

# Kuwait

This factsheet provides a review of existing laws and regulations pertaining to the employment of migrant workers in Kuwait and has been written by the International Labour Organization Regional Fair Migration in the Middle East Project with support from DLA Piper. It was developed to increase accessibility to country-specific laws for a wide variety of stakeholders. Building Responsibly does not endorse this factsheet as best practice, and it should not be used as a substitute for legal or labor counsel. Instead, it is intended to be a practical reference point and a tool to support the work of Building Responsibly as it seeks to raise standards and employ best practices on worker welfare issues worldwide. For more information, please see the [Building Responsibly Principles](#).

This summary is based on the provisions of Kuwait's Private Sector Labour Law, No. 6 of 2010 (referred to hereafter as the 'Labour Law') and relevant regulations.<sup>1</sup> This summary does not cover specific provisions relating to employment of minors and provides only limited information on the specific requirements around the employment of Kuwaiti or GCC nationals.



## 1. RECRUITMENT AND WORK PERMITS

### 1.1 Are workers allowed to pay recruitment fees?

The law does not explicitly prohibit charging migrant workers' fees, but based on accepted practice, the expenses incurred in relation to recruitment are regarded as employer expenses.<sup>2</sup>

### 1.2 How are recruitment agencies regulated?

There are no specific regulations on recruitment agencies, except on those who recruit domestic workers.<sup>3</sup> Only Kuwaiti nationals are allowed to own recruitment agencies.

### 1.3 Is there a requirement for written contracts?

No. In the absence of a written contract, the worker may establish his rights by all means.<sup>4</sup> However, any written employment contract must be drafted in Arabic and in three copies: one for the employer, one for the worker, and one for the Public Authority for Manpower (PAM).

### 1.4 Is there a requirement for the written contract to be in a language that the worker understands?

No. The contract is required to be in Arabic, while the one deposited at PAM is in Arabic and English. The contract may be translated into an additional language, but in the event of a dispute, the Arabic text shall prevail.

### 1.5 Is it legal for an employer to keep a worker's passport?

No. It is prohibited for private sector employers to hold travel documents of their employees.<sup>5,6</sup>

### 1.6 What are the procedures for obtaining a work permit?

Employers must apply to the PAM to obtain a permit to employ non-Kuwaiti workers.<sup>7</sup> The conditions that must be met are: (a) unavailability of a Kuwait worker able to perform the job, (b) need for the non-Kuwaiti worker based on the employer's economic activity/projects, and (c) a match between worker and employer.<sup>8</sup> The employer must apply for a work permit to the PAM within a month of the worker's arrival in

Kuwait, attaching the worker's passport, original work permit/entry visa issued by the Consulate of Kuwait in the country of origin, and the employment contract. The work permit is valid for three years.<sup>9</sup>

Article 10 of the Labour Law prohibits employers from recruiting workers and then failing to provide them with full employment at their own company.<sup>10</sup>

### 1.7 What is Kuwaitization and what are the requirements for companies?

Kuwait has a system of quotas for Kuwaitis, though this is largely in the public sector. A national Kuwaitization plan, which has started to be enforced, aims to eliminate all non-Kuwaiti employment in IT, administrative support, arts, information, and public relations by 2022. Since 2001, Kuwait has implemented a wage subsidy system known as da'm al-'amala ("wage support").

PAM made an announcement that as of 1 July 2018, it will not issue new private sector work visas to foreign nationals who hold university certificates and are under 30 years old. However, this has not been implemented in practice yet.<sup>11</sup>

### 1.8 Are there other employment related restrictions?

There are specific restrictions for women's employment.<sup>12</sup>

- It is prohibited to employ women in hazardous jobs or harmful industries.
- It is prohibited to employ women in jobs considered immoral or in places that provide services exclusively for men.
- It is prohibited to employ women at night during the period from 10 p.m. to 7 a.m. Sectors excluded from late-night work restrictions include hospitals, sanatoriums, private treatment homes, and establishments, based upon a resolution by the Minister of Social Affairs and Labour which will be issued. In these cases, the employer is required to provide female workers with safe transportation.
- Pregnant women workers are entitled to paid maternity leave of 70 days and unpaid leave up to four months. Women workers cannot be fired during their maternity leave.



