

# Argentina

## Basic information of domestic workers

### Information:

- Number of domestic workers: 1,192,000 (2012) (MTEySS, 2013).
- Percentage of women domestic workers:
- Percentage of urban domestic workers:
- Percentage of migrant domestic workers:
- Median/average income of domestic workers:

## Legislation

- Law No. 26.063. Régimen especial de contrato de trabajo para el personal de casas particulares. 2013.
- Law No. 25.239
- Decree-law 326/56
- Ley 11.683
- Resolution No. 886 (2013). Ministry of Labor, Employment and Social Security.
- Resolution No. 2224 (2014). Employment injury benefit for domestic workers.

## National definition of domestic work

Law No. 26,844/2013. Art. 2. “Se considerará trabajo en casas particulares a toda prestación de servicios o ejecución de tareas de limpieza, de mantenimiento u otras actividades típicas del hogar. Se entenderá como tales también a la asistencia personal y acompañamiento prestados a los miembros de la familia o a quienes convivan en el mismo domicilio con el empleador, así como el cuidado no terapéutico de personas enfermas o con discapacidad.”

The Resolution No. 886 (Art. 3) (2013) includes the categories of existing domestic labor in Argentina (these categories are not specified in the Law 26,844):

1. Worker for specific tasks: Chefs hired exclusively to perform such work, and other household tasks requiring special suitability of the worker to carry it out.
2. Workers for general tasks: Provision of cleaning, washing, ironing, maintenance, preparation and cooking of meals and, in general, all other tasks.
3. Supervisor: Coordination and control of the tasks performed by two or more dependents.
4. Household worker: Personnel providing care to the general tasks and preservation of housing.
5. Assistance and care of people: Includes assistance and care non-therapeutic for people, such as sick, disabled, children / girls, adolescents and older adults.

### Other benefits included in the Labour Code for domestic workers:

- Vacations
- Days off
- Annual bonus (thirteenth month)
- Weekly rest
- Extra hours
- Notice periods
- Social security
- Legal minimum wage
- Maternity leave
- Food, clothing and work tools, when it is necessary.

## Argentina

### Regime of protection

**Excluded population according legislation:**

People who are younger than 16 years (Art. 9. Law No. 26.844 (2013)).

**Workers under 18 years of age:**

Persons under 18 must have a medical certificate attesting to their ability for work; also they cannot work more than 6 hours a day and 36 hours per week (Art. 10-13. Law No. 26.844 (2013)).

Coverage through **general scheme** of social security under the category of “Workers in private homes”.

**Covered Population:**

It provided for by Resolution No. 886 (2013).

Scope of coverage, according to the C.189

Convention 189	Resolution No. 886	Social security legislation
Cooking	Yes	Yes
Cleaning	Yes	Yes
Taking care of children, the elderly, others	Yes	Yes
Gardeners	Yes	Yes
Guardians	No	No
Family chauffeurs	No	No

In the case of Argentina, guardians and family chauffeurs not considered a typical category of domestic work. Also, these groups are not included within the category of domestic work provided by social insurance; but they have social protection through other occupational categories.

### Contingencies covered

**Covered Contingencies:**

- Health care.
- Sickness benefit, through social insurance institution (ANSES)
- Employment injury benefit (Work Risk Insurers – ART)
- Family benefits (Non-contributory benefit)
- Maternity benefits, through social insurance institution (ANSES)
- Old-age benefits, through social insurance institution
- Invalidity benefits, through social insurance institution
- Survivors' benefits, through social insurance institution

**Are there provisions for maternity protection: pre, during and post natal care, income replacement during maternity leave?** Yes. Benefits will be granted from 45 days before and 45 days after birth (Art. 39. Law 26.844).

**Prescribed qualification procedure (maternity):** The domestic worker must have completed a minimum of 3 months continuous in their work. In case of a foreign worker, it is necessary that the domestic worker has been living at least three years in the country, before the application.

## Argentina

### Administration

National Social Security Administration (ANSES, Seguro Nacional de Salud)

National Social Security Administration supervises and administers the social insurance system.

Federal Administration of Public Revenue (AFIP).

Work injury insurers (ART ¿Administradoras de Riesgos del Trabajo?) are responsible for work injury prevention and the management of benefits. Superintendent of Work Injury provides general supervision.

### Social security coverage

- Coverage of domestic workers as a % of employed domestic workers: 26.2 (2012)

### Financing issues

**Is the contribution rate differentiated?** Yes. The contribution rate is lower. In this case, the payment of contributions is the sole responsibility of the employer and the employee may make voluntary contributions.

**Reference wage for contribution payments:** The contributions are calculated in relation to the number of hours worked per week.

