

LIMOSA

Mandatory declaration for foreign employees, self-employed persons and trainees in Belgium

Contents

Introduction	2
The obligations	3
1 Who must be declared?	3
2 Who is exempt?	4
2.1 Employees and self-employed persons	4
International transport	4
Scientific congresses	4
Meetings in a closed circle	5
Installation and assembly of goods	5
Urgent repair or maintenance works	5
Self-employed business people	6
Sports people	6
Artists	6
Scientists.....	7
Government personnel	7
International institutions.....	7
Diplomats	7
2.2 Trainees and self-employed trainees	8
3 Do you work in Belgium occasionally?	9
4 Do you regularly work in other countries?.....	9
5 When do you have to make the declaration?.....	10
6 How can you make a Limosa declaration?.....	10
7 How long is the declaration valid? Can the declaration be cancelled?	11
8 What advantages does Limosa offer?.....	11
9 What if the mandatory declaration is not observed?	12
10 Other obligations	13
11 Date of commencement and transitional provisions	13
Practical information	14
1 Which data do you have to declare?.....	14
1.1 For posted employees and self-employed persons	14
1.2 For posted (self-employed) trainees	14
2 Support	15
3 Appendices	16
3.1 Appendix 1: What is meant by activities in the construction industry?.....	16

Introduction

As of 01 April 2007 all foreign employees, self-employed persons and trainees will have to declare their activities in Belgium to the authorities in advance – exactly as is already the case in other EU Member States.

This mandatory declaration is part of a larger project: **Limosa**. With this obligation, the Belgian authorities want to **create better guarantees for the free movement of services and workers. Extra attention will be paid to everyone's rights and conditions of employment in Belgium.**

As an entrepreneur, you will enjoy some major administrative benefits as a result of Limosa.

Proper execution of the Limosa declaration will make your administrative obligations in Belgium much easier, with regard, inter alia, to drawing up labour regulations, the personnel register, the individual earnings record and the wage settlement and keeping them up to date.

The portal site (www.limosabe.be) plays an important part in this project. Immediately after each declaration via the website a *Limosa-1* certificate is supplied. This certificate must be presented to the Belgian client or principal. If an employee, self-employed person or trainee is unable to produce this Limosa-1 document, the Belgian client or principal must report this to the authorities immediately.

In time the portal site www.limosabe.be will be expanded into a dedicated portal. This will allow you to fulfil almost all your administrative obligations concerning working in Belgium via a single electronic portal.

The Limosa declaration is an important step towards legal employment in Belgium, while observing the Belgian and European regulations. Employers, employees or self-employed persons may not lose sight of other obligations besides these.

This document will tell you more about this. Complementary information can be found at www.limosabe.be.

The obligations

1 *Who must be declared?*

The mandatory Limosa declaration applies to all **employees**¹ and **trainees** who come to work in Belgium temporarily or partially and who, in principle, are not subject to the Belgian social security².

The mandatory Limosa declaration is also applicable to all **self-employed persons**³ and **self-employed trainees** who come to work in Belgium either temporarily or partially, irrespective of whether they are subject to Belgian social security.

Employees

Generally speaking, a declaration must be made for the employment of employees who

- normally work in a country other than Belgium
- are recruited in a country other than Belgium

In other words, the mandatory Limosa declaration applies to all employees who are employed in Belgium temporarily or partially by a non-Belgian employer.

Self-employed persons

A declaration is required for a self-employed person who comes to Belgium temporarily to exercise a self-employed activity, but does not stay here permanently.

Trainees

Trainees are also obliged to declare their arrival if they do all or part of their traineeship **in Belgium** as part of a foreign study programme or vocational training.

Exceptions

There are exceptions to this general obligation. There are exemptions, especially for short-term assignments in Belgium. You will find more on this in Chapter 2.

In addition, not everyone who does cross-border work falls under the mandatory declaration. Self-employed people are natural persons who exercise a professional occupation for which they are not bound by an employment contract or a (government) social security contract.

For example, there is no mandatory declaration in the following situations:

¹ Employees are persons who render employment services within the framework of the mandatory declaration **under Belgian law** for a salary and under the authority of another person.

² In exceptional cases, someone who is subject to the Belgian social security system will nevertheless have to make a mandatory Limosa declaration.

³ Self-employed people are natural persons who exercise a professional occupation for which they are not bound by an employment contract or a (government) social security contract.

- Employees who live abroad and work only for a Belgian or foreign employer in Belgium and for an indefinite period (cross-border workers).
- Employees, such as sales representatives, who normally work for a Belgian employer in the territory of different countries.

