

Guide for employment of foreigners in Finland

Confederation of Finnish Construction Industries RT
Finnish Construction Trade Union
Trade Union Pro
2013

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1. Introduction

This general guide attempts to clarify the rules relating to employment of foreigners in Finland and thereby prevent disruption in the workplace. The guide is published by the Confederation of Finnish Construction Industries RT, the Finnish Construction Trade Union, and Trade Union Pro. The guide is intended for the entire building trade.

The guide was drawn up according to the needs of the construction industry, and attention has been paid to the special requirements set by legislation and agreements in this field. Legislation has been observed up until the end of 2012.

2. Concepts and definitions

Important regulations concerning the employment of foreign employees are:

- Aliens Act (301/2004)
- Posted Workers Act (1146/1999)

EU/EEA countries

The EEA countries are: Iceland, Norway and Liechtenstein. The same rules as with EEA countries shall be followed with regard to Switzerland. In many connections, the citizens of EEA and EU countries are treated according to the same rules. Therefore the general expression "EU/EEA countries" is widely used in this guide when referring to these countries. It is especially mentioned when the rules for EEA countries differ from the rules for EU countries.

Third countries

"Third countries" refers to countries which are not EU/EEA countries.

Grey passport

A holder of a so-called grey passport is a person who lacks the citizenship of the EU member state that has granted his/her passport.

Posted employee

A worker who normally carries out his/her work in a country other than Finland and whom an employer undertaking established in another country posts to Finland for a limited period. The posting can be based on contracting between a Finnish and a foreign company or on a temporary agency work contract.

3. The foreign employee in Finland

3.1. Necessary permits for a foreigner

According to the Aliens Act, the citizens of EU/EEA countries do not need a residence permit for an employed person for working in Finland.

Residence permit for an employed person

According to the Aliens Act, a residence permit for an employed person means a permit required from an alien for residence in Finland if the alien intends to have such gainful employment to which he/she would not have the right under another residence permit or without a residence permit. After a favourable decision has been made by an employment office, the Finnish Immigration Service issues the alien a residence permit. Extensions of permit are issued by the District Police.

Details on the procedure for obtaining permits are given on the website of the Employment and Economic Development Office: www.mol.fi.

Registration of right to reside

If citizens of EU/EEA countries have been resident in Finland for more than 3 months, their right to reside must be registered with the local police.

Tax Number

Each person working on a shared construction site must, according to the Occupational Safety and Health Act, wear an identification card with their photograph and individual Tax Number. Each person working on a shared construction site must be registered in the register of Tax Numbers. This register for the construction sector is kept by the Tax Administration.

A foreign worker arriving in Finland for the first time gets a Tax Number from a tax office. To get a Tax Number, the person must also apply for a Finnish personal identity code. If the person is going to work in Finland for a longer period (for at least one year), he/she needs to visit the Local Register Office to get a personal identity code.

3.2. Applicable terms of employment for the foreign employee

A foreigner directly employed by a Finnish company has the same status as a Finnish citizen while he/she is working in Finland. Therefore, the same terms of employment in force in Finland shall be applied to both foreign and Finnish employees.

With regard to employees posted by foreign companies, rules applicable to the employee are specified in the Posted Workers Act. In practice, the same terms are to be applied to those sent to Finland as posted employees as to Finnish employees.

According to the Act, the following provisions of Finnish law shall apply, in so far as they are more favourable to the worker than the legal provisions that would otherwise be applicable:

- 1) Working Hours Act as regards compensation and higher rates of pay on the grounds of working hours (for example overtime), work and rest periods, and compliance with working hours accounting,
- 2) Employment Contracts Act and collective agreement as regards determination of wages and housing benefit,
- 3) Annual Holidays Act as regards annual holiday, annual holiday pay, holiday compensation and annual holiday accounting,

- 4) Employment Contracts Act as regards provisions concerning family leaves,
- 5) generally binding collective agreements as regards annual holiday, working hours and occupational safety,
- 6) collective agreement as regards minimum wages, and
- 7) Occupational Safety and Health Act, the Act on Equality between Women and Men, Occupational Health Care Act and Young Workers' Act.

It should be taken into account that posted workers shall be paid daily allowance. Because of the generally binding collective agreements, foreign employers shall be grouped according to their wages in the construction industry, among other sectors. The wages are paid every two weeks, as agreed in the collective agreement.

