Young Apprentice Program

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LAWS

- Brazilian Federal Constitution of 1988
- Consolidated Labor Laws (CLT)
- Decree 5,598/2002
- Other internal rules of the Brazilian Ministry of Labor and Employment (MTE)
What is apprenticeship?

- It is a special labor agreement in writing and for a specified period of up to two years under which employees are provided with **methodical technical and vocational training** involving **theoretical and practical stages established** in an apprenticeship program designed by entities specializing in training and under their responsibility.
**AGE OF THE APPRENTICES**

**Underage apprentices**

- 14 to under 18 years of age

  Are given **priority** when apprentices are hired – Brazilian Federal Constitution of 1988

**Apprentices over 18 years old**

- 18 to under 24 years of age

  Compulsory hiring in the following cases:
  
  a) Nighttime, dangerous or unhealthy work;
  
  b) List of the worst forms of child labor (Decree 6,481/2008 e ILO’s Convention 182);
  
  c) Activities that are incompatible with the physical, psychological or moral development of adolescent apprentices

The maximum limit of 24 years of age does not apply to apprentices with disabilities (PCD)
Labor contract x Apprenticeship contract

Regular labor contract

- **Focus:** interest of the employer

Apprenticeship Contract

- **Focus:** vocational training of apprentices
Triangular relationship

Training entity

Apprenticeship

Employer

Employee
*NPE:* Non-profit Entity

*S System:*
SENAI, SENAC, SENAT, SESCOOP, SENAR

* The employer cannot be the training entity.

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**S System**

- Entities for state-owned enterprises
- Priority
- Does NOT require validation from the Ministry of Labor

**ESFL**

- Non-government organizations
- Supplementary
- Requires validation from the Ministry of Labor
CHARACTERIZATION OF THE APPRENTICESHIP CONTRACT

APPRENTICESHIP PROGRAM (theory + practice)

APPRENTICESHIP CONTRACT

Must identify:
* Training entity;
* Name of the course,
* Salary;
* Working hours
* Start and end date of the program;
* Signature of the apprentice and of his/her legal representative, if he or she is underage

Record in the employment card as apprentice

The youth must be enrolled in school or must have completed high school
Apprenticeship Contract

- Mandatory clauses:
  - Employer Data
  - Apprentice Data
  - Training entity
  - Name of the course
  - Salary
  - Working hours
  - Start and end date of the contract
  - Signature of the apprentice and of his/her legal representative, if he or she is underage, of the employer and of the training entity
DURATION OF THE APPRENTICESHIP CONTRACT

The apprentice cannot begin to take part in practical activities in the company before the start of the program.

Beginning of the apprenticeship program == Start of the apprenticeship contract

End of the apprenticeship program == End of the apprenticeship contract
DEVIAION FROM THE ROLE AGREED UPON FOR APPRENTICES

- The role of an apprentice in the company must be exactly the same one defined in the apprenticeship program in which he or she is enrolled;

- Involving the apprentice in activities that are alien to his or her agreed role means non-compliance with the apprenticeship contract (art. 18 of Normative Instruction [IN] 97/2012)
QUOTA FOR APPRENTICES

✓ MINIMUM quota: 5%

✓ MAXIMUM quota: 15%

CALCULATION BASIS:

- Positions that require vocational training

- Criterion provided for in the Brazilian Code of Occupations (CBO)
CBO website
CBO website
QUOTA FOR APPRENTICES

ELEMENTS EXCLUDED FROM THE CALCULATION BASIS

- **Technical and college-level positions**
  *Technical Note (NT) 04/2005 - it is not a requirement created by the company, but rather one contemplated in the CBO*

- **Management and managerial positions and positions of trust.**

- **Temporary workers hired** under law 6,019/1973
  **NOT** to be confused with employees hired for specific periods

- Apprentices already hired.
QUOTA FOR APPRENTICES

FREQUENTLY ASKED QUESTIONS:

- **Outsourced employees** are included in the basis for calculating the quota of the employing company, not of the one that receives the outsourced employee.

- Dangerous, unhealthy and nighttime positions are included in the basis for calculating the quota if they require professional training according to the CBO.
The quota should be calculated based on the total number of employees of a company, and not only based on part of the existing positions in the company.

Many lawsuits have been filed challenging the positions that should be considered in the basis for calculating the quota.
Centralization of practical aspects

Better framework for the practical part of the apprenticeship

Centralization does not put an end to the link with the establishment of origin

The establishments involved must be compulsorily located in the same municipality

The occurrence of centralization must be recorded in the employment card of the apprentice under Anotações Gerais (general records)
COMPANIES THAT ARE NOT REQUIRED TO HIRE APPRENTICES

- Small businesses and microenterprises.

- Non-profit entities focused on providing vocational training and on offering apprenticeship programs (art. 3, II of Normative Instruction [IN] 97/2012).

