

Kuwait: Ministerial Decree No. 200 of 2011 on regulating work in the private sector

Title	Kuwait: Ministerial Decree No. 200 of 2011 on regulating work in the private sector
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Abstract	

Art. 6 lists the conditions that need to be met by an employer in order to obtain a permit to employ non-Kuwaiti workers:

1. The inavailability of a Kuwaiti worker registered with the Ministry of Social Affairs and Labour who is able to perform the job.
2. The existence of a need for the non-Kuwaiti worker based on the employer's economic activity or the contractual projects he has and the number of workers registered with him.
3. The existence of a match between the worker's profession and the economic activity of the employer.

Art. 8 requires an employer given the permission to recruit non-Kuwaiti workers to report to the Labour Administration at the Ministry of Social Affairs and Labour within a month of the worker's arrival to obtain the work permit for him. The application form should be attached to the following documents:

1. Worker's travel document or passport
2. Original work permit or the entry visa issued by the Consulate of Kuwait in his country of origin stamped by the entrance authorities according to the Ministry of Interior's procedures.
3. Copy of the employment contract
4. Copy of the application form signed by the employer or his deputy.

Art. 9 covers the procedure for renewing the work permit which is valid for three years and lists the documents that need to be submitted along with the request for renewal.

Art. 10 prohibits employers from recruiting foreign workers without obtaining the permission of the Labour Administration. Employers are also prohibited from recruiting a worker and subsequently refusing to assign him/ her the work. The employer must also undertake to pay the costs for repatriating the worker. If the worker discontinues his employment and joins another employer then the latter employer must bear the costs of repatriation so long as the discontinuation of the previous employment has been reported and no violation of the law's penalties has taken place.

Art. 13 deals with the transfer of work permit to another employer if the permission of the previous employer has been obtained and the following condition has been met:

1. The lapse of one year of continuous residence in the country for foreign workers recruited on the basis of work permits.
2. The lapse of three years of continuous labour residence in the country for foreign workers recruited to work on government contracts.

Exempted from the conditions set in Art. 13 if the permission of the previous employer has been obtained are:

1. Holders of University degrees or their equivalent
2. Locally contracted workers
3. Husbands and children of Kuwaiti women who hold another nationality
4. The end of the government contract and the commencement of a similar project whether it is with the same governmental entity or another or the withdrawal of one of the contracting parties working on a government contract in which case the transfer is permitted only to the newly contracted party.
5. The dissolution of the establishment, its liquidation, bankruptcy or merger or any change in its legal status or the transfer of its ownership through inheritance, grants, sale or forfeit as long as this can be proven by a document issued by an administrative or judicial body.
6. The transfer of workers from the governmental to the private sector and vice versa is permitted in accordance with the Ministry of Interior procedures. (Art. 14).

Art. 15 allows the transfer of any foreign worker to another employer without the permission of the previous employer after the lapse of three years of continuous employment.

Art. 19 requires employers to cancel their employee's work permit at the end of his employment and bear the expenses for repatriating him except in the following cases:

1. If the employment is terminated in accordance with the Labour Law.
2. If the worker refuses the engagement without just cause.
3. If the worker ends the work contract in violation of its terms and conditions
4. If the worker absconds from work and joins another employer then the new employer must bear the cost of repatriation once the former employer has reported his abscondance.

In all of these cases the Ministry may revoke the worker's permit for at least two years.

Art. 20 sets as one of the requirements for cancelling the work permit, having the worker attest to having received all his financial dues or lodge a complaint against the employer for failing to do so.