The company posting the worker must take care of the costs of posting the worker abroad, and those costs cannot be deducted from the worker's pay.

3.3. Taxation and the foreign employee

A foreign employee employed by a Finnish employer

A person coming to Finland for a maximum of six months has limited tax liability in Finland. The employer withholds tax at source from the worker with limited tax liability in connection with wage payment. Tax at source is a final tax at the rate of 35%, unless the tax authorities have given a tax-at-source card with instructions to the contrary. Before withholding tax at source, the employer is able to deduct 510 Euros per month or 17 Euros per day from the wage-earner's income taxable at source. The employer may not, however, make deductions on his/her own initiative; the making of deductions always requires that the tax-at-source card is shown to the wage-payer and that the tax-at-source card contains instructions for the deduction.

Furthermore, a person with limited tax liability coming to Finland from an EEA country is entitled to demand normal progressive taxation for his/her earnings acquired in Finland if the person's pay in Finland amounts to 75% or more of his/her annual gross earned income. In practice, progressive taxation can only be implemented in connection with standard taxation. Therefore, tax at source is still the primary alternative, and progressive taxation is carried out later if the taxpayer so demands.

The earned income of a person coming to Finland for a continuous stay of more than six months is subject to the same kind of progressive taxation as that of a person permanently resident in Finland. The employer withholds tax according to the tax card issued by the tax authority. If the employee does not present a tax card, the withholding tax rate is 60%.

If the Finnish employer neglects to withhold tax or tax at source, or to account for the withheld tax, the consequences of neglect are the same as in the case of corresponding neglect with a Finnish employee.

Posted employee

The term “posted workers” in this context refers to employees of foreign subcontractors.

When a foreign posted worker employed by a foreign, registered company works in Finland and stays in Finland for 183 days or fewer days during a period defined by the tax treaty (period usually 12 successive months or a calendar year), the worker is not liable to tax in Finland because his/her income is not considered as income from Finland.

If the stay in Finland exceeds 183 days during a period meant in the tax treaty, the worker's income is, as a rule, liable to tax from the start of his/her working in Finland. Such income is taxed according to the progressive taxation scale. In that case, payment of tax is the obligation of the employee, as a foreign employer is usually not obligated to withhold tax and account for the withheld tax in Finland.

Foreign temporary agency worker

Foreign temporary agency workers' wages for work done in Finland are considered as income earned in Finland, even in cases where wages are paid by a foreign employer using temporary agency workers. In practice, this provision concerns workers coming from Baltic countries, Poland, Nordic countries, Moldova, Georgia, Belarus, or from areas like Bermuda, Jersey, Guernsey or Isle of Man, or a country that does not have a tax treaty with Finland. Additionally, workers can be taxed if they come from states which do not have a tax treaty with Finland. This means in practice that temporary agency workers coming from countries mentioned above are liable for tax for income earned in Finland from their first work day here.

For example, temporary agency workers arriving from Russia continue to pay their tax in Finland only if their stay in Finland lasts longer than 6 months.

If the foreign temporary agency worker is liable for tax in Finland, he/she must collect the tax prepayment invoices from a tax office by the end of the month following the calendar month when he/she started working. A sanction may be ordered if application for prepayment of tax is neglected. The task of the government of the employee's state of domicile is to remove double taxation.

3.4. Social security for the posted employee

Social security for the posted employee is normally determined by the regulations applicable in the employee's home country. The employee must have a posted worker's certificate (for example A1 or E101) as evidence of being covered by the social security insurance of the posting country. The certificate must be issued on the basis that the person is sent to Finland by an employer who normally works in the person's home country.

When an employee has a certificate on being covered by the social security insurance of his/her home country, he/she shall not be insured in Finland, and the insurance premiums will be paid to the country mentioned in the certificate.

In accordance with Finnish legislation, the employees are insured in Finland if they don't have posted worker's certificates. In this case, the employees need to be insured from their first day of work. The Social Insurance Institution of Finland (KELA) decides, mainly on the basis of the duration of the employees' stay, their right to social benefits that depend on being resident in Finland.

EU/EEA countries

The social security of people moving from an EU/EEA country to another is regulated by EU legislation on social security. EU member states are covered by the EC social security regulation No. 883/2004 that entered into force on 1 May 2010. The new regulation replaces most of the regulation No. 1408/71 entered into force in 1972.