## 2. SPONSORSHIP

The Foreigners' Residence Law requires all migrant workers to have a local sponsor who must also be their employer. It is the primary legal source for Kuwait's sponsorship system as well as its implementing regulations. The law does not use the term 'sponsors' for employers but refers to them instead as recruiters, whereas the implementing regulations do refer to employers as sponsors.<sup>13</sup>

### 2.1 How do workers and employers terminate a contract?

An employer can terminate a worker's contract without notice, compensation, or benefit if the worker:<sup>14</sup>

- committed a mistake that resulted in a large loss for the employer,
- obtained employment through cheating or fraud,
- disclosed company secrets that led to loss.

An employer can terminate a worker's contract if the worker:<sup>15</sup>

- is found guilty of a crime that relates to honor, trust or morals,
- committed an act against public morals at the work site,
- assaulted a colleague, employer, or deputy,
- breached or failed to abide by any of the obligations imposed on him by the contract and the provisions of this Law,
- is found to have repeatedly violated the instructions of the employer.

In all cases, the employer shall inform the Ministry about their decision to dismiss the employee and the reasons behind it, and the Ministry shall inform the 'Manpower Restructuring Team.'

The worker is considered to have resigned if he has been absent from work for 7 consecutive days or 20 separate days within a year without a valid excuse.<sup>16</sup>

The worker has the right to terminate the work contract without prior notice if:<sup>17</sup>

- the employer does not abide by the terms of the contract or the provisions of the law,
- the worker was assaulted by or by provocation from either the employer or his deputy,
- continuing work will endanger his safety and health pursuant to the decision of the medical arbitration committee at the Ministry of Health,
- the employer or the deputy committed an act of cheating or fraud with regard to work conditions upon signing the contract,
- the employer has accused the worker of committing a punishable act and the final verdict acquitted the worker,
- the employer or his deputy commits an act that violates public morals against the worker.

Contracts of unlimited duration can also be terminated for a valid reason provided a minimum of three months' notice is provided for employees paid on a monthly basis or a notice of one month for all other employees.<sup>18</sup> If the contract is terminated by the employer, the worker shall have the right to be absent one day or eight hours per week in order to search for another job and is entitled to his remuneration for the day or hours of absence. The worker decides on the day or hours of absence and notifies the employer at least one day prior to such absence.<sup>19</sup>

If a fixed-term contract is terminated prior to its end date by one party, the party is entitled to damages, capped at the residual term of the limited contract.<sup>20</sup>

When an employment contract is terminated or expires, the employer is required to pay an end-of-service benefit equivalent to 15 days' remuneration for each of the first five years of service and one month's remuneration for each additional year for workers paid on a monthly basis.

Workers paid otherwise are granted 10 days' remuneration for the first five years and 15 days' remuneration for every additional year.

However, if the work relationship ends due to the worker's resignation, he shall, in this case, be entitled to:

- half of the award after a service of not less than three consecutive years and not more than five years;
- two-thirds if his service is in excess of five successive years but less than ten years;
- the full award if his service amounts to ten or more years.

### 2.2 Protected grounds for dismissal

An employment contract cannot be terminated without a valid reason or due to the worker's union activity or when the worker is enjoying one of the leave periods stipulated in the Labour Law.

An employee may not be terminated due to sex, origin, or religion.

### 2.3 How do workers transfer to another employer?

Since 2016, all migrant workers in the private sector can change employers without the first employer's consent (or "no objection certificate") after three years of service, provided they give 90 days' notice to their current employers.<sup>21</sup> With the consent of the current employer, switching jobs is possible after one year (a condition which may be waived for a fee of 300 KWD<sup>22</sup>). The worker may petition PAM to request a sponsorship transfer without the consent of the sponsor only after three years have passed since the date of issuance of the work permit. If the worker wishes to transfer before this period but does not have the consent of the initial employer, the worker may file a request with the Labour Relations Department of the PAM.

However, during the agreed probation period (no more than 100 days), either party can terminate the contract (without notice).<sup>23</sup>

It is forbidden to change sponsorship for workers in the Free Zone or working for foreign investors in certain specific sectors.<sup>24</sup>

### 2.4 Can workers leave the country without permission of the employer?

Yes. There is no obligation to get permission from the employer except if the person works in the Kuwaiti public sector.



## 3. WAGES

### 3.1 Is there a minimum wage?

75 KWD (approximately US\$250) per month.<sup>25</sup> It is subject to ministerial decision to update this amount every five years based on the inflation rate, the industry, and the nature of the job.

