

DECREE 89.339, from January 31, 1984

Regulates the provisions of articles, 5º, §2, 9º. §§ 1 to 4 and article 12 of Law 7.06 from December 6, 1982 which regulates the contracting and transference of workers in order to render services in a foreign country.

THE PRESIDENT OF THE REPUBLIC, in the use of the powers granted by art. 81, clause III of the Constitution and considering the provisions of art. 23 of Law 7.064 from December 6, 1962,

DECREES:

Art 1 - An employee contracted in Brazil or transferred to a foreign country by an engineering, including consulting, projects, construction, assembling, management and similar services is hereby granted the right to, while contracted to render services abroad, convert and transfer to the work location, in whole or in part, the amount in national currency that corresponds to the remuneration paid in Brazil.

Art 2 - The monetary transfer operations that are the subject of article 1 must be performed by a banking institution authorized to undertake currency exchange operations and are conditioned to the written authorization by the employee or his/her legal representative and accompanied by a declaration signed by the employing enterprise stating the amount of the paid salary, the location of work abroad and the employee's Labor Card number and his/her taxpayer number as registered in the taxpayer registry.

Single paragraph - The currency transferences that are the subject of this article must be evaluated and approved the Brazilian Central Bank.

Art 3 - The service enterprise that is the subject of article 1 may, in order to comply with local legal provisions in a foreign country, deduct the amounts paid to the Unemployment Guarantee Fund - FTGS - in the name of the employee and deposited in the account that is the subject of art. 2 of Law 5.107 from September 13, 1965.

§1 - The employing enterprise's stocktaking of the amounts corresponding to the liquidation of rights, according to the local legislation of the foreign country, must be effected according to the license issued after legal homologation.

§2 - The homologation of the deductible sums is conditioned to the presentation, by the employing enterprise, of authenticated and officially translated documentation proving the liquidation of rights of the employee working in a foreign country.

§3 - A Judge will, after the homologation request, order the depositing Bank to provide a statement of the employee's account within 3 (three) works days , counting from the date of the homologation request.

Art 4 - The homologation must state the amount in foreign currency that will be deducted, and the license will authorize the stocktaking and the currency conversion of corresponding amount in Brazilian Cruzeiros deposited in the Bank according to the

daily currency exchange rate and use the US Dollar as the conversion currency if the liquidation the employee's rights is made in a currency that is not in direct parity to the Brazilian Cruzeiro.

Single paragraph - The employing enterprise must present the license that is the subject of this article within two work days after it is issued and will be subjected to any possible currency variations that occurred after the date of the license.

Art 5 - If the balance of the Unemployment Fund Guarantee account, in the name of the employee, is not sufficient for the integral deduction of the amounts corresponding to the enterprise's liquidation of rights abroad, the difference may be accounted and deducted from the account when at the time of the contract expiration in Brazil and through the presentation of a new license, independently of a new homologation.

Art 6 - The contracting of a Brazilian worker to work abroad for a foreign firm is conditioned to the authorization of the Ministry of Labor according to the regulations set by the Minister of Labor and to the provisions of art. 7 of this Decree.

Art 7 - An enterprise that requests the authorization that is the subject of article 6 must present proof:

I - of its legal existence, according to the laws of the country where it operates;

II - that a minimum of 5 (five) percent of its total capital is owned by a legal entity based in Brazil; a

III - of the existence of an officially nominated legal representative in Brazil with special representation powers including the reception of subpoenas;

IV - that the legal entity that is the subject of clause II of this article is co-responsible for the foreign firm's legal obligations resulting from the contracting of the employee.

Art 8 - This Decree enters into effect on the date of its publication and all contradictory provisions are hereby revoked.

Brasilia, January 31, 1984, 163rd year of Independence and 96th year of the Republic.

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This text does not substitute the text published in the Official Gazette on February 2, 1984