The new social security regulation applies, in the beginning, only to EU countries and EU citizens. The old regulation is still applied to persons moving in EEA countries and Switzerland.

According to the new social security regulation, an employee sent by his/her employer to another state to work there on that employer's behalf continues to be subject to the legislation of the posting country, provided that the anticipated duration of the work does not exceed 24 months and that he/she is not sent to replace another employee. In such a case, the employee can be granted an A1 certificate. In EEA countries, the employee can be granted a E101 certificate if the duration of the work does not exceed 12 months, as laid down by the old regulation.

If the anticipated duration of an employee posted to Finland from an EU country exceeds 24 months, he/she is subject to Finnish legislation from their first day of work .

Social security conventions and third countries

Finland has made bilateral social security conventions which affect the social security of persons moving between Finland and the other country in question. Finland has made a bilateral social security convention with Australia, Chile, Israel, Canada, Quebec and the USA.

Bilateral social security agreements made between Finland and countries outside the EU may include regulations on how the status of the posted employee is defined. The bilateral social security conventions can be read at the website of the Ministry of Social Affairs and Health, under "Income security", address: www.stm.fi.

All bilateral social security conventions do not include the same benefits. For example the conventions made with Canada and the USA do not include an obligatory accident insurance. A separate accident insurance must be taken out for employees coming from these countries.

Regarding posted workers from countries with which Finland does not have a social security convention (for example Russia, Asian countries and most South American countries), the national legislation of each country shall be applied both in the posting country and the recipient country.

3.5. Employer's obligation to provide personal accident insurance

In most cases, any work carried out in Finland must be insured in accordance with the Employment Accidents Insurance Act (1948/608). Irrespective of where the registered office of the employer is, the employer is obligated to take out an insurance for his/her employees. Foreigners having an employment relationship with a Finnish employer are insured in the same way as Finnish employees.

The Posted Workers Act lists the Finnish Acts applicable to employment contracts for posted employees. The Act does not apply to issues regarding social security - which is why the Employment Accidents Insurance Act is not included in the list of acts applicable to posted workers. The duty to take out an insurance for a posted worker depends on which country the posted worker comes from to work in Finland.

The posted worker is covered by the insurance of his/her home country, and he/she has a posted worker's certificate that proves it. If there is no certificate, the Finnish social security legislation shall be applied to the worker.

If the posted worker comes from an EU/EEA country and he/she has a valid A1 or E101 certificate, there is no need to take out an accident insurance for him/her in Finland. If the posted worker has been posted from a "third country", an accident insurance must be taken out for him/her in Finland.

3.5.1. Liability for damages in an accident

If a posted employee covered by the social security system of the posting country suffers an accident at work in Finland, the employee receives compensation primarily through the social security system in his/her home country. In addition, the employer may take out voluntary accident insurance to supplement compensation. It is advisable for foreign subcontractors or employers hiring temporary agency workers to take out a personal accident insurance for each posted employee to complement the posted employees' social security from their home countries. The existence of personal accident insurance reduces the employees' need to take legal action in order to obtain compensation from employer or employee, and thus promotes smooth operation on the construction site.

If an employee with a posted worker's certificate suffers an accident in Finland, the compensation matter is taken care of by the Federation of Accident Insurance Institutions. The Federation compensates the posted worker for fringe benefits, mostly for medical care expenses, after having received a pay permit from the posting country.

On the basis of the Finnish Tort Liability Act or the Employment Contracts Act, the person injured may claim compensation from his/her employer or from the project supervisor for that part of full compensation that he/she has not received on the basis of the accident insurance, or due to lack of insurance. The employer is liable to compensate for damage caused by an employee through an error or negligence at work (so-called vicarious liability). The employer is always primarily liable for damages, not an individual employee, for example a supervisor, even if he/she is a representative of the employer on the basis of his/her duties. Finnish liability insurance policies also cover damages of employees, both the company's own employees and those of other companies, for which according to law the company has liability for damages.

3.5.2. Group life insurance

The generally binding collective agreements which must be applied in the construction sector include a provision stating that the employer shall take out a group life insurance for his/her employees in such a form as the central organisations (the Confederation of Finnish Industries EK, and the Central Organisation of Finnish Trade Unions SAK) have agreed on. If an insured employee dies, the insurance company that sold the insurance will pay a sum agreed on between the central organisations. On the basis of the agreement between the central organisations, the beneficiaries are the spouse and the children of the employee.