### 3.2 How is payment to be made?

Wages must be paid at least on a monthly basis through the Wage Protection System to an accredited bank.

### 3.3 What are the penalties for late payment of wages?

The First Instance Court has jurisdiction over these cases and can fine employers who delay the payment of salaries by up to one percent of the value of the unpaid salaries every month.<sup>26</sup>

### 3.4 Are deductions from pay permitted?

The employer can make deductions for 'penalties' but this must be based on PAM's approval and as per the observations of the 'competent organization' or the general union.<sup>27</sup> The list of penalties must be affixed at a conspicuous location at the workplace. Only one penalty may be imposed for each violation. The worker may not be punished for any act he committed if such act is proved 15 days after the date of committing such act. The worker may not be punished for an act he committed outside the work site, unless such act is related to the work.

The worker shall be notified in writing of the penalties imposed upon him<sup>28</sup>, and any deductions shall not exceed the equivalent of five days' wage per month.<sup>29</sup> The employer shall keep all remuneration deductions in a fund allocated for use in the social, economic, and cultural matters that benefit the workers.<sup>30</sup>

It is not allowed to deduct more than 10 percent of the worker's remuneration for the payment of loans or debts due to the employer who shall not impose any interest thereon.<sup>31</sup> Not more than 25 percent of the remuneration due to the worker may be attached, waived, or deducted for the debt of alimony or the debt related to food, clothes, or other debts, including debts toward the employer.

The worker shall not be obliged to buy food or commodities from specific outlets or products produced by the employer.<sup>32</sup>



## 4. WORKING CONDITIONS AND OCCUPATIONAL HEALTH

### 4.1 What are the working hours?

Working hours are eight hours per day for a total of 48 hours per week, with the exception of the month of Ramadan where working hours are reduced to six per day and 36 per week.

Working hours may be decreased by ministerial decision for hard or hazardous jobs.

Employees are entitled to one hour of rest after five hours of work, not included in working hours.

It is prohibited<sup>33</sup> to work outdoors from 1 June to 31 August between 11 a.m. and 4 p.m.

Women with children are entitled to an hour of additional break per day to feed their child.<sup>34</sup>

### 4.2 What are the regulations on overtime?

Overtime provisions range from 125 percent to 200 percent of basic wage plus a day off in lieu. Overtime is limited to two hours a day or 180 hours per year and three days per week or 90 days per year.

Workers are entitled to 24 continuous hours off after every six working days. Employers may require a worker to work during a day off. If this occurs, a worker is entitled to at least 150 percent of the daily rate and another day off in lieu or any other compensation agreement that is more beneficial to the worker.

### 4.3 What are the requirements for personal protective equipment?

The employer shall further provide safety and occupational health aids required for this purpose as stipulated in the resolution issued by the competent minister after considering the opinion of competent authorities. These must be provided free of charge to the worker.<sup>35</sup>

### 4.4 What are the requirements for access to water, toilets and washing facilities on site?

A toilet shall be provided for every 25 workers. If there are women workers, one toilet shall be provided for every 15 women. Additionally, one washing basin for every 10 workers and one shower for every 10 workers in jobs that lead to excessive dirt shall be provided.

One clean, cold drinking water dispenser with specific filtering system shall be provided for every 20 workers.<sup>36</sup>

### 4.5 What are the requirements for labor accommodation?

In remote locations, employers must provide workers with suitable accommodation and means of transportation to such remote areas free of charge. In the event that no accommodation is provided, the employer shall pay them an appropriate accommodation allowance.<sup>37</sup>

The Kuwait Municipality does not allow migrant workers to rent housing from Kuwaitis.

The employer has to equip every housing provided to employees with individual lockers to store personal items, proper ACs, an individual bed and sheets for each worker. It is prohibited to use bunk beds.<sup>38</sup>

Additional regulations are stated in the 2010 Ministerial Decree concerning kitchens, water, and temporary accommodation provided to workers.

### 4.6 What are the regulations on occupational safety and health?

Employers are obliged to take all precautionary safety measures to protect their employees against physical hazards and occupational diseases in the workplace. Employers are obliged to provide workers with the required safety and health instruments and kits, as identified by the competent ministry. It is prohibited for employers to deduct any fees related to the above-mentioned equipment from workers' salaries.<sup>39</sup> Before workers begin, the employer has to inform them about the hazards to which they will be exposed and the necessary protective measures to use.

