

LAW ON THE WORK PERMIT FOR FOREIGNERS

Law No. 4817

Date of enactment: 27.02.2003

Published in the Official Gazette On 6 March 2003, No. 25040

PART ONE

Objective, Scope and Definitions

Objective:

Article 1. Objective of this Law is to regulate the work of foreigners in Turkey with a system of work permit and to specify the rules regarding the working permits to be given to these foreigners.

Scope:

Article 2. This Law,

Comprises the foreigners working dependently or independently in Turkey, foreigners that are having on.the.job training and the real and judicial persons that employ foreigners,

* that are included in the scope of the second sentence of the 29th article of the Turkish Citizenship Law number 403 and the 13th article of the Press Law number 5680 and the Decree on the Organization and Tasks of the General Directorate of Press and Information number 231,

* that are given working permission or that are employed on the basis of the authority given by law by the ministries, public institutions and establishments and

* other than the foreigners that are exempted from working permission taking into consideration the principles of reciprocity, international law and European Union laws .

Definitions:

Article 3. In this Law;

Ministry : signifies the Ministry of Labor and Social Security,

Foreigner : signifies the person that is not a Turkish citizen as per the Turkish Citizenship Law number 403,

Dependent employee : signifies the foreigner that works against wage, salary, commission, etc. at the disposal of one or more employer that has a real or judicial identity.

Independent Employee : signifies the foreigner that works for and on the account of himself/herself, whether he/she employs other persons or not.

PART TWO

Obligation of Getting Permission and Authority of Giving Permission

Obligation of Getting Permission and Authority of Giving Permission:

Article 4. Unless otherwise provided in the bilateral or multi.lateral agreements to which Turkey is a party, the foreigners are obliged to get permission before they start to work dependently or independently in Turkey.

In cases where the country's benefits require or depending on the force majeure, the working permission may be given after starting to work, provided that information is given to the relevant authority before starting to work, on condition that working period will not exceed one month and the Ministerial approval has been obtained.

PART THREE

Working Permissions and Working Permission Exemptions and Restrictions

Working permission for a definite period of time:

Article 5. Unless otherwise provided in the bilateral or multi.lateral agreements to which Turkey is a party, working permission for a definite period of time is given to be valid for at most one year, taking into consideration the situation in the business market, developments in the labour life, sectorial and economic conjuncture changes regarding employment, according to the duration of residence permit of the foreigner and the duration of the service contract or the work, to work in a certain workplace or enterprise and in a certain job.

After the legal working duration of one year, duration of the working permit may be extended up to three years, on condition of working in the same workplace or enterprise and in the same job.

At the end of legal working duration of three years, duration of the working permit may be extended up to six years, on condition of working in the same profession and at the disposal of a desired employer.

Working permission for a definite period of time may be given also to the, spouses and dependent children, who have come together with the foreigner or afterwards, on condition that they have resided with the foreigner legally and uninterruptedly for at least five years.

The Ministry is entitled to expand or restrict the geographical validity area of the definite period of time working permission.

Working permission for an indefinite period of time:

Article 6. Unless otherwise provided in the bilateral or multi.lateral agreements to which Turkey is a party, working permission for an indefinite period of time may be given to the foreigners that have resided in Turkey legally and uninterruptedly for at least eight years or that have legally worked for total six years, without taking into consideration the conditions in the business market and the developments in the working life and without restricting to a certain enterprise, profession, civil or geographical area.

Independent working permission:

Article 7. Independent working permission may be given by the Ministry to the foreigners, who will work independently, on condition that they have resided in Turkey legally and uninterruptedly for at least five years.