3.6. Payment of wages via banking institutions

The generally binding collective agreements for the construction sector state that wages must be paid via a banking institution operating in Finland, and to an account determined by the wage-earner. In connection with the payment of wages, the employer shall give the employee a calculation in writing (in Euros) showing the amount of pay and the grounds for pay determination.

4. Subcontracting and hiring temporary agency workers

The following section deals with matters which must be taken into account when giving invitations to tender, in contract negotiations and in the final agreement.

4.1. Act on the Contractor's Obligations and Liability when Work is Contracted Out

According to the Act on the Contractor's Obligations and Liability when Work is Contracted Out (1233/2006, referred below as Act on Contractor's Liability), the contractor has an obligation to check the background of such contractual parties with whom the contractor is concluding an agreement involving temporary agency work or specific work based on subcontracting. Any company acting as contractor in a contractual chain is responsible to require the information mentioned in the Act on Contractor's Liability.

The Act is applicable for both domestic and foreign subcontractors and companies using temporary agency workers.

4.1.1. Information required of the subcontractor and company using temporary agency workers

Before the contractor concludes a contract on the use of a temporary agency worker, or on work based on a subcontract, the contractor shall require the documents mentioned below from the contracting partner, who must provide the contractor with the documents:

- 1) an account of whether the company is entered in
 - a. the Tax Prepayment Register
 - b. the Employer Register
 - c. the Value Added Tax Register;
- 2) an extract from the Trade Register;
- 3) a certificate of tax payment or of tax debt, or an account that a payment plan has been made regarding a tax debt;
- 4) certificates of pension insurances taken out and of pension insurance premiums paid, or an account that a payment agreement on outstanding pension insurance premiums has been made; and
- 5) an account of the collective agreement or the principal terms of employment applicable to the work.
- 6) According to the Act on Contractor's Liability, section 5 a, a contractor relating to the construction activity shall, in addition to the accounts mentioned above, acquire a certificate showing that the contractor has taken out an insurance for his/her employees in accordance with the Employment Accidents Insurance Act (No. 608/1948).

A contract must not be concluded with an enterprise in which a partner, a member of the Board of Directors, the Managing Director, or another person in a comparable position has been barred from conducting business.

The information mentioned above must be obtained before the contractor concludes the contract on the use of a temporary agency worker or on work based on a subcontract. If, however, the contractor acquires the required certificates at a later date, the contract must contain an escape clause for cases where the contractor would not have concluded the contract on the basis of the information obtained. In any case, the information required by the Act of Contractors' Liability shall be acquired before starting the work mentioned in the contract.

The accounts and certificates must not be older than three months. If the contractor concludes a new contract with the same contracting partner before 12 months have elapsed since the previous check, the contractor is not obligated to make a new check, unless he/she has reason to believe that changes requiring review have taken place in the contracting partner's circumstances.

If the contract is in force for more than 12 months, the contractor's contracting partner must provide the contractor with certificates of tax payments and pension insurance payments at 12 month intervals during the contractual relationship. The Confederation of Finnish Construction Industries RT recommends that the accounts required by the Act on Contractor's Liability are checked every three months.

The Confederation of Finnish Construction Industries RT recommends that the contractors join the service at the website Tilajavastuu.fi, a system concerning contractor's liability, where the information required by the Act on Contractor's Liability can be checked electronically and free of charge.

4.1.2. Information required of the foreign company

A foreign contracting partner shall provide the contractor with information corresponding to the accounts and certificates referred to in paragraph 4.1.1 in an understandable way, by presenting an extract from a register complying with the legis-

lation of the country where the enterprise is domiciled (normally also the home country) or an equivalent certificate, or in some other generally accepted way. The accounts shall be presented in a language understood by the contractor, for example, Finnish.

A contracting partner is liable to present either an A1 or E 101 certificate for his/her employees or a certificate showing that the contracting partner has taken out pension insurance, or an equivalent, complying with the legislation of the country in question. Also a posted worker's certificate shows that the employee is insured against accidents in the posting country.

If a foreign company has a Finnish business ID, for example after having registered a subsidiary in Finland, the company must give the information required by the Act on Contractor's Liability regarding both Finland and the home country of the company.

The contracting partner is also liable to notify which generally binding Finnish collective agreement is applicable to his/her employees.

