



SAUDI ARABIA

REGULATORY FRAMEWORK GOVERNING MIGRANT WORKERS¹

Updated November 2019



International
Labour
Organization

PRIVATE SECTOR WORKERS

(other than domestic workers)

DOMESTIC WORKERS

RECRUITMENT		
<u>KEY LEGISLATION</u>	Labour Law approved by Royal Decree M/51, of 2005 and its Implementing Regulations.	Ministerial Decision No. 310 of 1434 H, 2013 regulating the employment of domestic workers.
<u>RECRUITMENT FEES</u>	It is illegal to charge recruitment fees to workers.	It is not explicitly prohibited to charge recruitment fees to workers but employers cannot deduct it from workers' wages.
<u>PASSPORT CONFISCATION</u>	It is prohibited for employers to confiscate migrant workers' passports. Such confiscation is subject to a 5,000 Saudi Arabian Riyal (SAR) (US\$ 1300) fine. ²	It is not explicitly prohibited to confiscate a domestic worker's passport.
WORKING CONDITIONS		
<u>CONTRACT</u>	A written employment contract, in Arabic, is considered the official version in case of dispute.	A written employment contract, in Arabic, is considered the official version in case of dispute.
<u>MINIMUM WAGE</u>	Not applicable. ³	Not applicable.
<u>WORKING HOURS</u>	<p><u>The Rule</u> 8 hours per day or 48 hours per week.</p> <p><u>The Exception</u> The month of Ramadan.</p> <p>The number of hours may be raised to 9 hours in certain cases to a maximum of 10 hours per day.</p> <p>Workers are entitled to 30 minute breaks for rest, prayer and meals per day, at least every 5 hours.</p>	<p>Up to 15 hours per day including breaks.</p> <p>Break time is not specified but the total rest period should be at least of 9 hours.</p>

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 Increased in the 2019 ministerial order amending the Labour Law Implementing Regulations: available in Arabic at <https://mlsd.gov.sa/sites/default/files/178743.pdf>. Saudi Arabian Council of Ministers Decision No. 166 of 12/7/1421 AH Regulating Relations between Migrant Workers and Their Employers, Supreme Economic Council.

³ While Saudi Arabia does not have a minimum wage, in order for a Saudi worker to be taken into account in the Nitaqat (Saudi employment nationalization programme) points system, he or she must receive a monthly wage of no less than SAR3,000 (around US\$800).

<p><u>REST PERIODS</u></p>	<p>1 day per week on Friday in addition to the above mentioned daily breaks.</p> <p>In remote areas and in jobs where conditions require ‘continuous work’, weekly rest periods may be consolidated for up to 8 weeks, upon mutual agreement between employers and workers. Such agreement is subject to the Ministry’s approval.</p> <p>In some limited cases, including ‘unusual work pressure’, there may be an exception to the rest period requirement.</p>	<p>One day per week.</p>
<p><u>OVERTIME</u></p>	<p>Overtime is paid at a 150 per cent rate of the basic hourly wage.</p>	<p>Not provided for by law.</p>
<p><u>PAYMENT OF WAGES</u></p>	<p>Wages must be paid monthly through the Wage Protection System to an accredited bank.</p>	<p>Wages must be paid by the end of the Islamic calendar month, unless contractually agreed otherwise.</p> <p>Employers should pay in cash, cheque or deposit the wage in a bank account upon workers’ request.</p> <p>Domestic workers are not included in the Wage Protection System but all employers must register for the Household Payroll Card under which workers can withdraw salary by automated teller machine (ATM).⁴</p>
<p><u>ANNUAL LEAVE</u></p>	<p><u>During the first 5 years</u> 21 days of annual leave.</p> <p><u>For subsequent years</u> 30 days of annual leave.</p>	<p>30 days every 2 years.</p>
<p><u>OTHER REQUIREMENTS</u></p>	<p>Working outdoors is banned between 12:00pm and 03:00pm in summer, usually from 15 June till 15 September, except for oil and gas workers.</p> <p>There is a dedicated hotline to report violations of this rule.⁵</p>	<p>Workers must be given suitable accommodation, paid sick leaves and healthcare.</p>
<p><u>END OF SERVICE GRATUITY</u></p>	<p><u>During the first 5 years</u> Half a month wage per year.</p> <p><u>For subsequent years</u> 1 month per year.</p>	<p>1 month wage for every 4 consecutive years of service.</p>

⁴ The debit-like card was introduced in December 2017 and is to be mandatory for all employers as of July 2018 via the Musaned system (electronic platform for the direct hiring of domestic workers). It aims to enable domestic workers to withdraw their monthly salary through ATMs and can also be used to pay for purchases. The card is acceptable within Saudi Arabia only and it accepts deposits only from the sponsor.

⁵ Ministerial Resolution No. 3337 dated 14/05/2014.