2 Who is exempt?

2.1 Employees and self-employed persons

There are various exemptions from the mandatory declaration.

They depend mainly on:

- the reason for coming to Belgium
- the length of the stay (required for the activities in Belgium)

International transport

The employees and self-employed persons from the industry of **international transport** of persons or goods are exempt.

This exemption, however, does not apply when one comes to Belgium to perform cabotage activities. This means someone who picks up goods in Belgium and also delivers them in Belgium.

Example

A French transporting company that picks up goods for a Belgian customer in Amsterdam and delivers them to a customer in Bruges is exempt. A French company who picks up goods at customer A in Belgium and delivers them to customer B in Belgium is not exempt.

Scientific congresses

Employees and self-employed persons are exempt if they attend **scientific congresses** in Belgium.

Example

The Brazilian doctor who attends a medical congress in Brussels for two weeks is exempt.

Meetings in a closed circle

Employees and self-employed persons who attend meetings in a closed circle in Belgium are exempt. To enjoy exemption, they may not spend more than a total of 60 days per year at such meetings in Belgium. Furthermore, no such meeting may last longer than 20 consecutive calendar days.

This implies various types of meetings, mostly in the form of a type of business trip, negotiations with a customer concerning contracts, holding evaluation interviews, strategic meetings, etc.

Examples

- The General Manager of an American multinational is exempt if he comes to Belgium to hold evaluation meetings for eleven days with the European Country Managers at the European headquarters.
- The Italian manager who follows a five-day training course in Antwerp is exempt.

Installation and assembly of goods

Employees and self-employed persons are exempt if they are sent to Belgium for **the initial assembly and/or the first installation** of an item. It must concern qualified and/or specialised **employees of the company delivering the item** or the self-employed person delivering the item. The works may not take longer than 8 days. Moreover, this deviation does not apply to the construction sector (see Appendix 1).

Example

An American company sells a highly technological printing press to a Belgian printing company. The company sends two technicians. They have to install the printing press, adjust it and provide the Belgian client's personnel with a training course. All of this lasts 5 days. This American company and its employees are exempt.

Urgent repair or maintenance works

Specialised technicians of foreign companies and self-employed persons are exempt if they come to Belgium to carry out **urgent repair or maintenance work to machines or equipment**. It must, however, concern machines or equipment that were delivered by their employer or the self-employed person to the company where the repair works or the maintenance is done. These technicians may not stay in Belgium for longer than 5 days per month.

Example

The air-conditioning in a Belgian company is defective. The company contacts the supplier in France, who sends out a technician. After half a day the technical problem is solved. The French employer/supplier is exempt from the declaration.

Self-employed business people

Self-employed **business people** are exempt from the declaration if they do not stay in Belgium for more than 5 days per month for their activities.

Company self-employed **directors and mandataries** are also exempt if they take part in meetings of the Board of Directors and company general meetings. They, too, may not stay in Belgium for more than 5 days per month.

Sports people

Employees of foreign companies are exempt if they come to Belgium to participate in **international sports competitions**. They may stay in Belgium only for the duration of the sports competition and for a maximum of 3 months per calendar year.

This exemption also applies to:

- referees
- accompanying staff
- official representatives, personnel and all other persons recognised by international or national sports federations

Self-employed **sports people** and their self-employed accompanying staff who do not have their main place of residence in Belgium are exempt if they perform vocational activities and do not spend longer than 3 months per calendar year in Belgium for this purpose.

Artists

Artists of international fame are exempt on condition that their stay in Belgium, which is required for these activities, does not amount to more than 21 days per quarter.

This exemption also applies to their accompanying staff who are essential to the spectacle and who come to Belgium as employees.

Self-employed **artists** and their self-employed accompanying staff who do not have their main place of residence in Belgium are exempt if they perform vocational activities and do not spend longer than 21 days per quarter in Belgium for this purpose.

Scientists

Scientists/researchers of a foreign university or scientific institution who normally reside abroad are exempt. That is to say, if they participate in a scientific programme in a receiving university or scientific institution in Belgium. In order to be exempt they may, however, not stay in Belgium for longer than 3 months per calendar year for this purpose.

Government personnel

Employees who are in the employ of a foreign **public service** as statutory or contractual staff member are exempt.

Example

A Slovenian civil servant who, within the context of the European chairmanship, comes to Brussels to work at the permanent representative office of his country for one year is exempt.

