

Employment of Expatriate workers in Iraq

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In spite of the hazardous and unusual situation in Iraq, there is a lot of interest from expatriate workers wanting to move to Iraq for work. This is evident by the millions of dollars invested in construction and reconstruction projects, as well the increasing number of foreign businesses setting up in Iraq

In order to facilitate the increasing number of expatriate workers in Iraq, the government has recently implemented a number of laws and regulations. Article 12 of the Iraqi Investment Law (the "Law") No. 13 of 2006 gives the investors the right to employ expatriate workers and insures to the said workers' right to reside in Iraq. In addition, it gives the workers the right to transfer their wages and salaries abroad and outlines the process of entering and exiting the country.

Owing to the laws and regulations that regulate the process of employment of the workers in Iraq - Chapter I (Employment) of Part II (Employment and Vocational Training) of the Iraqi Labour Code No. 71 of 1987 (the "Labour Code") states that the 'Department of Labour and Social Security in the Ministry of Labour and Social Affairs shall be responsible for organising the process of employing the workers'. This Law distinguishes between the Iraqi workers, expatriate workers with Arabic nationalities and the non-Arab expatriate workers. According to the Law, an employer is obliged to inform the labour office of the employment of Iraqi workers within a period not exceeding 10 days from the date of employment. The Law provides that in the case where the employer is employing expatriate workers with Arabic nationalities, he shall inform the labour office of that employment within a period not exceeding 30 days from the date of employment. However, in the case of non-Arab expatriate workers; the employer can employ the workers after obtaining a work permit in accordance with the conditions and the procedures determined by the instructions of the Minister of Labour and Social Affairs, stated herein.

Article 6 of Instructions No. 18 of 1987 states that:

First - Foreigner individuals, who are outside Iraq, and are interested in working in Iraq, should follow the following procedures in order to obtain a work permit:

- Submit a written request to the Ministry of Labour and Social Affairs through the representatives of the Republic of Iraq abroad, or their attorney in Iraq, or the employer who wants to recruit them in Iraq.
- The request should include all the required information and supporting documents, and should clearly indicate their name, nationality, type of work, duration of the work, and the employer's name as well as the employer's full address.
- The Department of Labour and Vocational Training, or its divisions in the other provinces, will check all the legal conditions and the obtainment of the work permit in Iraq then will approach the competent authorities and issue an entry visa to this foreigner individual. When the workers enter Iraq, they are required to go to the Department of Labour and Vocational Training within 7 days from the date of their entry in order to finalize the procedures for obtaining the work permit.

Second - When it comes to foreign individuals already in Iraq wishing to obtain an Iraqi employment visa should follow the following steps:

- Submit all the legal papers and documents that prove the legitimacy of their entry and residency in Iraq.
- Submit a written request to the Department of Labour and Vocational Training in Baghdad, or its divisions in the other provinces, or the employer who wants to recruit them in Iraq.
- The request should include all the information related to their qualifications supported by the available certificates and documents, and should clearly indicate their name, nationality, type of work, duration of the work, and the employer's name as well as the employer's full address.

Furthermore, Chapter I of Part II of the Labour Code outlines the imposed penalties applicable to the breach of this law.

Finally, it is worth mentioning that, and because of the current circumstances in Iraq, this matter faced two important incidents in the past two years. On February 9th, 2010, the Consulate Department of the Ministry of Foreign Affairs issued an official letter No. 65046 which provided, in accordance with the approval of the National Security Council and the General Commander of the Armed Forces, that no work visas are to be issued to expatriate workers of both Arab or non-Arab nationalities until further notice. Additionally, on February 8th, 2011, the Prime Minister's Office issued an official letter numbered MRND/2/27/209 which included directions from the Prime Minister informing all the concerned parties in the state that they should refrain from granting any work permits to non-Arab expatriate workers unless they obtain an official consent from the Council of Ministers or National Security Council. This letter, however, did not address the employment of workers with Arab nationalities.

In light of the above, it is clear that the Iraqi government is aiming to rejuvenate the Iraqi economy by providing clear and outlined procedures for the employment of expatriate workers in the country. This is shown through the implementation of laws such as the Iraqi Investment Law No. 13 of 2006. However, it is clear that a lot of work is yet to be done as the current volatile economic and political situation doesn't allow there to be a stable grounds for the importation of foreign workers. This is why until the Ministry of Foreign Affairs allows the recommencing of issuing work permits to Arab and non-Arab expatriate workers, investors are not going to be able to bring in foreign workers in the hope of improving the economic situation in Iraq.