The Minister is responsible for issuing a decision identifying the activities where special equipment and tools to protect worker safety and health are compulsory. Within these 'tools,' there is a special reference to the appointment of specialized technicians or specialists to control the compliance with safety and occupational measures.<sup>40</sup>

The Municipality of Kuwait City enacted a decision making the use of scaffolding compulsory in carrying out any work two meters or more above ground level. All construction companies must use metal scaffolds. Wooden scaffolds are permitted for work on private homes. The decision details safety requirements, notably with reference to the



## 5. ORGANIZING AND COLLECTIVE ACTION

### 5.1 Are trade unions permitted?

Yes, unions are permitted but can only be formed by Kuwaiti workers (though migrant workers can join).<sup>41</sup>



## 6. ACCESS TO COMPLAINTS MECHANISMS

### 6.1 What are the mechanisms for individual complaints?

Workers must lodge a dispute at a local PAM office (there are six in total in Kuwait). A PAM investigator will try to mediate an outcome. If no settlement is reached within a month, the PAM investigator will refer the case to the Civil Court (Labour Circuit). All cases will be free of judicial charges (but workers may still need to pay for a legal representative).<sup>42</sup>

### 6.2 What are the mechanisms for collective complaints?

- The first step is negotiation between the employer or his representative and workers or their representative. The competent ministry shall delegate a representative to attend the negotiation as controller.<sup>43</sup>
- In the event that direct negotiation fails to lead to a solution, either party to the dispute may submit to the ministry a request to settle the dispute amicably through the Collective Work Disputes Reconciliation Committee established by a decision of the Minister of Labour.<sup>44</sup>
- The Reconciliation Committee shall hear the dispute within one month after submission of the application. In the event that the Reconciliation Committee is unable to settle the dispute within a specific period of time, it shall refer the dispute, or the unsettled part thereof, to the Arbitration Panel within a week after its last meeting.
- The Arbitration Panel shall hear the dispute within 20 days from the date of submission of the documents to the Clerks Department and shall have all the powers of the Court of Appeal in accordance with provisions of the law regulating the judicature and the law of civil and commercial procedure. The panel's verdicts shall be final; however, the Ministry may have the power to intervene.
- The disputing parties shall not be allowed to suspend work, whether entirely or partially during direct negotiations or when the dispute is pending before the Reconciliation Committee or the Arbitration Panel or upon interference by the Ministry.<sup>45</sup>
- The Kuwait Society for Human Rights operates a hotline (222151150), available in Arabic, English, Filipino, Hindi, and Urdu, as well as the e-platform *TogetherKW.org* in order to help migrant workers submit complaints and understand their legal rights.

### 6.3 What are the restrictions on disciplinary action?

Employers are not permitted to take disciplinary action against workers unless:

- The worker is notified in writing of the act attributed to him;
- The worker has opportunity to have his statement heard, his defense investigated, and the minutes of the investigation kept in his personnel file;
- The worker is notified in writing of the penalties imposed upon him;
- And the worker is notified in writing of the punishment that he may be exposed to in the event of repetition of the violation.



## 7. SUBCONTRACTING REGULATIONS

### 7.1 How is subcontracting regulated?

If the employer subcontracts work or any part the work to another employer 'under the same work conditions,' the employer to whom the work is assigned shall treat both the subcontracted workers and those of the main employer equally.<sup>46</sup>



## 8. ACCESS TO MEDICAL CARE

### 8.1 What medical care must the employer provide to workers?

The employer is obliged to provide workers the necessary medical services and first aid kits, as established by the Minister of Health.

Since 2013, Kuwait has been developing a separate health system for foreigners. Migrant workers must pay up to 50 KWD per year to the Ministry of Health in order to receive essential medical services at Public Hospitals. They are also required to pay additional fees for medical procedures, including surgery, in-patient care, and radiology examinations. Visits to a public clinic require payment of a 5 KWD fee for foreigners.



