

Bahrain

This factsheet provides a review of existing laws and regulations pertaining to the employment of migrant workers in Bahrain 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.

It is based on the provisions of Law No. 36 of 2012, Labour Law in the Private Sector (referred to hereafter as the “Labour Law”), supplemented by various resolutions and decrees, particularly by the Ministry of Labour and Social Development, the Labour Market Regulatory Authority (LMRA), and the Ministry of Health. The Labour Law does not apply to certain categories of workers, including civil servants and public level entities that are subject to the Civil or Military Service Regulations. Domestic workers and agricultural workers are only eligible for a subset of rights under the Labour Law. This summary does not cover specific topics relating to employment of minors and includes only limited information on the employment of Bahraini or GCC nationals.



1. RECRUITMENT

1.1 Are workers allowed to pay recruitment fees?

Yes. There is no prohibition currently on workers paying fees for their recruitment.

1.2 How are recruitment agencies regulated?

Recruitment agencies and labor supply companies are regulated by the Labour Market Regulatory Authority (LMRA).¹ Recruitment agencies are defined as an establishment which searches for a suitable worker for an employer and facilitates the conclusion of an employment contract between the two parties. Labor supply companies are defined as a company authorized to supply workers to a third party for a specific period or to fulfill a certain assignment without supervision by the employer (supplier) on the execution of work.²

1.3 Is there a requirement for written contracts?

Yes. While there is no standard contract for workers in the private sector, there must be a contract in place which includes the following information:

- the employer’s name, address of workplace, and trade register number;
- the worker’s name, date of birth, qualifications, job or occupation, residential address, nationality, and necessary personal identification documents;
- the nature, type and duration of the contract (for fixed-term contracts);
- the wage, payment frequency, and whether the benefits will be in cash or in kind.³

Requirements regarding written contracts are to be revised by the Minister in 2018.

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

No. The contract must be in Arabic in two copies, one for each party. If the contract is translated, the translated version must be attached.

Bahraini Labour Law permits the absence of a written contract, in which case the worker may prove his rights through all means of proof.

The law does not specify which version would prevail in case of conflict.

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

No, it is illegal for an employer to keep a worker’s passport. Withholding a worker’s passport is considered criminal misappropriation and breach of trust. Workers may contact the Ministry of Justice if their passport has been withheld.

However, it is possible for a worker to keep his documents with the employer. The law does not specify whether this includes passports or IDs and does not detail if or how the worker gives his consent for such a deposit.⁴

1.6 What are the procedures for obtaining the work permit?

Work permits are managed by the LMRA. The Expatriate Management System (EMS) allows the employer to complete applications for new work permits, work permit renewals, or change of workers’ occupation.

1.7 What is Bahrainization and what are the requirements for companies?

The LMRA imposes Bahrainization targets for employment of Bahraini nationals within the private sector, based on the minimum and maximum number of migrant workers recruited, segmented by economic activity and size of economic unit. The LMRA also institutes a Parallel Bahrainization Rate system, allowing companies who are not in compliance with Bahrainization quotas to pay an additional amount to recruit expatriates or renew the visas of existing expat employees. The LMRA website hosts a Bahrainization Calculator, enabling employers to check if they meet the minimum quotas for employment of Bahrainis in

their establishment. Resolution No. 27 of 2016 states that an employer who does not meet Bahrainization quotas is required to pay 300 Bahraini dinar (BHD), in addition to the regular fees for renewing or issuing a new visa. The LMRA will collect the fees in proportion to the required work permit/visa validity period. The fees apply to the renewal of work permits.

1.8 Are there other employment-related restrictions?

There are specific restrictions for women's employment.⁵

- Restrictions to female employment are defined by ministerial decree and include night work and hazardous labor.
- Women workers cannot be fired due to marriage or during their maternity leave.
- Pregnant women workers are entitled to paid maternity leave of 60 days and unpaid leave of 15 days. It is prohibited to employ women during the 40 days following the delivery.



2. SPONSORSHIP

2.1 How do workers and employers terminate a contract?

Either party may terminate the contract following notification of at least 30 days to the other party. The notice must be sent in writing, and acknowledgement of receipt must be obtained. If the contract is terminated without abiding by the notice period, the party terminating the contract shall give the other party compensation equivalent to the worker's wage corresponding to the notice period.

