



REGULATORY FRAMEWORK GOVERNING MIGRANT WORKERS¹

Updated November 2019



International
Labour
Organization

PRIVATE SECTOR WORKERS

DOMESTIC WORKERS

(other than domestic workers)

| | | |
|------------------------------|---|---|
| <u>KEY LEGISLATION</u> | Law No. 36 of 2012, Labour Law provision for the Private Sector. Domestic workers can only benefit from certain provisions. ² | |
| RECRUITMENT | | |
| <u>RECRUITMENT FEES</u> | It is not explicitly prohibited to charge recruitment fees to workers by law. | |
| <u>PASSPORT CONFISCATION</u> | It is not explicitly prohibited for employers to confiscate passports. ³ | |
| WORKING CONDITIONS | | |
| <u>CONTRACT</u> | <p>The labour contract must be drafted in Arabic and in two original copies, one for each party. If there is a version in another language, it has to be attached to its Arabic version.</p> <p>Employers who do not comply may be subject to a 200 -500 BD (US\$530 – 1326) penalty.</p> <p>Flexi-permit holders, (limited workers eligible) appear not to require a contract.⁴</p> | <p>The Labour Market Regulatory Authority (LMRA) introduced a dual/ tripartite contract system in October 2017 for domestic workers hired through a recruitment agency.</p> <p>One standard contract must be signed between the recruitment agency, worker and employer, and a second one between the worker and the employer.</p> <p>Employers who do not comply with the above mentioned provisions are subject to a 200 – 500 BD (US\$530 – 1326) penalty.</p> |
| <u>MINIMUM WAGE</u> | Not applicable. ⁵ | Not applicable. |

¹ This fact sheet was prepared by the ILO FAIRWAY Project, supported by the Swiss Agency for Development and Cooperation. It was reviewed by representatives of Migrant Forum Asia and Migrant Rights.Org.

² These provisions relate to some benefits regarding the labour contract, wages, end of service benefit and exemption from judicial fees, among others. In 2018, the government added a new provision (which also applies to domestic workers) that “Discrimination among workers subject to the provisions of this Law on the basis of gender, origin, language, religion or creed shall be prohibited.”

³ However, the Bahraini Penal Code creates the legal basis for the liability of persons who withhold the passports of workers. Moreover, numerous rulings issued by the Discrimination Court prohibit employers from confiscating the passports of workers. GLMM (2019) *The Legal Framework of the Sponsorship Systems of the GCC Countries*, No. 4/2019.

⁴ A ‘flexible’ work permit for eligible migrant workers in an irregular situation was introduced in Bahrain in 2017. The permit allows workers to work without a sponsor. Under the scheme, workers bear the costs of the issue of the work permit, healthcare, social insurance, monthly fee payable to the Labour Markets Regulatory Authority (LMRA) and a deposit for a return flight ticket. Flexible permit holders can work for multiple employers simultaneously, and essentially are self-employed.

⁵ The minimum wage only applies to Bahraini nationals in the public sector (300 Bahraini dinar (BHD) (US\$ 796).

| | | |
|----------------------------------|--|---|
| <p><u>WORKING HOURS</u></p> | <p><u>The Rule</u> 8 hours per day or 48 hours per week.⁶</p> <p><u>The Exception</u> Working hours may be increased up to 11 hours per day including breaks.⁷ They can exceptionally be increased to 12 hours per day for workers who handle tasks that are ‘discontinuous’ by nature, the latter being determined by a Ministerial decision,⁸ and working hours can also be decreased by the Minister.⁹</p> <p>Workers are entitled to at least half an hour break for prayer, meals or rest after 6 hours of consecutive work per day.¹⁰</p> | <p>Not specified by law.</p> |
| <p><u>REST PERIODS</u></p> | <p>1 day per week, Friday unless otherwise agreed.</p> <p>An employer may require a worker to work on his/her weekly day of rest or a public holiday. In this case, the worker may choose to either receive an additional wage equivalent to 150 per cent of the normal wage or to have an additional rest day.</p> | <p>Not specified by law.</p> |
| <p><u>OVERTIME</u></p> | <p>Overtime provisions range from 125 per cent of the hourly rate for hours worked during the day and 150 per cent the hourly rate for hours worked at night.</p> | <p>Not specified by law.</p> |
| <p><u>PAYMENT OF WAGES</u></p> | <p>Workers on a monthly wage must be paid at least once a month.¹¹ Employers are only cleared with regard to payment once it is fully paid to the worker according to the mechanism ‘designated by a ministerial decision’. In future this will include the Wage Protection System.¹²</p> | |
| <p><u>ANNUAL LEAVE</u></p> | <p>30 days</p> | <p>30 days</p> |
| <p><u>OTHER REQUIREMENTS</u></p> | <p>Working outdoors / in open areas is banned usually between 12:00pm and 4:00pm during summer, from June till end of August, excepted for oil and gas workers engaged in emergency maintenance.¹³</p> | <p>Although not specified by law, the LMRA standard contract/obligation pledge form (for direct recruitment) specifies that the employer must provide the worker with a decent residence, respect for privacy, food and clothing, occupational safety and health, medical care, and enable the domestic worker to communicate with his/her family periodically and regularly.</p> |