4.1.3. Cases where it is unnecessary to request information

Extent of the contract

The Act on the Contractor's Obligations and Liability when Work is Contracted Out shall not be applied if:

- 1) The duration of the work by the temporary agency worker or workers does not exceed a total of 10 days; or
- 2) The value of the compensation for the subcontracting contract is less than 7,500 Euros without VAT.

When calculating the limit values, the work is considered to have continued without interruption if the work or work outcome performed for the contractor is based on successive, uninterrupted contracts or contracts with only short breaks between them.

The law lists the cases where accounts are not required for reasons concerning the contracting partner. In the construction sector, the exceptions to the obligation to request information are removed from September 2012, except for the following:

When the contracting partner is a state, a municipality, a joint municipal authority, the Region of Åland, a municipality or joint municipal authority in Åland, a parish, a parish union, the Social Insurance Institution of Finland (Kela) or the Bank of Finland, a public limited company as referred to in the Limited Liability Companies Act (624/2006) (624/2006) , a state enterprise, a company subject to private law wholly owned by a municipality, or an equivalent foreign organisation or enterprise.

It is also appropriate to check the information demanded by law in cases where the law does not specifically require this to be done.

4.2. Foreign company's obligation to appoint a representative

In case the employer of a posted worker (the company posting the worker) does not have a business location in Finland, they shall have a representative in Finland who is authorised to act for the company posting the worker in a court of law and to receive, on behalf of this company, writs of summons and other documents issued by authorities (section 4a of the Posted Workers Act).

The representative shall be selected no later than at the date when the posted worker starts working, and the authorisation shall be valid for a minimum of 12 months after the date at which the posted worker ceases working in Finland. A representative doesn't need be selected in case the posting of the worker lasts no more than 14 days.

Representation in Finland is required, but Finland does not have to be the representative's domicile. The representative can be either a private individual or a company. It is not recommended that the person who commissions the work embarks upon the role of representative.

The main responsibility for selecting a representative lies with the foreign company. Companies acting as contractor must ensure, however, in invitations to tender, during contract negotiations and in the final agreement, that the foreign company selects the required representative. The obligation can be fulfilled by incorporating a clause in the contract with the foreign contractor or the foreign agency hiring out temporary workers, according to the model attached to this guide.

4.3. Obligation of the company using temporary agency workers to inform the tax authorities

The Finnish company, i.e. the company commissioning the work, must provide the Finnish tax authorities with a notification of the foreign company supplying the temporary agency worker, and of that company's representative, where such a representative has been selected in accordance with the Posted Workers Act. The notification must be given during the month following the month when the employment began.

Any changes in the situation shall also be reported. Such a change is, for example, a change in the contact information of the foreign company. Additionally, the company commissioning the work shall notify the tax authorities when the commissioning ends or the work of the temporary agency worker posted by a foreign company is completed. If the work under the commissioning contract or the temporary agency worker's work for the commissioner is discontinued for a temporary period, it does not have to be reported. The authorities will consider that the contract is no longer valid or that the work of temporary agency workers has finally ended if no foreign temporary agency workers of the posting company have worked for the commissioner for six months.

4.4. Entry of foreign companies in the Tax Prepayment Register, and collection of tax at source from work remuneration

All foreign companies from countries with a taxation agreement with Finland have the opportunity of being entered in the Tax Prepayment Register. The previous conditions for registration required a foreign company to establish a business location in Finland.

Entry in the Prepayment Register is not compulsory for a foreign company. However, tax at source must always be withheld from remuneration for construction work unless the foreign company is entered in the Tax Prepayment Register or can provide a tax-at-source card stating otherwise. For this reason it is recommended that all foreign companies apply for entry in the Tax Prepayment Register.

The above-mentioned obligation applies to remuneration paid on the basis of work principally or solely carried out in Finland. The question may be one of temporary agency work or of subcontracting.

The foreign company or that company's representative appointed in accordance with the Posted Workers Act also have a duty to give information to the Finnish tax authorities. The required information must be given about temporary agency workers as well as about other posted workers in cases where Finland has the right to tax their wage income.

4.5. Obligation of contractor/foreign employer to observe the Finnish labour rights of other than EU/EEA citizens

When the main contractor concludes a subcontract, or a contract on using temporary agency workers, with a company operating abroad, the obligations described below to request written information and take out insurance apply directly to the main contractor, as laid down by section 74 of the Aliens Act.