The worker can terminate the contract without notice if the employer or a representative of the employer commits the following:

- assaults the worker, whether verbally or physically;
- commits an "ethical prejudice against the worker or any of his family members."⁶

The worker can terminate the contract with notice⁷ if the employer:

- violates essential obligations in the law, labor contract, or work regulations at the company;
- deceives the worker regarding the working conditions or circumstances in such a way that the worker would not have agreed on the labor contract without the deception.⁸

The employer can terminate a contract without notice or compensation in the following cases:

- the worker impersonated another identity or submitted false certificates or recommendations;
- the worker committed any fault which "caused serious material loss to the employer," provided that this was reported to the authorities within two working days;
- the worker, despite written warning, failed to comply with written instructions related to worker and workplace safety;
- the worker is absent without reasonable cause for more than 21 non-consecutive days, or ten consecutive days in one year;
- the worker fails to perform essential obligations under the contract;
- the worker discloses work-related secrets without authorization;
- a final judgement is rendered against the worker for an offense or misdemeanor prejudicing honor, trust or public ethics;
- the worker is found, during working hours, to be under the influence of alcohol or drugs, or committed an 'immoral act at the workplace', or assaulted the employer, other workers, or clients;
- the worker fails to abide by the law regarding the right to strike;
- the worker is incapable of performing the work in the labor

contract, for reasons such as cancellation of the work permit or loss of qualifications authorizing him to perform the work that was agreed upon

- the worker's total inability to execute the duties of work.⁹

The employer can terminate the contract without compensation if the worker reaches the age of 60, unless otherwise agreed between the parties.¹⁰

When an employment contract is terminated or expires, the employer is required to pay an end-of-service benefit equivalent to a half-month wage for each of the first three years of service and a one-month wage for each of the following years to workers who are not subject to the provisions of Social Insurance Law. Fractions of years are calculated pro rata.

2.2 Protected grounds for dismissal

Termination of the contract by the employer is deemed arbitrary if it is due to any of the following circumstances:

- based on the worker's sex, color, religion, ideology, marital status, family responsibilities, pregnancy, delivery of child, or breastfeeding;
- a worker's participation in or affiliation with a trade union and its activities;
- if a worker submits a complaint against the employer;
- if a worker exercises his/her right to take leave in accordance with the law;
- the garnishment of the worker's entitlements with the employer;¹¹
- if the termination is for disciplinary reasons without abiding by the provisions of the 2012 Law, the decisions related to its implementation, the work regulation, and the regulation on sanctions at the establishment;¹²
- if a worker has limited or no competence and the employer has not provided the worker with appropriate chance and time to reach the required level.¹³

2.3 What is the process for the worker to transfer to another employer?

Prior to the expiry date or cancellation of his or her work permit, the worker can change employers without the consent of the first employer but only after completing one year of the contract.¹⁴ The worker shall inform the first employer, by registered mail with recorded delivery, during the specified notice period for termination of service according to the provisions of the Law or the contract of employment concluded between the two parties. The notice period cannot exceed three months from the specified date of transfer.

In August 2017, the Government of Bahrain introduced a new "flexible" work permit for irregular migrant workers, allowing them to legally apply for work permits without a sponsor for two years. Under the scheme, which is not available to those who already have a sponsor or had one until September 2016, applicants must cover their own annual work permit fees of BHD 200, healthcare fees of BHD 144, and a monthly social insurance fee of BHD 30 to be processed at any branch of the Bahrain Financing Company (BFC). The expenses also include a BHD 90 deposit to cover the price of a flight ticket to the worker's home country.

Flexible visa holders are able to work for multiple employers simultaneously, individuals, or organizations, and can essentially be "self-employed" rather than be tied to a "kafeel" or sponsor. The LMRA stated it plans to issue 20,000 "flexi-permits" every month.

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

Yes. Bahrain does not require migrant workers to obtain an exit permit to leave the country. However, migrant workers need to have legal residence and can be prevented from departing if they are involved in legal proceedings or have unpaid debt.