International institutions

Employees of an **international institution** of public law which is established in Belgium are exempt. The statutes of this institution must, however, be regulated by a ratified convention.

Example

The American communications manager who comes to work for NATO for six months is exempt.

Diplomats

Members of a **diplomatic or consular mission** are exempt.

2.2 Trainees and self-employed trainees

There are many categories of trainees for which a Limosa declaration does not have to be made. The following trainees are exempt for the duration of their traineeship:

- **trainee-students** who are following an obligatory **traineeship** in Belgium **in the framework of their studies or vocational training**

Example

The French student chocolate maker who within the context of his vocational training does a one month's traineeship with a Belgian chocolate producer is exempt.

- **self-employed trainees** who are following a traineeship in Belgium **in the framework of their studies** and have a legal residence permit
- **self-employed trainees** who follow a **traineeship** in Belgium that has been approved by their competent authorities **in the context of an exchange programme** based on reciprocity

3 Do you work in Belgium occasionally?

In that case, a separate Limosa declaration is required for each assignment.

4 Do you regularly work in other countries?

Sometimes an activity is carried out structurally in different countries and a considerable part of the work is done in Belgium. This means that the employee or self-employed person stays in Belgium regularly.

For such cases there is a **simplified** Limosa declaration.

Examples

- A German sales representative lives in Germany and, on the order of his German employer, visits clients in Germany, Belgium, and the Netherlands. About 40% of his working time is spent in Belgium.
- A self-employed Luxembourg consultant goes to Luxembourg and Belgian customers. 80% of his clients are in Belgium.

Exceptions

These provisions do **not** apply to the following activities:

- in the construction industry
- in the temporary-employment sector.

For these sectors each activity must be declared separately.

Validity of the simplified Limosa declaration

The simplified Limosa declaration is valid for a maximum period of 12 months. It can be extended after the expiry of this period for another period of 12 months.

Content of the declaration

The data requested are mostly the same as those for an [ordinary declaration](#).

It is NOT necessary, however, to state the place of employment or the customer in Belgium. (This is especially useful, for example, if clients are visited in various locations.)

There is also no need to submit a time schedule for an employee.

5 When do you have to make the declaration?

For posted **employees and self-employed persons**, the declaration must be made before the commencement of the work on Belgian soil.

For posted (self-employed) **trainees**, the declaration must be made before the commencement of the training period in Belgium.

6 How can you make a Limosa declaration?

a) making the Limosa declaration

You can make the declaration via a user-friendly web application at www.limosabe.be. This electronic declaration is fast and easy. You will receive your “Limosa-1” certificate immediately.

You can turn to the Limosa Contact Center (telephone number +32 2 788 51 57) for any questions or problems with the electronic declaration. The Contact Center is available from Monday to Friday from 7.00 am to 8.00 pm (Central European Time) and will be able to help you in English, French, German and Dutch.

You can also request a declaration on paper via the Contact Center. After manual processing you will then receive a Limosa-1 by post or fax. However, this procedure takes much longer than the electronic declaration.

b) the Limosa-1 certificate

The declarer receives a Limosa-1 certificate immediately after every declaration. It is advisable to print this document. Every posted employee, self-employed person or trainee must **be able to produce this Limosa-1 to his Belgian client or principal before the works start**.

This is not the case with a posting *without* a Belgian client, principal or a multinational group entity. However, the posted person must be able to submit the Limosa-1 document in the event of a possible check-up **by a social inspection service**.

Example

A Spanish journalist is sent to Belgium by his press agency to report on EU activities. Although the Spanish press agency does not have a Belgian division the journalist concerned still has to be in possession of a Limosa-1 document.

If someone is unable to show a Limosa-1 document the Belgian principal or client has to report this to the Belgian authorities. He is obliged to do this by law!

Where the Limosa declaration makes mention of multiple employees simultaneously, the person making the declaration will receive the following:

- a general certificate with an overview of all the employees declared
- an individual Limosa-1 per employee declared

NOTE: Limosa declarations for self-employed persons may only include one person per declaration.

7 How long is the declaration valid? Can the declaration be cancelled?

A “normal” Limosa declaration always has to **cover** the duration of the activities in Belgium. There is no maximum validity period.

A simplified Limosa declaration is, however, limited in time. It is valid for a maximum of 12 months but can be extended with a maximum of 12 months each time.

If the posting lasts longer than originally declared you will have to make a new declaration. This has to be done before the expiry of the originally declared duration.

If the posting does not take place you must cancel the declaration. You must do this no later than the starting date of the declared posting.