6 During Ramadan Muslim workers are required to work a maximum of 6 hours a day and 36 hours a week.

7 Article 53 paragraph b of the Bahraini Labour Law.

8 Article 53 paragraph c of the Bahraini Labour Law.

9 Article 56 of the Bahraini Labour Law.

10 The Minister may specify in a decision workers who can to continue working without a break and specify the type of hard/difficult or exhausting labour where the worker is given breaks that are counted within working hours” Article 52 paragraph b of the Bahraini Labour Law.

11 Where payment of wages is delayed by the employer for a period less than 6 months the employer must compensate the worker at the rate of 6 per cent per annum and up to a maximum of 12per cent for longer periods of delay.

12 Decree on Law No. 59 of 2018 On Amending Some Provisions of the Labor Law in the Private Sector Law No. 36 of 2012. Additionally, the public and private authorities shall release to the competent authorities the information on payment of worker wages in the amount necessary for verifying payment in accordance with the controls outlined in the Minister’s decision.

13 Article 1 of Ministerial Resolution No. 3 of 2013.

| | | |
|--|---|---|
| <p><u>END OF SERVICE GRATUITY</u></p> | <p><u>During the first 3 years of service:</u> Half a month wage for each year of service.</p> <p><u>For more than 3 years of service:</u> One month wage for each year of service.</p> <p>All end of service gratuity calculations are made pro-rata.</p> | |
| <p>FREEDOM OF ASSOCIATION</p> | | |
| <p><u>ABILITY TO JOIN TRADE UNION</u></p> | <p>All workers can join a trade union federation.¹⁴</p> | |
| <p>GRIEVANCES AND DISPUTE RESOLUTION</p> | | |
| <p><u>LODGING COMPLAINTS/ RESOLVING DISPUTES</u></p> | <p><u>Conciliation</u> Problems or disputes that arise between workers and employers may be brought to the Individual Labour Disputes Settlement Authority at the Ministry of Labour and Social Development (MOLSD).</p> <p><u>Judicial remedy:</u> Workers are able to seek judicial remedy by filing a claim with the Labour Case Administration Office. A hearing is scheduled within the two months consequent to the filing of the claim. It is possible to directly resort to the judicial remedy without having previously sought the MOLSD. Workers are exempt from Court fees.</p> | |
| <p><u>SHELTERS AND PROTECTION SERVICES</u></p> | <p>A mixed shelter ‘Migrant Worker Service Center and Shelter’ is created in November 2015 by the LMRA. It has a maximum capacity of 120 persons, men and women being in separate sections. The Service Center contains the migrant worker protection unit, physical and mental health professionals and a representative of the police anti-trafficking unit.</p> | |
| <p>SPONSORSHIP</p> | | |
| <p><u>SPONSORSHIP AND CHANGING EMPLOYERS</u></p> | <p><u>With permission of employer</u> Anytime.</p> <p><u>Without permission of employer</u> Only after the completion of 1 year service. The worker has the obligation to notify the first employer of his decision to terminate his contract by registered mail.¹⁵ Workers can lodge applications against absconding charges at the Grievances Unit Counter at the LMRA Expatriate Protection Center. Workers who start executing another employment contract while “absconding” may be fined, imprisoned, blacklisted and deported.</p> <p><u>Penalty for overstay</u> Workers who overstay must pay a standard regularization fee of BHD 15 (US\$ 40) for the first year and at the rate of BD10 (27 \$) for every additional year or fraction thereof.</p> | <p><u>With permission of employer</u> Anytime.</p> <p><u>Without permission of employer</u> Only with the permission of the LMRA.</p> <p><u>Penalty for non-compliance</u> Identical to other workers.¹⁶</p> |
| <p><u>LEAVING THE COUNTRY</u></p> | <p>No exit permit is required.</p> | |

¹⁴ Workers Trade Union Law No 33 of 2002.

¹⁵ Notice period for termination of service according to the provisions of the Law or the contract of employment concluded between the two parties, provided that it does not exceed 3 months from the specified date of transfer.

¹⁶ According to Article 195 of the Labour Law ‘No stay of execution shall be granted in respect of the monetary fines specified in this Title. The minimum sanction prescribed by law shall not be diminished under any excuse or by reason of extenuating circumstances.’