

Saudi Arabia: Ministerial Decision No. 70273 of 1440 Issuing the Implementing Regulations of the Labour Law

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Abstract

The conditions, regulations, and procedures for the transfer of foreign workers' services (Art. 14):

1. As long as the regulations of the Nitaqat program for incentivizing establishments to nationalize jobs is adhered to, no period of time shall be specified for the worker's employment with his current employer before transfer to another employer is permitted.
2. Requests for transfer of services from one establishment to another shall not be accepted if the latter establishment has a worker whose work or residence permits have expired without renewal, or a worker who has spent three months in the Kingdom without having his permits issued. Exempt from this rule are a worker who was reported by the establishment as having missed work for more than fifteen days, a worker who is waiting for approval for transfer to another establishment, and a worker who has been issued a final exit permit.
3. Workers who hold the nationalities not permitted to transfer services under Saudi regulations may not be transferred.
4. Services may not be transferred to an establishment that is late in paying wages collectively, is proven to be engaged in commercial concealment, allows any of its workers to work for others without the proper permits or engage in self-employment.
5. The transfer of services of a new worker whose work permit has not yet been issued may take place without the employer's approval in accordance with the regulations of the Nitaqat program.
6. The transfer of services for a worker whose work or residence permits have expired may be carried out without the employer's consent in accordance with the regulations of the Nitaqat program.
7. The Minister of Labor or his deputy may approve the transfer of service of a worker to another employer without the current employer's consent according to the regulations set by the Ministry.
8. The Minister of Labor or his deputy may approve the transfer of service of a worker to another employer without the current employer's consent in any of the following cases:
 - a. The existence of a court case between the worker and employer, which was prolonged through actions of the latter.
 - b. Upon receiving a recommendation from the judge presiding over the case with the goal of preventing damages, which the worker may incur as part of the process.
 - c. If the establishment fails to pay the wages of the worker for three months consecutively, or paid the third month's wages late so long as the worker has not caused or contributed to the delay. The worker must submit a request to the Ministry within a year from the date of the last delayed payment.
 - d. If the employer is absent (travelling, imprisonment, death, or any other reason) and this leads to the establishment not meeting its obligations towards its workers for three months.
 - e. Some categories and nationalities of workers whose situation is regulated through special procedures and whose work contract has ended or was terminated by the employer.
 - f. A dependent whose services had been transferred to work for another establishment after the work relationship has ended in accordance with procedures and arrangements set by the Ministry.
 - g. Cases of family reunification: if one of the spouses has a valid work contract inside the Kingdom and his/her work contract with their current employer has ended or was terminated by the employer; if one the spouses is a Saudi national.
 - h. The worker has reported a case of commercial concealment against his employer and provided evidence, as long as the worker is not party to the concealment.
 - i. Any other cases necessitated by considerations of the public good as determined by the Minister or his deputy.
1. The services of a dependent legally residing in the Kingdom may be transferred to an establishment, which meets the conditions set in Art. 14 (1), if the following conditions are met:
 - a. The dependent is at least 18 years old.
 - b. The conditions for transfer in this article are met.
 - c. The conditions for change of profession set in Art. 14 (3) are met excluding sub-articles a,c, and d.