Exceptions:

Article 8. Unless otherwise provided in the bilateral or multi.lateral agreements to which Turkey is a party,

Without being dependent to the durations provided in this Law, working permission may be given;

1. To foreigners, who are married with a Turkish citizen and live in Turkey with their spouses with marriage bond, or to foreigners, who have settled in Turkey after their marriage bond has finished after at least three years, and to the children thereof from a Turkish citizen spouse,

2. To those who have lost their Turkish Citizenship within the framework of the 19th, 27th and 28th articles of the Turkish Citizenship Law number 403 and their subordinates,

3. To foreigners that were born in Turkey or have come to Turkey before reaching their majority according to their national laws, if they don't have a nation, according to the Turkish legislation and that have graduated from vocational school, high school or university in Turkey,

4. To foreigners that are accepted as an emigrant, refugee or nomad according to the Residence Law number 2510,

5. To citizens of the countries that are a member of the European Union and to the spouses and children thereof who are not citizens of the countries that are a member of the European Union,

6. To those who are working at the service of the diplomats, administrative and technical personnel that are commissioned in the foreign governments' embassies and consulates in Turkey and in the representations of the international establishments, and to the spouses and children of the diplomats and administrative and technical personnel commissioned in the embassies, consulates and representations of the international establishments in Turkey, provided that they are within the framework of the principle of reciprocity and they are restricted with the duration of the commission,

7. To foreigners who will temporarily come to Turkey for a period of over one month with the aim of scientific and cultural activities, and for a period of over four months with the aim of sports activities,

8. To foreigners at the position of key personnel to be employed in the works of goods and services purchase, having a work made or operating a facility, with contract or tendering procedures by the Ministries and public institutions and establishments authorized by law.

Durations to be included in the legal working period and durations deemed an interruption in residence:

Article 9. Annual leaves, durations from which occupational accident and disease, sickness and temporary physical disability allowances and unemployment insurance allowances are taken, are included in the legal working period.

The foreigner's being outside Turkey, on condition that it doesn't exceed total six months, does not interrupt the working period. However, the duration passed outside Turkey is not considered within the working period. Residence of the foreigner, who is neglectful in extending his/her residence permit for more than six month period although he/she is in Turkey, is considered as a deduction from the aspect of working permit.

Confirmation certificate for working permission exemption:

Article 10. Confirmation certificate for working permission exemption is given by the Ministry to the foreigners upon their request, who are exempted from working permission, without prejudice to the rights provided by the bilateral or multi.lateral agreements to which Turkey is a party

Restricting the working permission:

Article 11. Without prejudice to the rights provided by the bilateral or multi.lateral agreements to which Turkey is a party and within the framework of reciprocity principle, the working permissions may be restricted for agriculture, industry or service sectors, a certain profession, job or civil and geographical area, for a definite time, in cases where conditions in the business market and developments in the labor life, sector and economic conjuncture conditions regarding employment require.

PART FOUR

Giving, Extending, Rejecting, Canceling the Permissions and Taking Legal Actions

Giving or Extending the Permissions:

Article 12. Foreigners residing out of Turkey make their working permission applications to the Republic of Turkey representations in the country where they are. The representations forward these applications directly to the Ministry. The Ministry assesses the applications in accordance with the 5th article having taken the opinions of the relevant authorities; gives working permission to the foreigners whose situation is deemed appropriate. This permission is valid only when the required working visa and residence permission is taken. The foreigners, who have been issued working permission certificate, are obliged to request visa to enter the country within the latest ninety days from the date of taking this certificate, to apply to the Ministry of Interior Affairs to take residence permission within the latest thirty days from the date they have entered the country.

Foreigners that have valid residence permission in Turkey or their employers are entitled to make their application directly to the Ministry.

The working permissions are given and extended in accordance with this Law and provisions of the regulations issued according to this Law, upon the written request of the foreigners that have residence permission or their employers.

The applications are answered within at most ninety days by the Ministry.

Getting opinion from the relevant authorities:

Article 13. Working permissions are given to the foreigners regarding the professions, arts or jobs that they may work at, in accordance with the conditions brought by this Law is given by the Ministry getting the opinions of the relevant authorities including vocational competency.

Provisions which are included in other laws concerning the jobs and professions in which the foreigners won't be entitled to work are reserved.