**Are there state subsidies for contributions?** No.

**Total contribution rate:** The contributions are not percentages of wages; however, they are defined in relation to the number of hours worked. The contributions depend on the worker's age and whether the worker is retired.

#### Amount of contributions of domestic workers

Hours worked per week	Total amount	National health system	Integrated Argentine Pension System (SIPA)	Work Risk Insurers
<b>Worker with over 18 years of age</b>				
Less than 12 hours	<b>161</b>	19	12	130
From 12 to less than 16 hours	<b>224</b>	35	24	165
16 hours or more	<b>498</b>	233	35	230
<b>Worker under 18 years, but over 16 years of age</b>				
Less than 12 hours	<b>149</b>	19	-	130
From 12 to less than 16 hours	<b>200</b>	35	-	165
16 hours or more	<b>463</b>	233	-	230
<b>Retired worker</b>				
Less than 12 hours	<b>142</b>	-	12	130
From 12 to less than 16 hours	<b>189</b>	-	24	165
16 hours or more	<b>265</b>	-	35	230

Source: AFIP, 2014.

**Are there tax incentives for employers to pay contributions?** Yes. The employer may deduct as expenses in the income tax, the amount paid to the domestic worker in return for their labor and social security contributions.

### Registration practices

**Is the affiliation mandatory?** Yes for all contingencies described above (Law No. 26.844/2013).

## Argentina

**Registration procedure:** Registration must be made until the day before, or even the same day, that the domestic workers begin the employment contract (General Resolution AFIP. No 3491 (2013)).

**Who is accountable for registering the worker?** The employer (Annex. General Resolution AFIP. No 3491 (2013)).

**Entities involved:** Federal Administration of Public Revenue (AFIP), through "Special Registers of Social Security".

**Registration affiliation of domestic workers:** Registration can be made through agencies or the website of the AFIP (filling out a form).

**Is there a unique system of registration?** Yes.

**Is there portability in the contributions between the schemes?** Yes.

**Are there complaint mechanisms available (in case of non-compliance with social security legislation)?** Yes, the worker can complain to the AFIP and Ministry of Labour, Employment and Social Security.

**Are there inspection mechanisms to enforce the compulsory coverage?** Yes. The coordination of labour inspection, including those related to social security coverage, is provided by the AFIP (<http://www.afip.gob.ar/inspecciones>) and Ministry of Labour, Employment and Social Security.

**Are there rules for affiliation and payment of specific contributions to domestic workers working on a part time and/or multiple employers bases?** Yes. Both mechanisms are incorporated by the AFIP, through the use of a unique identification number for the worker (CUIL) and another number for the employer (CUIT). The number of weekly work hours can be modified through the AFIP website or in their offices. More information: <https://auth.afip.gov.ar/contribuyente/>

**Contributory minimum wage:** No. There is no a contributory minimum wage, because contributions are calculated from the worker's age and the number of hours reported.

**What is the process for registering domestic workers?** The registration is under employer responsibility, at the AFIP offices, by phone or online (<http://www.afip.gob.ar/casasParticulares/#Sr>). Information about registration through internet:

<http://www.afip.gob.ar/genericos/guiaDeTramites/guia/documentos/PasoaPasoCasasParticulares62015.pdf>

For employment injury benefit, the employer registers the employee at the AFIP, but after, the employer must go to the private insurance company (employment injury) that was selected; in 2014 Argentina had 22 insurers companies.

**What are the specific requirements for registering?**

- Fill out an application, which must be signed by the employer (includes aspects such as hiring date, details of residence, type of employment relationship, Number of hours worked other).
- Identification of the employer.
- Identification of the worker.

## Argentina

- Single Tax Identification Code (CUIT, Clave Única de Identificación Tributaria), for the employer.
- Unique Work Identification Code (CUIL, Código Único de Identificación Laboral), for the employee.

Source: Annex. General Resolution AFIP. No 3491 (2013).

### **Are there any mechanisms in place to facilitate registration for domestic workers?**

- Online administration: “Simplificación Registral - Registros Especiales de Seguridad Social”. More information: <https://www.youtube.com/watch?v=wviKM81D4uI>
- Call centre. (0 800) 222-2526, Option 2.

### **Collection of contributions**

**Is there a single national system for the collection of contributions?** Yes. The AFIP collects for all funds, including the Employment injury contributions, which are then transferred.

### **Are there measures to facilitate the payment of contributions?** Yes.

- Via the Internet (Volante Electrónico de Pago, VEP). More information in: <http://www.afip.gob.ar/casasParticulares/#Sr>, and <http://www.afip.gob.ar/genericos/formularios/archivos/pdf/F1350.pdf>;
- Through the financial system; and
- Wire transfer payment.

