

Statutes on the Employment of Foreign Citizens in Afghanistan Organizations

Chapter One General Provisions

Purpose

Article 1:

These Statutes are enacted according to Article (4) of Labor Law for the purpose of regulating the criteria for the employment of Foreign Citizens employed on the contract basis in Afghanistan organizations.

Terms

Article 2:

The following terms used throughout these Statutes shall have the following meanings:

- 1) “Organizations” are all of governmental, joint ventures, private and Non-Governmental Organizations stationed in Afghanistan.
- 2) A “Foreign Citizen” is a person who does not have the Afghan citizenship.
- 3) An “Agreement” is a document relevant to employment, signed between governmental, joint ventures, private, and Non-Governmental Organizations stationed in Afghanistan on one hand and foreign countries and International Organizations on the other hand.
- 4) “Foreign and Domestic Non-Governmental Organizations” are organizations registered with the government and work in economical and social sectors according to the law.
- 5) A “Work Permit” is a printed endorsed document, issued by the Ministry of Labor and Social Affairs to the qualified foreign citizens according to the provisions of these Statutes.
- 6) A “Work Contract” is a written document signed by a foreign citizen and the organization, containing work conditions, obligations of the two parties, terms of validity, norms and criteria for payment of salaries ad other benefits.

Employment

Article 3:

Foreign citizens may be employed in the organizations on the basis of bilateral and multilateral agreements according to the provisions of these Statutes.

Observance of Laws and the enforced Statutes

Article 4:

Foreign citizens employed in organizations are obliged to observe the provisions of the enforced laws and these Statutes and respect the beliefs and traditions of the people of Afghanistan.

Criteria for Employment

Article 5:

- 1) Foreign citizens who have completed 18 years of age, have not reached the final age for retirement, which is enacted in Labor Law, holds the health certificate from the country of citizenship and the Ministry of Public Health of Afghanistan, may be employed in the following forms in the organizations in Afghanistan.
 - A) On the basis of agreement based on the request of governmental organizations and the countries and processed through the ministries of Foreign Affairs and Social Affairs.
 - B) On the basis of individual request of the foreign citizens who have obtained the stay permit (visa) in Afghanistan and the organizations need them.
- 2) Employment of foreign citizens outside their field of specializations is not allowed.
- 3) The employing organization shall supervise the activities of the employee from time to time.

Restrictions on the Employment

Article 6:

If both domestic and foreign workers are available, priority is given to domestic workers.

Issuance of Work Permit

Article 7:

- (1) The Ministry of Labor and Social Affairs issues the Work Permit against a fixed cost.
- (2) The cost of the permit mentioned under item (1) of this article considering criteria fro time limit shall be fixed by the ministries of Labor and Social Affairs and Finance.
- (3) Identification of employee such as location of work, work specification, date of beginning of duty and time validity, shall be specified in the Work Permit.

Validity of Work Permit is one year. If the Work Permit is extended, it may be for another term.

Specimen of Work Contract

Article 8:

Work Contract for foreign staff employed in the organizations shall be designed and fixed by the Ministry of Labor and Social Affairs.

Information about Changes

Article 9:

Organizations are obliged to inform the Ministries of Foreign Affairs and Labor and Social Affairs of the changes occur in foreign staff and expatriates' work and its specifications during the term of work.

Tax Payment

Article 10:

- (1) Tax is collected from the monthly income of foreign citizens employed in the organizations according to the Income Tax Law.
- (2) The employing organization is obliged to with hold tax from the monthly salary/wages of foreign staff on the basis of Article 5 and item (1) of this Article, according to the Income Tax Law and norms and transfer it to the incoming account of the government.
- (3) I f the employing organization does not with hold the percentage of tax from foreign staff's salary and does not transfer it to the incoming account of the government and the term of contract is terminated and the employee leaves Afghanistan, the relevant organization shall pay his/her taxes.

The Right to Rest and to Take Leaves

Article 11:

- (1) Foreign Citizens employed according to the provisions of these Statutes, have the right to take paid leave on the basis of relevant legal work documents.
- (2) The Weekend for Foreign Staff is Friday like domestic staff in the governmental organizations.

Chapter Two

Final Provisions

Recruitment of Foreign Expatriates

In Joint Ventures and Private Sector

Article 12:

- (1) Joint Ventures and Private Sector, in which foreign entrepreneurs or International Organizations invest, may employ the concerned foreign staff and expatriates according to the provision of these Statutes in line with the Afghanistan Private Domestic and Foreign Investment Law.
- (2) Foreign Citizens employed in the organizations, whenever needed shall issue their educational documents to the Ministry of Labor and Social Affairs.

The Position of Already Employed Staff

Article 13:

With the enforcement of these Statutes, Staff and expatriates employed by the organizations prior to the enforcement of these Statutes, shall observe the provisions of these Statutes.

Procedure for Employment

Article 14:

Procedures for the employment of Foreign Citizens in the organizations shall be designed, prepared and approved by the Ministries of Foreign Affairs and Labor and Social Affairs.

Article 15:

Foreign Citizens, who travel for work to Afghanistan, shall obtain work visa against costs.

Enforcement

Article 16:

These Statutes shall be enforced after published in the Official Gazette.