



Regulation for sending Afghan workers to abroad

Designed and drafted by:

Directorate of rights and labour law

Year 1384

IMPORTANT NOTE:

Please check with Afghan Ministry of Labour and Social Affairs for updated details for the hiring of Afghan workers

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Chapter 1 General provisions

Article 1:

Preface:

This regulation has been drafted based on the resolution no. (20) Dated 10.05.1384 of the secretariat of the council of the ministers for legally employing and sending Afghan workers to abroad.

Article 2:

Objective:

in order to reduce the poverty, unemployment, and to enhance material and spiritual living standard of Afghan workers, Ministry of Labour and Social Affairs with the cooperation of the ministry of foreign affairs can send Afghan workers to the countries in need of such workers according to bilateral and multilateral agreements.

Article 3:

Employment agency/ employer are obliged to provide technical and professional training opportunities to Afghan workers either within Afghanistan or in the country of destination.

Article 4:

Terms:

The following terms in this regulation imply the following meanings:

1. Afghan Worker: The workers whose employment and appointment is not possible within the (home) country.
2. Agreement: It is an indenture according to which the workers are sent to abroad.
3. Foreign country: According to this regulation means a country which is a party of the contract and needs Afghan workers.

4. **Contract:** It is a document that is signed between the employer's authorities and the Afghan worker and all working conditions, rights, benefits, obligations and authorities of both sides are placed in it.
5. **Employment organization:** Includes governmental and private organizations of the foreign country and the companies that have made investments in the foreign country.

Chapter 2
Attraction and absorption conditions
of the Afghan Workers

Article 5:

Specifications and qualifications:

Afghan workers with the following qualifications are sent to abroad:

1. Afghan nationality
2. completion of 18 years of age
3. proficiency in a craft
4. good physical and health status
5. no background and addiction of crime
6. no possibility of recruitment within the country
7. Completion of employment form in the MoLSA

Article 6:

Workers' Obligations

Workers who are sent for employment to abroad have the following obligations:

1. Basic acquaintance with the culture and traditions of the country of destination and awareness from the procedures of the employer's organization
2. Information of paragraph (1) of this article is provided by the employer through the ministry of foreign affairs while the contract is signed.
3. Commitment to observe the laws, rules, principles and traditions of the country of destination.
4. Respect beliefs and religions of the country of destination.
5. Avoiding of activities that are considered to be against the national interests of Afghanistan and the country of destination.
6. Non involvement in the political matters of the country of destination.
7. Having all legal documents for travel.
8. Avoiding from any kind of crime that provide means for breaching the commitments of the parties of the contract.

Chapter 3
Rights and Obligations of the Ministry
of Labour and Social Affairs

Article 7

Obligations

The obligations of the Ministry of Labour and Social Affairs are as follows:

1. Development of specific plans and programs for employment services and sending Afghan workers to abroad
2. Providing legal opportunities for sending Afghan workers to abroad
3. Seeking work places and opportunities in abroad
4. detection and specification of those in need of labour
5. Development of specific employment forms and establishing registrations

Article 8

Establishing a specific office and supplying its equipments, tools and work materials to arrange the following matters of the workers:

1. Providing facilities for sending the workers;
2. organizing and arranging the process of obtaining passports, visas for work and residence permit;
3. Arranging the operational matters of workers to countries of destination.

Article 9

Authorities of the Ministry of Labour and Social affairs cover the following arias:

1. signing bilateral and multilateral agreements, memorandum of understandings and contracts with the employers' management according to the enforced laws of the country;
2. Conclusion of agreements or contracts with real or legal persons and companies on seeking and providing work places and opportunities in abroad;
3. Establishing and equipping labour attaché beside the political branches of Islamic Republic of Afghanistan in the foreign countries that recruits Afghan workers
4. Monitoring and evaluation of working and living conditions and also status of wage payment, social protections and insurances of the Afghan workers in the countries of destination.
5. Solve the problem with the employer in case of any discrepancy between workers and the employer,;
6. Address the workers' status in case of any accident or natural disasters,

- and taking necessary measures through the employer;
7. revoke contracts due to the need of the country and the state to workers and arranging the returning process of the Afghan workers to their home land;

Article 10

Associate or supplementary organization:

The Implementation of the aims stated in articles 7, 8 and 9 of this regulation are arranged with the collaboration of ministry of foreign affairs and the paragraph 2 of article 8 with the support of the ministry of interior affairs.

Chapter 4 Obligations of the employer Authorities

Article 11

Obligations of the employer

The employer authorities have the following obligations:

1. employment conditions
2. organize basic training courses for social, environmental and work place acquaintance
3. make certain the pay and other benefits scale;
4. kind of employment and craft
5. Condition of meal and accommodation;
6. Duration of the employment contract;
7. Act as Guarantor of work and residence permit
8. Provide facilities of insurance and other social protections;
9. Provide (return) travel costs
10. Provide legal leaves according to their national laws and bills;
11. Determine work and residence places;
12. Act as surety of the worker
13. present license and employment background with approval of their sovereign country;
14. fix the working regime;
15. Ensure security
16. ensure opportunities to benefit from the public advantages;
17. Observe laws, rules, conventions and recommendations of the International Labour organization (ILO) and (IOM);
18. Observe the workers right to keep in touch with the political branch of Afghanistan in the country of destination and the MOLSA;
19. Observe the right of the political branch of Afghanistan in the country of destination to keep in touch with the employer authorities and their ministry of labour;
20. certify workers' employment at the end of the contract;

21. In case of death, financing burial and return costs of the departed worker to his/her home land;
22. Ensure compensation to workers in case of sustaining any health harm related to work according to the laws and regulations of the employer's country.

Chapter 5 Final provisions

Article 12

Previous migrant workers

The work relationship of the Afghan workers who have been employed in the foreign countries before the enforcement of this regulation or thereafter will be arranged according to the provisions of this regulation;

Article 13

Probable discrepancy

1. In case of any discrepancy between the worker and the employer derived from work, the issue will be referred to the political branch of Afghanistan with the involvement of the trade union of the employer side to solve the problem;
2. If necessary the political branch with participation of the representative of the ministry of labour and social affairs may pass on the issue through the ministry of foreign affairs directly to the ministry of labour and social affairs.
3. The discrepancy is resolved in accordance with the laws of the both countries, provisions of the agreement or the contract and labour related laws of ILO and IOM;

Article 14

Cancellation of the contract:

1. Cancellation of contracts or agreements take place with the agreement of both sides;
2. If any side according to the justified reasons intends to cancel the contract, is obliged to submit a 3 months advance notice to the other side;

Article 15

Provision of article 13 and 14 of this regulation must be included the terms of the bilateral and multilateral agreements or contracts mentioned in article 8 of this regulation;

Article 16

For the implementation of aims of this regulation a specific office will be established at the structure of the ministry of labour and social affairs;

Article 17

This regulation has 5 chapters and 17 articles and is enforced from the date its approval.

View points of the commission:

The draft prepared by the ministry of labour and social affairs is accepted. It should be submitted to the related authorities for completion of its process and to the council of ministers for their approval.

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