(Declarations will only be possible at a later stage. The precise date will be announced at www.limosabe.be)

8 What advantages does Limosa offer?

8.1. Exemption from certain social documents

Foreign employers who comply with the mandatory Limosa declaration enjoy certain important benefits.

Certain obligations are done away with **for the activities of their personnel in Belgium.**

These concern the following:

- the Labour Regulations
- the personnel register
- the regulations to check up on part-time employees

Employers who are exempt from the mandatory Limosa declaration also have these advantages.

Employers who make the declaration no longer have to draw up an individual earnings record and a wage settlement, on condition that they are able to submit *similar documents* that were drawn up according to the law of the country of origin. In this way double salary administration will be avoided.

8.2. More information about your obligations

Via the website www.limosa.be you can check which specific rules you have to take into account concerning the employment in Belgium.

The Belgian wage, labour and safety conditions are applicable to the posted employees, for example. These concern, amongst others, the maximum labour time, work on Sundays and public holidays and the minimum wage scales to be respected.

8.3. Positive effect upon the clients and principals

By complying with the mandatory declaration, you will improve your position in the Belgian market. Clients and principals will have a higher view of your reliability.

9 What if the mandatory declaration is not observed?

The Limosa declaration is a legal requirement. Non-compliance can result in **penal or administrative** sanctions.

Both the employer, the person appointed by him or his agent, the posted self-employed person as well as the institution where the trainee studies can be punished.

The one for whom or on whose premises the work is carried out in Belgium can also be prosecuted. At least, if he fails to declare the absence of a Limosa-1 to the government.

10 Other obligations

The Limosa declaration is an important step to correct employment in Belgium **in accordance with the Belgian and European law. However, there are also** other obligations which the foreign companies or self-employed persons have to respect. These may be of a social, labour law or fiscal nature.

Some obligations require additional administrative formalities and/or financial contributions. For others you only have to respect certain regulations (e.g. concerning safety, etc.).

Example:

In cross-border assignments, the European regulation number 1408/71 provides for a specific form which indicates which social security system is applicable (form E101). Such a form is still required, even after having filled in the mandatory Limosa declaration.

When **infringements** on these obligations **have been established sanctions are applied in most cases.**

At www.limosabe.be you will find references to more information about these obligations.

11 Date of commencement and transitional provisions

The mandatory Limosa declaration will come into effect on 1 April 2007

For activities that have already started, there is a transition period of six months.

Example: activity started on 31 March 2007 = first obliged declaration on 30 September 2007 at the latest.

For subsequent contracts, the first contract after the law has come into effect has to be declared.

Example: weekly contract: first obligatory declaration = Monday morning of the first working week after the law has come into effect: Monday, 02 April 2007.

Practical information

1 Which data do you have to declare?

Before making a declaration, you must have access to certain data.

1.1 For posted employees and self-employed persons

General data

The following data must be entered for an employee or self-employed person:

- the employee or self-employed person's identification data
- the commencement and termination dates of the posting in Belgium
- the type of services to be provided in Belgium or the economic sector
- the place in Belgium where the activities will actually be performed
- the identification data of the Belgian client or principal.

Note: An *agent* is also required to state his identification if he makes the declaration.

Specific additional data for an employee

- the employer's identification data
- the weekly working hours of the employee
- the time schedule of the employee

1.2 For posted (self-employed) trainees

The following data must be entered for posted trainees:

- the identification data of the foreign institution where the trainee is doing his studies or vocational training
- the identification data of the Belgian institution where the traineeship will take place
- the trainee's identification data
- the national identification number in the country of origin
- the start and end dates of the traineeship in Belgium

2 Support

The Limosa Contact Center can help you with information and assistance with the declaration.

Available via :

Telephone: ++32 2 788 51 57

Fax: ++32 2 788 51 58

E-mail: limosa@eranova.fgov.be

Postal address: P.O. Box 224, 105 Brussels, BE Belgium.

Opening hours:

From Monday to Friday

Non-stop from 7.00 am to 8.00 pm (Central European Time)

Languages:

Dutch

French

English

German

3 Appendices

3.1 Appendix 1: What is meant by activities in the construction industry?

The “activities in the construction industry” are activities that concern making, repairing, maintaining, adjusting or demolition of construction works.

This involves, amongst others, the following:

- excavation works
- ground works
- building
- assembly and dismantling of pre-fabricated elements
- constructing or equipping
- altering
- renovating
- repairing
- dismantling
- demolishing
- maintaining
- maintenance, painting and cleaning works
- rehabilitation