3. WAGES

3.1 Is there a minimum wage?

No. There is no minimum wage for migrant workers. Wages are determined in accordance with the individual or collective labor contract or the work regulations at the company.¹⁵ Discrimination in wages based on sex, origin, language, religion, or ideology is prohibited.¹⁶

3.2 How is payment to be made?

Workers receiving a monthly wage must be paid at least once a month.¹⁷ The employer must ensure that the worker signs the register as proof of his or her receipt of the wage, the statement of wages, or a receipt given for this purpose.¹⁸ Alternatively, payment of wages can be made by transfer to a bank of the worker's request.^{19,20} Upon termination of employment, a worker must immediately be paid his or her outstanding wages, unless he/she terminated the contract, in which case the employer has seven days to pay.²¹

3.3 What are the penalties for late payment of wages?

Any delay in payment of wages results in the following penalties:
For delay of payment of up to six months: additional payment of an annual compensation equivalent to 6 percent of the wage.
More than six months' delay: from 7 percent of the wage with an increase of 1 percent for each month of delay (up to 12 percent of the wage per year).²²

3.3 Are deductions from pay permitted?

Yes. An employer can deduct from a worker's wage any amount equivalent to the damage caused to goods or materials at his disposal. The amount cannot exceed five days of wage per month.

An employer can deduct up to 10 percent of the worker's wage in repayment of any amounts loaned to the worker during the validity period of the contract, including wages paid in advance and loans granted.^{23,24} Employers cannot charge interest. However, the worker may bear the real administrative expenses incurred on the loan. If the worker leaves the job before repaying the loan, the amount borrowed can be offset against the salary owed to him or her by the employer.



4. WORKING CONDITIONS AND OCCUPATIONAL HEALTH

4.1 What are the working hours?

A worker can only be effectively employed for eight hours a day unless otherwise agreed upon, but it must not exceed more than 10 hours a day. The worker cannot be employed for more than 48 hours per week and must receive a weekly day of rest of not less than 24 hours, which should be Friday but can be replaced by another day for some workers.²⁵

An employer may require a worker to work on his or her weekly day of rest or a public holiday, in which case the worker has the choice of either receiving an additional wage equivalent to 150 percent of the normal wage,²⁶ or another day in lieu. Note that a worker cannot be employed on his/her weekly day of rest for more than two consecutive days without his/her consent.²⁷

The Minister may issue a resolution to increase minimum working hours for certain categories of workers/industries or permit continuous work without rest periods, provided that the period of presence at the workplace does not exceed 12 hours per day.

Maximum work hours for Muslims are decreased during Ramadan to six hours per day and 36 hours per week.

There must be a break(s) of at least half an hour for prayer, meals, or rest, and a worker must not be required to work for more than six consecutive hours. Breaks are not calculated as working hours except for women breastfeeding for six months or taking care of their less than one-year-old child. Women in this situation are entitled to two half-hour breaks per day.²⁸

There is a ban on outdoor construction work during the months of July and August between 12 p.m. to 4 p.m., with penalties of imprisonment for a period not exceeding three months, and a fine of BHD500-1,000.²⁹

Article 1 of Ministerial Resolution No. 3 of 2013 designates that between 12 p.m. to 4 p.m. from July 1 until August 31, employers cannot require their workers to carry out any sort of work under direct sunlight.

4.2 What are the regulations on overtime?

For each additional working hour, the worker shall receive a wage equivalent to at least 125 percent of his or her due wage for hours worked during the day, and at least 150 percent for hours worked during the night.

4.3 What are the requirements on personal protective equipment? Is there a requirement for an occupational safety and health (OSH) policy?

The employer must:

- provide proper training to all workers;
- provide suitable supervision for all operations;
- make available necessary information and directives on safety and health in Arabic and other languages understood by the workers;
- maintain personal protective equipment appropriate to the nature of work;
- provide first aid services and medical intervention in urgent and immediate cases in the workplace.³⁰

The employer cannot deduct payment from workers for personal protective equipment.

High-risk³¹ and medium-risk establishments or enterprises employing 50 or more workers in one site shall draw up a special OSH policy in consultation with the workers or their representatives, which is subject to continuous review.³²

Companies with more than 500 workers must have specialized OSH staff, including a committee comprising the manager, department/section managers, physician, senior OSH officer, and two worker representatives.

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

The employer has the obligation to provide workers with food and accommodation when employed in locations far from urban areas, such as appropriate meals and adequate accommodation.

