

Work permits and foreign employment in Iraq

Ammar Al-Humairi - Associate - Tax

a.alhumairi@tamimi.com - Baghdad

Mohammed Taher

M.Taher@tamimi.com - Baghdad

Due to the recent political developments in Iraq, the Ministry of Labour has increased its enforcement efforts regarding the regulation of foreign employees in Iraq. However, it has become evident that a significant number of corporations are overlooking the laws that regulate the work of foreign employees within the country. As a result, an increasing number of corporations are facing fines and other penalties for violations of the applicable Iraqi Labour Law and relevant regulations.

At the outset, it is important to understand the definition of a foreigner under the Foreigners Residence Law No. 2 of 2017. A foreigner is defined as being “any person who does not have Iraqi nationality”. This definition requires foreign individuals who wish to work in the territories of Iraq to obtain work permits.

This article provides an overview of the legal requirements to obtain work permits for foreign employees in Iraq and the consequences of non-compliance in accordance with the applicable legislation.

Iraqi Labour Law prohibits foreign employees from working inside Iraq, unless he or she obtains a work permit. Employers in Iraq may apply for work permits on behalf of their foreign employees. In addition, Iraqi Labour Law obliges the employer, at his or her own expense, to provide foreign employees with paid round trip tickets to their employees’ home countries, unless the employee, without a legitimate excuse, leaves his or her job. Furthermore, the Labour Law requires the employer, in the event of a foreign employee’s death, to do all that is required to repatriate the body of the foreign deceased employee, to his or her home country, or his or her resident country, upon the request of the said employee’s relatives.

Finally, the Labour Law generally grants foreign employees, who are terminated from their jobs in Iraq, a grace period in order to obtain a new employment opportunity, by giving him or her some time to settle without being considered an illegal resident and thereby potentially subject to fines and/or deportation.

In order to obtain a work permit, initially, the approval of the Ministry of Labour is required. Prior to travelling to Iraq, a foreign employee must send the required immigration documents to the Iraqi Ministry of Labour to obtain their approval. The said documents must be accompanied by a power of attorney. Pursuant to Iraqi legislation, the percentage of foreign employees shall not exceed 50 per cent of the total staff of incorporated companies, and the remaining 50 per cent shall consist of locals.

Upon full compliance with the required conditions, the Ministry of Labour shall issue the required approval. Following this, the competent attorney shall attend the Directorate of Residence Affairs to obtain the visa for the employee, which allows the foreign employee to travel to Iraq.

After the foreign employee’s entry, the competent attorney shall follow up with the Ministry of Labour within seven days as of the date of said entry, to obtain the work permit. The validity of the work permit is limited to one year, according to the valid regulations, to be renewed every year upon a request from the employer, at least one month prior to the expiry date of the work permit.

Foreign employees exempt from obtaining the work permit

According to the Instructions, the following foreign employees are excluded from obtaining work permits:

1. employees of international entities, diplomatic missions and commercial and foreign consulates acknowledged by Iraq;
2. foreign employees who are permitted by the international laws, conventions and treaties of which the State of Iraq is a member;
3. foreign employees appointed by the government; and
4. foreign employees who are recruited for less than 30 working days to work in Iraq as experts, for maintenance purposes or for technical consultations.

Violations of the Law

Iraqi Labour Law grants a judge of the Labour Court discretion in how to deal with foreign employees who come to Iraq and who work without the required legal permit. Any fines incurred shall range between three times the minimum daily wages and three times the minimum monthly pay of the employee.

With the increasing number of foreign employees in Iraq, the Ministry of Labour has become more strict regarding foreign employees and non-compliance of the employer corporations, there have been an increasing number of lawsuits filed in the Labour Court by the Ministry of Labour against such offending corporations particularly where correct work permits have not been obtained (an offence which may result in paying significant amounts of fines). In summary, it is essential for corporations in Iraq to comply with the applicable regulations with regard to obtaining work permits for its foreign employees.

For further information, please contact Mohammed Taher (m.taher@tamimi.com)