When the employer of a foreign worker applies for a residence permit for an employed person, the employer must, according to section 73 of the Aliens Act, attach the following account to the residence permit application:

- written information on the principal terms of work referred to in Chapter 2, section 4 of the Employment Contracts Act (55/2001),
- an assurance that the terms are in accordance with current legislation and the collective agreement, and
- upon request by an employment office, a statement confirming that the employer has met and will meet his/her obligations as an employer.

An employer shall without delay submit the same account to the employment office when employing a citizen of a third country who is already residing in Finland.

The employers shall keep the information on their foreign workers easily available at the workplace, as well as the information on the grounds for their right to work. The information must be easily accessible to occupational safety and health authorities in case of necessary inspections. The employer shall store the information for four years after the termination of the foreign workers' employment.

When a citizen of a third country (for example Russia) is posted to work in Finland by a company operating in an EU/EEA country, the main contractor has an obligation to submit an account in accordance with section 73 of the Alien's Act to the employment office without delay, even though a residence permit for an employed person would not be necessary for the duration of the employment.

In other words, when using subcontracting or temporary agency work at construction sites, the employer's obligations mentioned above apply to the main contractor. Therefore the main contractor must, throughout the whole constructing chain, make sure that all employees have the required valid residence permits for employed persons, and that the terms of employment are in accordance with Finnish employment legislation and the current collective agreement. The obligation to keep information imposed upon the employer is in this case with the representative of the posted employee.

4.6. Tax Number and pictorial identification

Section 52 a of the Occupational Safety and Health Act lays down that the construction contractor, project supervisor or employer directing or supervising a shared construction site each have an obligation to ensure that every person working on the site wears a visible pictorial identification while moving on the site. The identification must bear the employee's Tax Number, and the employee must be entered in the Tax Number register of the construction sector. The identification shall indicate whether the person is a worker in an employment relationship or a self-employed person. The minimum legal requirement is fulfilled when the identification of the person in question bears his/her name and photograph, and the name of his/her employer.

The Tax Administration maintains a public Tax Number register where all persons working in the construction industry and their Tax Numbers are entered. In this service it is possible to check, on the basis of name and Tax Number, whether a person is entered in the public Tax Number register. If a person is not entered in the public Tax Number register, he/she is not allowed to work on a shared construction site.

4.7. Access control

The Government Decision on the Safety of Construction Work requires that the project supervisor maintains a list of workers employed on the construction site. For this purpose a reliable access control system should be created for construction sites.

During 2013, the Occupational Safety and Health Act shall be amended in order to make keeping a pass list compulsory at shared construction sites. The Act lays down what the pass list must include at a minimum. All persons working on the construction site, as well as their Tax Number and the payer of their wages, must be

recorded on the pass list. The pass list must be kept available for six years after the construction site is finished.

According to sections 73 and 74 of the Alien's Act, the main contractor must keep the information on the grounds for the foreign workers' right to work available at the construction site at least as long as the construction site is in operation. That information should also be shown on the pass list.

The access control system can be implemented in such a way that the ID with photograph acts as a pass showing, in addition to personal identification, that the person has a right to be at the site.

4.8. Agreement on the use of external labour

Regulations concerning the use of external labour differ between the various collective agreements. Regulations of the agreement on the use of external labour on construction sites (UTS) are in force also when a foreign-registered company employing foreign labour operates as subcontractor or hirer of labour. Temporary agency workers in this context mean workers posted to Finland by a foreign company and whose wages are calculated on an hourly basis. This is the situation when a foreign employee performs work under the management and supervision of a Finnish contractor and the Finnish contractor only pays his/her contracting partner the agreed hourly rate for the work.

The liability of the party giving the subcontract, below referred to as the constructor, is determined as follows when it comes to receivables from employment relationships between the constructors' contracting partner and the contracting partner's employees:

- The constructor is, ultimately, responsible for the pay of the worker, earned at the constructor's construction site by an employee of a subcontractor, will be paid.
- The constructor is also responsible for the holiday compensation and any relevant basic compensation for the contract, earned at the constructor's construction site by an employee of a subcontractor, will be paid.
- The constructor is responsible for such receivables only of which an employee or shop steward have notified the constructor or the constructor's representative on the seventh day, at the latest, after the pay should have been paid to the employee in accordance with the collective agreement.