Monetary allowances may be substituted by meals upon ministerial decision. Such decision is also required to determine the type and quantity of food served during each meal.³³

4.5 What are the requirements in labor accommodation?

The employer has to provide workers with appropriate means of transportation.³⁴

4.6 What are the regulations regarding occupational safety and health?

The Ministry of Labour and Social Development is the competent national authority for safety and health at work. There are specific provisions regarding:

- vibration and noise (vibrations shall be limited to a level of 90 decibels or less);³⁵
- working at height (In case of work at a height of two meters or more, safety precautions shall be taken);
- working in confined spaces;³⁶
- risks arising from poor maintenance of workplace facilities (including fire prevention)³⁷ and asbestos.³⁸



5. ORGANIZING AND COLLECTIVE ACTION

5.1 Are unions permitted?

All workers can join a trade union federation.³⁹ Under Article 8 of the Labour Law, workers shall have the right to strike to defend their interests in accordance with the controls set forth by virtue of the law. The exercise by the worker of this right shall entail the suspension of the labor contract throughout the strike period.⁴⁰

An employer cannot terminate a worker's contract based on the worker's representation in a trade union association. Collective bargaining is to be held at the level of the establishment, but can also be at the activity, industry/occupation, or national level.



6. ACCESS TO COMPLAINTS MECHANISMS

6.1 What are the mechanisms for individual complaints?

Migrant workers are able to access dispute resolution mechanisms through an Individual Labour Disputes Settlement Authority at the LMRA, which can settle disputes between worker and employer with consent of both participants. Workers are able to seek judicial remedy by filing a claim with the Labour Case Administration Office and are exempt from court fees.⁴¹ The period between filing the lawsuit and the hearing should be no more than two months; however, it can be extended by a further two months at the request of the Judge.

Cases of disagreement regarding costs of treating a workplace injury must be referred to the Medical Committee, which decides on the following:

- whether the worker suffers from an occupational disease;
- the injured worker's level of disability;
- the completion of the injured worker's treatment;
- the settlement of the disagreement on the determination of the duration and cost of the treatment of the worker.

A worker can appeal a decision of this committee to the Appellate Medical Committee within 15 days of receiving notification of the decision.⁴²

6.2 What are the mechanisms for collective disputes?

If a dispute arises between one or more employer and all or a group of workers and cannot be resolved within 60 days, either party can request the Ministry of Labour and Social Development to submit the dispute to the Council of Settlement of Collective Disputes. If not settled within 60 days of submittal, either party may request the Ministry to submit the dispute to the Arbitration Court.⁴³



7. SUBCONTRACTING REGULATIONS

7.1 How is subcontracting regulated?

No regulations identified.



8. ACCESS TO MEDICAL CARE

8.1 What medical care must the employer provide to workers?

An employer must arrange for a migrant worker to have a medical examination by a medical committee to prove his/her health and fitness to work within 30 days of his arrival to Bahrain. ^{44 45} Furthermore, an employer must provide basic healthcare for all workers he hires, irrespective of their number, including through subscription in the basic healthcare scheme for workers. A committee at the Ministry of Health ascertains the employer's compliance with these requirements.

Workers must be assessed through regular medical check-ups for the purpose of early detection of health problems.⁴⁶

Establishments employing more than 50 workers, upon consent of the Medical Committee, may contract with one of the licensed health insurance companies or install an integrated medical unit at the workplace, which must be licensed by the National Health Regulatory Authority.

In addition to providing basic health care in the workplace, the employer must pay the Ministry of Health BHD 72 per year for every non-Bahraini worker to ensure that basic healthcare is provided for all workers.⁴⁷

The employer is also responsible for providing a means of medical aid and emergency treatment to workers.⁴⁸



9. SOCIAL SECURITY

9.1 Is there mandatory social security for migrant workers?

Although migrant workers are not eligible for social security under

the Social Insurance Law, they are entitled, upon termination of the contract, to a reward equivalent to the wage of half a month for each year of service for the first three years and the wage of one month for each subsequent year, including pro rata payment for fraction of a year).⁴⁹ They also benefit from the provisions of Title XI related to compensation for work injuries and occupational diseases even though they do not benefit from the provisions of the Social Insurance Law.⁵⁰



10. OTHER

10.1 Disciplinary action

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

- the worker is notified in writing of the basis for such disciplinary action;
- the worker is questioned by the employer and been given the opportunity to present a defense, if any; and
- the minutes of the worker's responses to the questions of the employer and the worker's defense, if applicable, are recorded and placed in the worker's file.
- The worker is notified in writing of the penalties he has been subjected to following the investigation and has the right to object within seven days from notification of the decision.⁵¹

The investigation prior to the disciplinary action must take place within seven days from the date the employer discovered the violation.

