss of a job,

If the foreigner complies with the obligation to provide information, the temporary residence permit granted to them will not be revoked, provided that:

- a. the period of the foreigner's **unemployment has not exceeded 3 months** during the term of validity of this permit, and
 - b. the period of the foreigner's **unemployment occurred no more than 2 times** during the permit validity period.
- **change of the working conditions specified in the permit** concerning the minimum working time and the type of contract on the basis of which the foreigner performs work occurring during the first 2 years of the foreigner's stay in the territory of the Republic of Poland under this permit - **within 15 working days**,
 - **change of position, lower remuneration or change of the minimum working time and the type of contract** on the basis of which the foreigner performs work occurring after 2 years of the foreigner's stay in the territory of the Republic of Poland under this permit - **within 15 working days**.

*If, after reading this publication, you have any additional questions
or you still have doubts as to how to
interpret the statutory regulations on legalisation
of residence or employment of foreigners,
please get in touch.*

You can count on our assistance!



We care more



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