FREEDOM OF ASSOCIATION

ABILITY TO JOIN TRADE UNION

Trade unions are not explicitly prohibited in Saudi Arabia but they do not exist in practice. However, the Labour Law permits the establishment of worker councils for Saudi nationals only.

GRIEVANCES AND DISPUTE RESOLUTION

LODGING COMPLAINTS/ RESOLVING DISPUTES

Conciliation

- *In case of worker - employer disputes:*
Amicable resolution by the Labour Offices within 21 days of the dispute arising. If the matter is not resolved, the Labour Office reports the status of the dispute electronically to the Labour Court to undertake necessary judicial procedures.
- *In cases related to domestic workers:*
Complaints are referred to a Committee for amicable resolution within 5 days. If the matter is not resolved, the Committee takes a decision within 10 days. It is possible to appeal against this decision to the Labour Court electronically.

Judicial remedy

Recently established Labour Courts in Saudi Arabia are governed by the regulations of Sharia Pleadings and are competent for disputes related to employment contracts, rights, injuries, compensation and social insurance claims.⁶ Plaintiffs can directly or through an attorney file complaints in these Courts.

Mediation reports issued by Amicable Settlement Departments of labour offices are now recognized as “enforceable documents” that can be directly filed to the enforcement judiciary, similar to the ones issued by other mediation entities.

These mediation reports can be filed online via the MoJ portal⁷ without having to visit any Court. The latter can instantly verify the documents and enforce the mediation report.

If the report includes financial claims, the enforcement judge may issue an invoice that is sent to the execution debtor’s mobile. If he/she does not settle the invoice within five days, he shall be subject to the penalties in Article 46 of the Enforcement Law, including a travel ban⁸.

The Ministry of Justice plans to provide legal aid to plaintiffs who cannot afford an attorney⁹.

Complaints by workers and employers against the General Organization for Social Insurance (GOSI) are filed with the competent agency under GOSI. It is possible to appeal against this agency’s decision to GOSI. In case the appeal is overturned, the client can approach the Labour Court.

SHELTERS AND PROTECTION SERVICES

None identified.

The Ministry of Labour and Social Development, in cooperation with the police, operates a shelter in Riyadh to assist domestic workers in claiming their wages and returning home.

Other smaller centers may also exist around the country.

⁶ Furthermore, 27 circuit courts will be established in various provinces and governorates to deal with labour cases in addition to six appellate courts which will review judgments issued by the lower courts.

⁷ www.moj.gov.sa.

⁸ <http://english.alarabiya.net/en/business/economy/2019/01/01/Saudi-justice-ministry-Labor-mediation-reports-are-now-enforceable-documents.htm>. See also: <https://www.arabnews.com/node/1429016/saudi-arabia>.

⁹ <https://www.zawya.com/saudi-arabia/en/legal/story/Exclusive-labor-courts-in-Saudi-Arabia-to-expedite-settlement-of-disputes-SNG-121627571/>.

SPONSORSHIP

SPONSORSHIP AND CHANGING EMPLOYERS

With permission of employer

At least one year of employment with current employer except if the regulations of the Nitaqat programme are adhered to by new employer.

Without permission of employer,

only in the following circumstances:

- If the employer fails to renew the worker's residency permit;
- If the employer fails to pay the worker's wages for 3 consecutive months and at any time during the year that follows the due date of the third month of delay; or
- If the worker has denounced a commercial cover-up activity involving the employer, with evidence to this effect and without involvement on his or her part.¹⁰

It appears that the worker can also move freely if moving from a Nitaqat yellow or red category sponsor to green category companies.¹¹

Penalty for non-compliance

Workers who have an absconding charge registered against them may be to arrest, fine and deportation. Deportation is usually accompanied with at least 5 year entry-ban from Saudi Arabia.

Employers who report a false 'runaway'/'absconding' case against a worker can be fined 20,000 SAR Saudi Riyals (US\$ 5300).¹²

With permission of employer

Anytime.

Without permission of employer

After 2 years at the sponsor's service, unless:¹³

- The employer fails to pay the salary for 3 consecutive or intermittent months;
- The employer is not present to receive the worker when he/she arrives in the country, or does not 'pick up' the worker within 15 days of arrival;
- The employer fails to obtain a residency permit or to renew the expired permit;
- The employer assigns the domestic worker to work for others (non-relatives);
- The employer requires the domestic worker to perform hazardous tasks;
- The employer files an 'invalid complaint' that a worker has absconded; or
- The employer fails to attend two sessions addressing a complaint filed by the worker.

LEAVING THE COUNTRY

An exit permit is required for migrant workers to leave Saudi Arabia.

¹⁰ Implementing Regulations, which came into effect in April 2016 (Ministerial Decree No. 1982).

¹¹ Nitaqat guide issued by the Ministry of Labour, Saudi rules on transfer of services.

¹² Increased in the 2019 ministerial order amending the Labour Law Implementing Regulations.

¹³ Ministerial Decision No. 605, dated 15/5/1438 H.