The receivables include any pay receivables including a separate pay component in construction industry, earned and unpaid basic pay for the contract during the whole contract period, holiday pay, daily compensation for travel expenses in accordance with the collective agreement, and any kilometre allowances agreed on.

The obligation applies to such pay receivables earned by the employees of contracting partners only. The receivables shall be specified, and their amount shall be confirmed together by, for example, a reliable report based on earlier transactions and working hours accounting.

4.9. Information procedures on persons working on the site and on contract amounts paid

The most notable organisations in the construction industry have agreed that all parties in the sector acting as contractors in construction contracts notify the Tax Administration of the name, address and other contact information of the subcontractors in the contract, as well as of the contract price (total invoicing or agreed contract amount).

Such information should include:

- name of contractor
- business ID
- address
- name of person in charge (also of the foreign company's representative in Finland)
- name of the construction site
- type of work (for example: painting)
- contract price (total invoicing or agreed contract amount)
- date of commencement of work and estimated completion date.

Quarterly notifications must be given of all work ordered by the same contractor where the total amount (total invoicing or agreed contract amount) is at least 5,000 Euros per quarter.

Notifying procedures become compulsory

In spring 2013, the Finnish Parliament probably will adopt an Act on the duty of the supervisor of a construction site to notify of the persons working at a shared construction site. Then the project supervisor shall monthly submit the names of all persons that have worked on the construction site and their personal data to the Tax Administration. Accordingly, the employers operating on the site shall submit the data on their employees to the project supervisor.

The construction contractor will also become liable to notify of the contract and compensation amounts paid. The construction contractor will become liable to submit monthly notifications to the Tax Administration of the contract amounts paid for the construction work. The requirement for notifying of contract amounts does not only refer to shared construction sites but it shall be applied to all commissions of construction work. The earlier duty to notify on voluntary basis will thus be laid down by law.

The Tax Administration is going to set a limit in Euros for the notification obligation. The notification obligation will probably be taken into use from the beginning of 2014.

5. Check list for the foreign employee

1

Make sure that the terms of your employment are in accordance with the legislation on posting of workers.

2

Make sure that you have a posted worker's certificate concerning the applicable social security.

3

If you are not an EU/EEA citizen, make sure that you have the necessary permit for working in Finland.

4

If you are a citizen of an EU/EEA country, register your right to reside with the local police if you are remaining in Finland for more than 3 months.

5

Before you start to work: collect your personal identity code and a Tax Number from a tax office, and give the Tax Number to your employer and the project supervisor of the construction site. Make sure that your name is entered in the Tax Number register. If (you know that) you are going to work in Finland for at least one year, make first a visit to the Local Register Office (in Finnish *maistraatti*) to get a personal identity code, and after that get a Tax Number from the local tax office.

6

Make sure that your employer has taken out an insurance for you in case of occupational accidents and illnesses at work carried out in Finland, or that you have a posted worker's certificate.

7

Make sure that your employer has arranged occupational health care services for you in Finland, and that you have got an occupational health service card.

8

If you have come to Finland from a Baltic country or Poland to work here as a temporary agency worker, you need to visit the local tax office to get your tax prepayment invoices. The tax prepayment invoices must be collected from the tax office during the month following the month when your employment began.

6. Site measures required in use of foreign labour

When a foreign employee is directly employed by a Finnish company, the employer's obligations are the same as in the case of Finnish employees.

However, the following applies to you if you are a Finnish subcontractor using foreign labour or a Finnish company hiring temporary agency workers:

- find out the grounds for the foreign workers' right to work (regarding citizens of EU/EEA countries; a citizen of a third country needs to have a residence permit for an employed worker)
- request a copy of the person's passport, or from an EU/EEA citizen, a copy of the person's official personal ID

A foreign subcontractor or company hiring temporary agency workers must provide the following information on each worker:

- a copy of the person's passport, or from an EU/EEA citizen, a copy of the person's official personal ID
- the name of the employing company and of its representative, and their address in Finland
- the grounds for the right to work (regarding citizens of EU/EEA countries; a citizen of a third country needs to have a residence permit for an employed worker)
- posted worker's certificate (A1 or E 101)
- an account of the applicable collective agreement and of the terms of employment for the worker.