The worker has the right to be assisted by his union's representative during the investigation should he notify the employer in writing of his willingness to benefit from such assistance.

1 Labour Market Regulatory Authority, Order No (1) of 2014 With Regard to Regulating Permits of Recruitment Offices.

2 Labour Market Regulatory Authority, Order No. (3) of 2014 With Regard to Regulating Permits for Labour Supply Agencies.

3 Labour Law, Article 19.

4 Labour Law, Article 12.

5 Labour Law, Articles 30, 31, and 33.

6 Labour Law, Article 105.

7 The worker must request the employer in writing to remedy the violation or deception within 30 days.

8 Labour Law, Article 106.

9 Labour Law, Article 107.

10 Labour Law, Article 115.

11 Labour Law, Article 104.

12 Labour Law, Article 108.

13 Labour Law, Article 109.

14 Labour Market Regulatory Authority, Order No. (15) of 2011 With Regard to Amending Paragraph (A) of Article (25) of Law No. (19) of 2006 Concerning the Regulation of the Labour Market, Article (3).

15 Labour Law, Article 37.

16 Labour Law, Article 39.

17 If paid per production, the worker must be paid an advance payment each week. In all other cases, the worker is paid once each week at most, unless otherwise agreed upon.

18 Labour Law, Article 46.

19 Bank transfer is one modality, but does not seem to be mandatory by law.

20 Order No. (4) of 2006 With Regard to Obliging Employers of the Private Sector to Transfer Salaries of their Worker to Banks.

21 Labour Law, Article 40.

22 Labour Law, Article 40.

23 Labour Law, Article 44 and 45.

24 The employer can deduct up to 25 percent of a worker's wage for payment of a debt. The percentage can be raised up to 50 percent in case of alimony debt.

25 Labour Law, Article 53.

- 26 Labour Law, Articles 57, 64 in case of public holiday
- 27 Labour Law, Article 57.
- 28 Labour Law, Article 35.
- 29 Ministerial Resolution No. 3 of 2013, Article 1.
- 30 Ministry of Labour and Social Development, Ministerial Order No 8 of 2013 With Respect to Regulating Occupational Safety and Health in Establishments, Article 3.
- 31 High risk establishments require such a policy even when they have less than 50 workers, depending on the interpretation of the law. This includes those where there is a high risk of serious injury due to working at heights.
- 32 Ministry of Labour and Social Development, Ministerial Order No 8 of 2013 With Respect to Regulating Occupational Safety and Health in Establishments.
- 33 Labour Law, Article 11.
- 34 Labour Law, Article 10.
- 35 Ministry of Labour and Social Development, Decree No. 3 of 1978 concerning the precautionary measure of workers from occupational diseases and hazards, Article 9.
- 36 Ministry of Labour and Social Development, Ministerial Order No. 34/1977 with respect to determining and regulating necessary services and precautions for the protection of workers from the hazards of repair and demolition tanks, drums and work in confined places.
- 37 Ministry of Labour and Social Development, Ministerial Order No. 6 of 2013 Protecting Workers While on Duty from the Hazards of Fire; Decree No. 3 of 1978 concerning the precautionary measure of workers from occupational diseases and hazards, Article 4.
- 38 Ministry of Labour and Social Development, Ministerial Order of 1996: For Banning, importing, manufacturing, and circulation of asbestos materials and products containing asbestos.
- 39 Workers Trade Union Law No 33 of 2002.
- 40 Labour Law, Article 8.
- 41 Labour Law, Article 6.
- 42 Labour Law, Articles 89 and 90.
- 43 Labour Law, Articles 156 and 165.
- 44 The medical committee shall notify the Labour Market Regulatory Authority within 24 hours from the date on which the migrant worker undergoes medical examination, in case he or she is found finally unfit for work or if he is suffering from a contagious disease.
- 45 Ministry of Health, Order No. (9) of 2007 With Regard to Proving Medical Fitness of Foreign Workers.
- 46 Decree 2 of 1994 providing for the accession of the State of Bahrain to Arab Labour Convention No. 7 of 1977 and Recommendation No. 1 of 1977 concerning occupational safety and health, the physical, mental and psychological health.
- 47 Order No. (29) of 2014 With Regard to Specifying and Regulating Basic Health Care for Workers of Corporations.
- 48 Labour Law, Article 171.
- 49 Labour Law, Article 116.
- 50 Labour Law, Article 85.
- 51 Labour Law, Article 76.