Rejection of permission request:

Article 14. Request for working permission or prolongation of working permission is rejected in case;

1. The situation in the business market and developments in the labor life and sector and economic conjuncture changes regarding employment are not appropriate to give working permission,
2. There is a person in the country with the same quality for a period of four weeks to perform the applied job,
3. The foreigner doesn't have a valid residence permission,
4. The foreigner, whose permission request for a workplace, enterprise or profession is rejected, re.requests permission in one year from the date of his/her request for the same workplace, enterprise or the same profession,
5. Working of the foreigner forms a threat for the national security, public order, general security, public interest, general ethics and general health.

Cancellation of the working permission:

Article 15. In case the foreigner works against the restrictions stated in the 11th and 13th articles or in case it is determined afterwards that one of the conditions stipulated in the 14th article exists or that the foreigner or his/her employers have given deficient or wrong information in the working permission request petition, the Ministry is entitled to cancel the working permission it had given and informs the related Ministry about the situation.

Invalidity of the working permission:

Article 16. The working permission becomes invalid in occurrence of any of the following situations, other than its expiration;

1. Where the foreigner's residence certificate becomes invalid or its validity term cannot be extended for any reason,

2. Where the validity term of the foreigner's passport or of the certificate that substitutes a passport cannot be extended, (except the situation where the appropriate opinions of the Ministry of Interior or Foreign affairs exists)

3. Where the foreigner stays abroad for more than six months uninterruptedly except force majeure reasons,

Right of taking legal actions:

Article 17. The Ministry notifies its resolution regarding the rejection of request of giving or extending working permission, cancellation of working permission or invalidity of the working permission, to the foreigner or to his/her employer, if any, in accordance with the provisions of Notification Law number 7201.

The interested parties may object to against the decision of the Ministry within thirty days from the date of notification. Administrative judgment may be applied to in case the objection is rejected by the Ministry.

PART FIVE

Obligation of Notification, Inspection and Regulatory Authority and Penal Provisions

Obligation of Notification:

Article 18.

1. The independently working foreigners are obliged to inform the situation to the Ministry within at most fifteen days, from the date they have started working and from the end of the work,

2. The employers that employ foreigners are obliged to inform the situation to the Ministry within at most fifteen days when he/she has started to work, in case he/she doesn't start working within thirty days from the date when the working permission was given, from the end of this date and from the date when the service contract was terminated for any reason.

Giving information to the Ministry:

Article 19. The ministries and the public institutions and establishments that are authorized to give working permission to the foreigners notifies all information about the foreigner to the Ministry within at most thirty days from the date they have given the working permission, they have extended the working duration or they have cancelled the working permission and the ministries and public institutions and establishments that employ foreigner from the date when they have started to employ the foreigner.

Inspection authority:

Article 20. The issue whether the foreigners and employers, included within the scope of this Law, fulfill their obligations arising from this Law, is inspected by the Ministry labor inspectors and Social Insurances Institution insurance inspectors.

The inspection and audit members of the departments included in the general budget and the administrations with added budget inspect also whether the employers that employ foreigners and the foreigners fulfill their obligations arising from this Law, during any kind of audit and inspections they will perform in the workplaces in accordance with their legislations. The inspection results are also notified to the Ministry.

Penal provisions:

Article 21. Independently working foreigner and their employers, who don't fulfill their obligation of notification according to article 18 within due time, are fined with an administrative penalty of two hundred and fifty million liras, for each foreigner.

The foreigner that works dependently without a working permission is fined with an administrative penalty of five hundred million liras.

An administrative penalty of two billion five hundred million liras is given to the employer or employer representatives for each foreigner that doesn't have working permission. In this case, the employer or representative of employer is obliged to cover the accommodation expenses of the foreigner and his/her spouses and children, if any, the expenditures required for them to return to their countries and their health expenses when required.

In case of repeated actions mentioned in the first, second and third paragraphs, the administrative penalties are applied as one fold increased.

Administrative penalty of one billion liras is given to the foreigner that works independently without having a working permission given in accordance with this Law and decision is taken by the Ministry area directors to have his/her workplace or workplaces, if any, closed and the situation is informed to the governorship to have this decision implemented. In case it is repeated, administrative penalty is applied as one fold increased besides having the workplace or workplaces closed, if any.