The foreign worker's employer must obtain a personal identification card with photograph for his/her worker, in accordance with Finnish legislation. The information on the card must include at least the name, Tax Number and photograph of the worker, and the name of the employer (the payer of wages). The worker must keep this identification card visible while working on the site.

On the basis of the ID card with photograph, the worker will be issued with a site pass and his/her information will be logged on the pass list. The foreign workers' grounds for the right to work will also be noted on the list (for example residence permit, EU citizenship, etc.) Every ID card with photograph must be labelled with the person's Tax Number. The project supervisor must check that the person's name is entered in the Tax Number register.

The project supervisor's obligation regarding occupational safety requires the contractor to ensure that temporary agency workers and those employed by a subcontractor who are working on the site also receive employee orientation.

Occupational safety and health authorities must, upon request, be provided with information on posted workers and the terms of their employment, and on the accounting of working hours and wages, etc.

The workers' representative (shop steward or contact person for the site) has the right to obtain information on the terms of employment of the posted workers and on their working hours.

7. List for checking the subcontracting agreements and the agreements on using temporary agency workers

1.
Demand that the subcontractor or the company using temporary agency workers delivers the following accounts:
 1. an account of whether the company is entered in the Tax Prepayment Register, the Employer Register
 2. and the Value Added Tax Register;
 3. an extract from the Trade Register;
 4. a certificate of tax payment or of tax debt, or an account that a payment plan has been made regarding a tax debt;
 5. certificates of pension insurances taken out and of pension insurance premiums paid, or an account that a payment agreement on outstanding pension insurance premiums has been made; and
 6. an account of the collective agreement or the principal terms of employment applicable to the work.
 7. a certificate showing that an accident insurance has been taken out for the employees.

2.
The foreign subcontractor and company using temporary agency workers must give the contractor information that corresponds to the accounts and certificates referred to above. The information must be given in an understandable language, for example Finnish, by presenting an extract from a register complying with the legislation of the country where the company is domiciled, or an equivalent certificate, or in some other generally accepted way. The information required varies according to the company's country of domicile. If the company has a Finnish business ID, the information must also cover the subsidiary.

At least the following information must be obtained:

1. VAT number and extract from the Tax Prepayment Register, or tax-at-source card;
 2. an account issued by an authority in the country where the company is established which corresponds to an extract from the Trade Register, indicating the company signatories;
 3. a certificate issued by the tax authorities of the appropriate country which shows that the company has paid its taxes;
 4. a certificate of the company's pension insurance covering the employees, or the equivalent, complying with the legislation of the country in question, for example the A1 or E 101 certificate (that also shows that an accident insurance is taken out for the employees);
 5. the name of the generally binding Finnish collective agreement applicable to the employees.
3.
Check that the foreign company appoints a representative (name and contact information in Finland) and is aware of the representative's obligations.
4.
Check that the employees have valid residence permits for employed workers, when required, and that the terms of their employment are in accordance with Finnish employment legislation and the current collective agreement. Check that the company employing foreign labour is prepared to present information to the site management on the foreign workers' grounds for the right to work.

5.
Check that the foreign workers are adequately covered by an accident insurance.
6.
Make sure that each worker has a Tax Number, and that the workers are entered in the Tax Number register.
7.
Check that the subcontractor or company using temporary agency workers is aware of the use of the compulsory identification card , and of the access control system in operation on the construction site.
8.
Check that the subcontractor or company using temporary agency workers commits to comply with the general collective agreement in the field, as well as with employment legislation and social security legislation. (For example wages, holiday pay and compensation for shortened hours are defined on the basis of the collective agreement)
9.
Check that the subcontractor or company using temporary agency workers is aware that the Tax Administration must be notified of certain information regarding their contract on a quarterly basis (name and contact information of contractors as well as contract price information, that is, total invoicing or agreed contract amount).

8. Useful contact information

Suomen Rakennusmedia Oy tel. +358 9 1 2991

www.rakennusmedia.fi

Additional information can be found on the websites.

Confederation of Finnish Construction Industries RT tel. +358 9 1 2991

www.rakennusteollisuus.fi

Finnish Construction Trade Union tel. +358 9 770 21

www.rakennusliitto.fi

Suomen Tilaajavastuu Oy

www.tilaajavastuu.fi

www.veronumero.fi

Application for worker's residence permit

www.mol.fi/tyolupa/

Checks of VAT-numbers

www.vero.fi