- No obligation to hire apprentices is imposed on public agencies.
Public agencies should be required to hire apprentices to provide young people and adolescents with experience in the public service.
Monitor

Coordinates practical exercises and monitors the activities of apprentices in the establishment.
LABOR RIGHTS

✓ Employment card (CTPS)
✓ Salary
✓ Working hours
✓ FGTS (Government Severance Indemnity Fund for Employees)
✓ Vacation
✓ Transportation vouchers
✓ Meal allowance
✓ Rights provided for in a Collective Bargaining Agreement (ACT) or in a Collective Labor Convention (CCT)
Contrato de Trabalho

Empregador ..................................................

CGC/NF ......................................................
Rua ........................................................... N.º ......................................
Município .................................................... Est. ...........
Esp. do estabelecimento ...................................
Cargo .......................................................... Aprendiz - auxiliar administrativo
.......................................................... C.B.O
Data Admissão ..............................................
Registro ...................................................... Fis/Ficha ................................
Remuneração específica ...................................

..........................................................

..........................................................

Ass. do empregado ou a rogo c/test.

1º ............................................................. 2º ........................................

Data Saída ......................................................
Assinatura do empregador 1º ........................................ 2º ........................................
Com. Dispensa CD N.º .......................................
SALARY

- Apprentices have the right to an hourly minimum wage, unless a more favorable condition is offered to them.

- Example: state-level wage floor or another wage floor contemplated in a collective bargaining agreement
Working hours

- The working hours of apprentices are the ones established in the apprenticeship program.

- Usually, apprentices work from 4 to 6 hours a day.

- The working hours of apprentices may not be extended or compensated under any circumstances, as this is not in accordance with the provisions of the apprenticeship contract.

- Apprentices under 18 years old are forbidden from engaging in nighttime work.

- Theoretical and practical activities should be carried out according to a schedule that does not prevent apprentices under 18 years old to attend school, including the time required for them to travel to school and back.
FGTS (Government Severance Indemnity Fund for Employees)

- Apprentice: 2%
- Non-apprentice: 8%
Apprentices have the right to a 30-day annual vacation after each 12-month period of the contract.

<table>
<thead>
<tr>
<th>Absences from work in a year</th>
<th>Vacation in the year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 5 absences</td>
<td>30 days</td>
</tr>
<tr>
<td>From 6 to 14 absences</td>
<td>24 days</td>
</tr>
<tr>
<td>From 15 to 23 absences</td>
<td>18 days</td>
</tr>
<tr>
<td>From 24 to 32 absences</td>
<td>12 days</td>
</tr>
</tbody>
</table>

If an apprentice does not take a vacation he or she has to be compensated for this fact at the end of the contract.
The vacation period of the apprentice should be specified in the apprenticeship program:

- **Under 18 years old**
  - It must coincide with school vacation periods;
  - Cannot be divided in more than one period.

- **Over 18 years old**
  - It must preferably coincide with school vacation periods;
  - Can be taken divided in more than one period.
Transportation voucher

- The apprentices have the right to transportation vouchers.

Company

- The company must cover the transportation costs of the apprentice to the site of the apprenticeship course and to the company. It can deduct 6% from the apprentice's wages for this purpose.
Like other employees, apprentices are entitled to a 13th salary.
Social security protection

- Apprentices are entitled to social security protection, and the employers must pay their legal contribution to the Social Security Institute (INSS) for this purpose.

- Employers: 12% of the salary per month
- Employees: 8% of the salary per month
Termination of the Employment Contract

- Lapse of the contract
- Apprentice reaches the age of 24
- Death of a natural person employer
- End of the company’s activities
- Bankruptcy of the company

Except apprentices with disabilities (PCD)
Termination of the Employment Contract

- Poor performance of the apprentice or his or her failure to adapt to the program
- Serious disciplinary misconduct
- Unjustified absence from school, leading to loss of a school year
- Upon the apprentice’s request.

Evaluation report prepared by the training entity

Cases of fair dismissal (art. 482 of the Consolidated Labor Laws)

Loss of a school year due to low grades does not imply interruption of the apprenticeship contract

On the basis of the report prepared by the training entity and after consultation with the training entity, the decision on the termination of the apprenticeship contract may be made.
If a company decides to hire an apprentice as a regular employee for an indefinite period, it must wait until the apprenticeship contract is over to do so.

It will then sign an employment contract for an indefinite period (art. 10, paragraph 3 of Normative Instruction 97/2012)
APPRENTICES AND APPRENTICES WITH DISABILITIES (PCD)

- Apprentices with disabilities (PCD) are only entitled to their apprenticeship quota. **No overlapping of quotas is allowed.**

- At the end of an apprenticeship contract, if a company wishes to hire the individual in question as an employee for an indefinite period, then he or she will be entitled to the quota for apprentices with disabilities.
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OBREGADO!!!