The administrative penalty stipulated in this Law is notified to the relevant persons in accordance with the provisions of Notification Law number 7201 by the Ministry area directorate, provided that its reason is indicated. The administrative penalties are paid to the tax or finance offices within seven days

from the date of notification. The relevant persons are entitled to object to this penalty by the authorized court of justice within this time. The application doesn't cease the following up and collection of the penalty.

The foreigners working dependently and independently and the employers that employ foreigners, fined with administrative penalty according to this Law are notified to the Ministry of Interior Affairs.

Provisions of Law on Procedure of Collection of Public Receivables number 6183 are applied in the following up and collection of the administrative penalties and other receivables unpaid in the due time according to this Law.

Regulations:

Article 22. Procedures and bases regarding giving, restricting and canceling every kind of working permission, the foreigners to be exempted from working permission and how the notification obligations are to be fulfilled are arranged according to the regulations to be issued according to this Law.

The regulations regarding the implementation of this Law is issued within six months following the publishing date of the Law, jointly by the Ministry, Ministry of Interior Affairs, the Ministry of Foreign Affairs, the Ministry of Finance, the Ministry of Public Works and Settlement, the Ministry of Health, the Ministry of Tourism, the Undersecretariat of State Planning Organization, the Undersecretariat of Treasury, the Undersecretariat of Navigation and the Undersecretariat of Foreign Trade and by taking the opinions of other ministries, public institutions and establishments and the occupational associations having the characteristic of a public institution that are deemed relevant.

Employing foreigners in the foreign capital investments:

Article 23. The foreigners that are wanted to be employed in companies and enterprises established within the scope of the Law on Promotion of Foreign Capital number 6224 can be employed with the working permission given by the Ministry within the framework of the procedures and bases to be determined with the regulations to be issued jointly with the Undersecretariat of Treasury.

PART SIX

Amendments made in some Laws

Article 24. Personnel given in the Annex (1) having been established and added to the section related to the Ministry of Labour and Social Security in the annexed tabulated list (I) of the Decree No.190 which has the power of law .

Article 25. The following paragraph has been added as paragraph (h) to the 9th article of the Law on Organization and Duties of the Ministry of Labor and Social Security dated 9/1/1985 and number 3146 and the present paragraph (h) has been continued as paragraph (i).

“h) Performing the works stipulated in the Law on Work Permit for Foreigners,”

Article 26. 34th article of the the Law on the Chambers of Turkish Engineers and Architects dates 27/1/1954 and number 6235 has been changed as follows.

“Article 34. Foreign contractors or foreign enterprises are entitled to employ foreign expert with the working permission given by the Ministry of Labor and Social Security having taken the opinion of the Ministry of Public Works and Settlement and the Union of Chambers, in the works regarding engineering or architecture they undertake independently of with domestic institutions against State departments and public and private institutions and individuals in Turkey on condition that it is limited with the scope of that work .”

Article 27. 35th article of the Law number 6235 has been changed as follows.

“Article 35. In the works that are not included in the scope of article 34, foreign engineers and architects and superior architects can be employed with the working permission given by the Ministry of Labor and Social Security, having taken the opinions of the Ministry of Public Works and Settlement and the Union of Chambers.”

Article 28. 119th article of the Petroleum Law dated 7/3/1954 and number 6326 has been changed as follows.

“Article 119. Petroleum right owners are entitled to employ foreign administrative and vocational personnel and expert personnel with the working permission given by the Ministry of Labor and Social Security, having taken the opinions of the Ministry of Energy and Natural Resources and Ministry of Interior Affairs.”

Article 29. The following paragraph has been added, as to come after the fourth paragraph of the article 21st of the Law on Private Education Institutions dated 8/6/1965 and number 625.

“Foreigners that shall work within the scope of this Law are subject to the provisions of Law on the Work Permit for Foreigners”.