The legislation in Argentina has a presumption mechanism. The mechanism means that if a person has an annual (gross) income greater than \$ 500,000 (US \$ 58,628) and they pay personal property tax, it is presumed that they employ a domestic workers and therefore automatically have a debt towards the AFIP for payment of due social security contributions (General Resolution. 3492/13.).

**Are there sanction mechanisms for employers?** Yes. The sanctions are applied in case of non-registration of workers, by omission of information or erroneous information. The fine will be imposed between 2 to 10 times the amount evaded (Art. 46. Ley 11.683).

### **Coverage of women domestic workers**

**Are there special provisions in the law for women domestic workers?** No.

**Does the state subsidize contributions of (women) domestic workers?** No.

**Are there problems of discrimination against women? What are these problems?** No documentation / no evidence.

## Argentina

### Migrant domestic workers

**Is there a difference between national and non-national domestic workers in terms of protection?** No. The worker must only have the CUIL, as a foreigner.

**Is there a difference between resident and non-resident domestic workers in terms of protection?** No.

**Are there special provisions in the law for coverage of migrant domestic workers?** No.

**Distinction between de jure coverage and de facto coverage:** N.A.

**Are there any agreements on portability with other countries?** Yes, Argentina has bilateral conventions with Bolivia, Canada, Costa Rica, Ecuador, United States, Israel, Switzerland, Venezuela, Cabo Verde and Luxembourg.

**Is coverage of migrant domestic workers working well?** N.A.

**Migrant domestic workers as % of domestic workers:** N.A.

**Coverage of migrant domestic workers as a % of migrant domestic workers:** N.A.

**Female migrant domestic workers as % of migrant domestic workers:**

**Urban migrant domestic workers as % of migrant domestic workers:**

**% migrant domestic workers contributing to social security (salaried):**

### Good practices

- The use of the mechanism of presumption. If a person has a monthly income higher than a defined threshold, the social security institution assumes that the person is an employer of a domestic worker. In case the person is not an employer, must make a sworn statement to the institution.
- Specific legislation for domestic workers.
- Contribution rate is lower than that applied to other salaried workers.
- The contribution rate depends on the age of the worker. The contribution rate of young workers is greater than the contribution rate of workers who are nearing retirement age.
- Contribution rate is based according to the hourly wage of the worker, which for workers with many employers facilitates its registration and payment of contributions.
- Employers are solely responsible for paying the contributions, and workers can make voluntary contributions.
- A system of multi-employer insurance.
- Fiscal incentives for employers that hire full-time domestic workers.
- Strong inspection service of social insurance in households hiring domestic workers.
- Single national and centralized system for the registration and collection of contributions.
- Sanction for the employers when they omitted information, when contributions are evaded and in case of late submission of documentation.

## Argentina

<b>Barriers</b>	<ul style="list-style-type: none"><li>• There is little coordination between the inspection service of the institutions of social security and the labour ministries.</li><li>• Certain categories of domestic workers are included in other occupational categories. For example: drivers.</li><li>• No social security agreements with countries with high flow of migrant workers.</li></ul>
<b>Challenges</b>	<ul style="list-style-type: none"><li>• Improve the quality and access of information.</li><li>• Improving articulation between the inspection service of the social security inspection and the ministry of labour (or similar).</li><li>• Improving articulation between the inspection service of the social security institutions, the ministry of labour and department of immigration.</li><li>• Improving the social security effective coverage of migrant domestic workers.</li></ul>
<b>ILO standards ratification and application</b>	<ul style="list-style-type: none"><li>• Domestic Workers Convention, 2011 (No. 189). The Convention will enter into force for Argentina on 24 Mar 2015.</li></ul>
<b>Reference</b>	<p>AFIP. Resolución General AFIP N° 3491/2013. Argentina.</p> <p>AFIP. Resolution No. 2224 (2014). Employment injury benefit for domestic workers.</p> <p>AFIP. 2014. Registro Especial del Personal de Casas Particulares. Argentina.</p> <p>AFIP. Manual del servicio doméstico. Empleados/Trabajadores de Servicio Doméstico. Argentina.</p> <p>AFIP. Registro como Empleador de Trabajador de Casas Particulares. Guías paso a paso. Argentina.</p> <p>Decree-law 326/56</p> <p>Law No. 25.239.</p> <p>Law No. 26.063. Régimen especial de contrato de trabajo para el personal de casas particulares. 2013.</p> <p>Ministry of Labor, Employment and Social Security. 2013. Trabajo domestic ¿Responsabilidad de mujeres? Igualdad de Oportunidades. No. 4.</p> <p>Ministry of Labor, Employment and Social Security. 2013. Resolution No. 886 (2013).</p> <p>Ministry of Labor, Employment and Social Security.</p>