## 9. SOCIAL SECURITY

### 9.1 Is there mandatory social security for migrant workers?

Employers must arrange required insurance coverage for workers with insurance companies against work injuries and occupational diseases.<sup>47</sup>

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- 1 Ministerial Decree on Working hours, No. 189 of 2010. Ministerial Decree on Occupational diseases, No. 197 of 2010. Ministerial Decree on Occupational safety measures, No. 198 of 2010. Ministerial Decree on Housing, No. 199 of 2010. Ministerial Decree on Accidents and occupational illnesses, No. 204 of 2011, Ministerial Decree on Work accidents and illnesses, No. 206 of 2011, Ministerial Decree on List of measures of safety standards, No. 208 of 2011. Ministerial Decree on List of occupational diseases, No. 216 of 2012. Ministerial Decree on First aid kits, No. 845 of 2015. Ministerial Decree on Working signs, No. 224 of 2014.
  - 2 Labour Law, Article 10 "The Minister shall issue a resolution setting forth the procedures, documents and fees that shall be paid by the employer".
  - 3 The latter are regulated under Law No 68 of 2015 on domestic work.
  - 4 Labour Law, Article 28. The text does not impose a mandatory written contract and has no specific provisions for foreigners.
  - 5 Workers can use a summary judgment procedure to get access to their passports in case of confiscation. Some appeals to the High Court of Appeal have resulted in large penalties for employers including Cassation Division of the High Court of Appeal at its session of 27 November 1989 on appeals Nos. 16 and 18 of 1989 in both of which a worker was awarded compensation of KD 1,000 (equivalent to US\$ 3,462.60) in respect of sequestration of his passport, as well as similar rulings in cassation appeal No. 127/2003, First Civil Division, session of 22 December 2003, and cassation appeal No. 146/2004, Second Labour Division, session of 19 December 2004.
  - 6 Art. 2, 5 & 6, Kuwaiti Ministerial Decree No. 166 of 2007 Concerning the Prohibition of Confiscating Travel Documents of Workers in the Private Sector. Ministerial Decree 143 of 2010, Article 1.
  - 7 Labour Law, Articles 9 and 10. Ministerial Decree 552 of 2018 on regulating rules and procedures for granting work permit . Public Authority of Manpower Establishment Law (No. 109 of 2013), Article 3.
  - 8 Ministerial Decree 552 of 2018, Article 26.
  - 9 Ministerial Decree 552 of 2018, Article 28.
  - 10 Labour Law, Article 10. Ministerial Decree 552 of 2018 on regulating rules and procedures for granting work permit.
  - 11 See <https://www.lexology.com/library/detail.aspx?g=7d562dcb-c85c-4eb9-911e-f6b7228d0b62>.
  - 12 Labour Law, Articles 22, 23, 24, 25.
  - 13 Kuwaiti Amiri Decree No. 17 of 1959 issuing the Foreigners Residence Law, Article 15 (bis).
  - 14 Labour Law, Article 41.
  - 15 Labour Law, Article 41B. The text does not specify whether the dismissal can be without notice, but the employer cannot deprive the worker of his end of service benefit.
  - 16 Labour Law, Article 42.
  - 17 Labour Law, Article 48.
  - 18 Labour Law, Article 44.
  - 19 Labour Law, Article 44.
  - 20 Labour Law, Article 47.
  - 21 Ministerial Decree 378 of 2016.
  - 22 Ministerial Decree 134 of 2015 (government sector) and 135 of 2015 (private sector).
  - 23 Labour Law, Article 32.
  - 24 Administrative Decision No. 842 of 2015.
  - 25 Ministerial Decree 14 of 2017.
  - 26 Labour Law, Article 146 (based on 2016 amendment).
  - 27 Labour Law, Articles 35 and 36.
  - 28 Labour Law, Article 37.
  - 29 Labour Law, Article 38.
  - 30 Labour Law, Article 40.
  - 31 Labour Law, Article 59.
  - 32 Labour Law, Article 60.
  - 33 Ministerial Decree No. 535 of 2015.
  - 34 Labour Law, Article 25.
  - 35 Labour Law, Article 83.
  - 36 Ministerial Decree No. 22, respecting the safety precautions to be taken against occupational injury and disease, Articles 17 and 18. Ministerial Decree No. 199 of 2010, Article 6.
  - 37 Labour Law, Article 34.
  - 38 Ministerial Decree No 199 of 2010, Article 6.
  - 39 Labour Law, Articles 83.
  - 40 Labour Law, Article 85.
  - 41 Labour Law, Article 98 and 99.
  - 42 Labour Law, Article 144.
  - 43 Labour Law, Article 124.
  - 44 Labour Law, Article 125.
  - 45 Labour Law, Article 132.
  - 46 Labour Law, Article 33.
  - 47 Labour Law, Article 88.