Article 30. 3rd article of the Law on Turkish Raced Foreigner’s Freely Performing their Professions and Arts, Being Employed in Public, Private Institutions and Workplaces dated 25/9/1981 and number 2527 has been changed as follows.

“Article 3. For the Turkish raced foreigners to work or to be employed in the professions, arts and jobs that the Turkish citizens are allowed to do, provided that they bear the qualities required in the special laws and that they fulfill the requirements, the Ministry of Labor and Social Security gives permission having taken the opinions of the Ministries of Internal and Foreign Affairs and of the other relevant ministries and institutions, according to this Law and the Law on Work Permit for Foreigners.”

Article 31. First sub.paragraph of paragraph (a) of the 18th article of the Law on Promotion of Tourism dated 12/3/1982 and number 2634 has been changed as follows.

“Foreign expert personnel and artisans may be employed in the certificated enterprises with the permission given by the Ministry of Labor and Social Security, having taken the opinion of the Ministry and the Ministry of Internal Affairs.”

Article 32. The below sub.paragraph has been added to the 26th article of the Law number 2634.

“Foreigners that will carry out activities within the scope of the first paragraph are subject to the provisions of the Law on Work Permit for Foreigners.”

Article 33. Title of the tariff number (6) related to the Law on Fees dated 2/7/1964 and number 492 has been changed as follows.

“Passport, visa, residence permission, Ministry of Foreign Affairs approval fees and working permission certificate fees.”

Article 34. The below table has been added to the end of the tariff number (6) related to the Law number 492.

“IV. Working Permission Certificates to be given to the Foreigners:

1. Working permission certificate for a definite period of time:

1. Up to 1 year (including 1 year): TL 50.000.000..

2. Up to 3 years (including 3 years): TL 150.000.000..

Duration extensions are also subject to fee in the same amount.

2. Working permission certificate for an indefinite period of time: TL 250.000.000..

3. Independent working permission certificate: TL 500.000.000..”

The Ministry of Foreign Affairs is authorized to determine the working permission certificate fees, taking into consideration the principle of reciprocity.

PART SEVEN

Temporary and Final Provisions

Repealed Provisions:

Article 35. The Law on Arts and Services Allocated to the Turkish Citizens in Turkey dated 11/6/1932 and number 2007 has been abolished.

Temporary Article 1 : The working permissions given to the dependently or independently working foreigners, in accordance with the provisions of the legislation prior to the date when this Law entered into force are valid till the end of their expiration dates as long as they are not cancelled by the Ministry or they don't become invalid in accordance with this Law.

Temporary Article 2 : The information of the foreigners to whom working permission is given or who are employed by the public institutions or establishments before the date when this Law entered into force are informed to the Ministry within ninety days from the entry into force of this law, by the authorities that give the permission.

Temporary Article 3 : The authorized public institutions and establishments before the date when the Law entered into force give the permissions of the foreigners whose working permission applications were made before the date when this Law entered into force and whose processes continue and they inform the required information to the Ministry within thirty days from the date of issue of working permission.

Entry into Force:

Article 36. The Article 24th of this law enters into force from the date of its publication and the others six months after its publication.

Execution:

Article 37. The Council of Ministers executes the provisions of this Law.

ANNEX 1

LIST (1)

INSTITUTION: MINISTRY OF LABOUR AND SOCIAL SECURITY

ORGANIZATION: CENTRAL

ESTABLISHED PERSONNEL

Class	Title	Degree	Number	
Administrative P.	Head of Department	1	1	
Administrative P.	Chief of Unit	1	2	
Administrative P.	Expert	1	3	
Administrative P.	Chief	3	1	
Administrative P.	Chief	4	1	
Administrative P.	Chief	5	1	
Administrative P.	Programmer	2	1	
Administrative P.	Data Preparation and Control Operator	3		2
Administrative P.	Data Preparation and Control Operator	4		3
Administrative P.	Computer Operator	3	3	
Administrative P.	Computer Operator	4	3	
	TOTAL		21	