



Your Rights at Work:

A Guide for Migrant Workers in Kuwait

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Labor rights are fundamental human rights, and no matter where a worker travels in the world, their rights travel with them. Global standards around labor rights are elaborated in many international agreements, including the 1998 Declaration on Fundamental Principles and Rights at Work of the International Labor Organization, of which Kuwait is a member state. The purpose of this booklet is to highlight those worker rights that are covered by national law in the State of Kuwait, and to aid both workers and employers in their application.

Chapter 1 : Basic Labor Rights

The Private Sector Labor Law of Kuwait (Law No. 6 of 2010) covers the labor rights of all private sector workers regardless of citizenship or nationality. In Kuwait, migrant workers are protected by either the Private Sector Law, Oil Sector Law, Civil Service Law (government sector workers), or Domestic Worker Law. Rights of domestic workers are covered under (Law No. 85 of 2015)¹. This booklet focuses on the Private Sector Law which applies to the majority of migrant workers in Kuwait.

Working Hours and Breaks

Working hours are limited to eight hours a day or 48 hours a week. During the month of Ramadan, working hours shall equal 36 hours per week for all workers.

Workers are entitled to a one hour break after every five consecutive working hours. This hour is not included as a working hour.

¹ - Summary by Kuwait Society for Human Rights:

http://kuwaithr.org/files/dwl/the_domestic_worker_law_en.pdf

Employment Contract

Workers are entitled to copies of their written contract in Arabic language that includes the following information:

- The date of signature and the date it entered into force;
- Contact details/personal data of worker and employer;
- Wages and job description;
- The term of the contract if it is for a specific period (if not specified, the term shall not be less than one year or more than five years).
- The period of the annual leave;
- The daily working hours;
- The probation period of the worker, which is not to exceed 100 days (during the probation period, either party may terminate the contract without notice);
- Insurance against work injuries;
- End of service benefit;
- The applicable labor law and the competent court to resolve any dispute;
- The signature of both parties

The contract shall be made in three copies; one for the employer, one for the worker, and the third shall be lodged with the Public Authority for Manpower. Some embassies take the responsibility to attest the contracts of their citizens.

Contracts may be prepared in additional languages but it is not required and the Arabic language document is the valid document in the case of any dispute.

Wages and Payment

Kuwait has a national policy for minimum wage that applies to every worker of any nationality. As of 2017, the monthly minimum wage in the private sector is 60KD. In addition, some embassies have established wage scales for specific job classifications, which they may make publicly available.

For example, for Indian nationals living in Kuwait the wage scale can be checked at: <http://www.indembkwt.org/Pages/MinWages.aspx>

For Nepali nationals in Kuwait:

http://www.nembdoha.com/documents/Minimum_Salary_Details_for_Nepali_Workers.pdf

The worker shall be entitled to overtime if working hours exceed eight hours a day. Overtime hours shall be paid at a rate of 25 percent. The overtime work should not exceed two hours a day, a maximum of 180 hours a year, three days a week or 90 days a year.

The worker shall be entitled to a paid day-off per week, equal to 24 continuous hours 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% of the daily rate (example: if your daily rate is 20KD, you shall receive 30KD), or any other compensation agreement that is more beneficial to the worker.

Penalties and deductions

An employer has the right to deduct penalties from a worker's wage if the worker was absent, late, or damages employer's property intentionally.

However, no penalty shall be imposed on the worker before the worker had been notified in writing, and his/her statement and plea has been heard.

Any payment deduction should not exceed 5 days in a single month. In the event where the punishment exceeds such deduction, the exceeding amount shall be deducted from remuneration of the following month(s).

It is not allowed to deduct more than 10% of the workers remuneration for the payment of loans or debts due to the employer. The employer may not charge a worker interest on any loans or debts.

End of Service Benefit

The worker shall be entitled to an end of service benefit whether she/he is paid on daily, weekly, monthly or piecework basis. The amount of the benefit should be specified in the employment contract.

Holidays

There are 13 fully-paid official holidays per year, some determined by the Islamic calendar:

- Hijra New Year: 1 day
- Isra' and Mi'raj day: 1 day
- Eid Al-Fitr: 3 days
- Waqfat Arafat: 1 day
- Eid Al-Adha: 3 days
- Prophet's Birthday (Al-Mawlid Al-Nabawi): 1 day
- National Day: February 25th, 1 day
- Liberation Day: February 26th, 1 day
- Gregorian New Year: 1 January: 1 day

Some companies may offer additional holidays. In the event the worker is required to work during any of the above mentioned holidays, he/she shall be entitled to a double remuneration (Example: if the worker earns 20KD per day, they shall receive 40KD) and an additional day off.

Leaves

The worker shall be entitled to the following sick leaves during the year:

- 15 days - at full pay
- 10 days - at three quarters of the pay
- 10 days - at half pay
- 10 days - at quarter pay
- 30 days without pay.

Annual Leave

The worker is entitled to a 30-day paid annual leave. The worker may take this leave only after working for the same employer for 9 months. Official holidays and sick-leaves shall not count as annual leave.

Maternity Leave

A pregnant working woman is entitled to a 70 days paid maternity leave, not including her other leaves. After the end of her maternity leave, the employer may give the employee upon her request an unpaid leave not exceeding four months to take care of the baby.

Hajj Leave

The worker who spent two continuous years working for the same employer shall be entitled to a paid leave to perform Hajj provided that he/she had not performed Hajj before.

Other Leaves

In the event of a close relative's death (parent, grandparent, child, grandchild, or sibling) the worker shall be entitled to a three-day fully paid leave. The Muslim working woman, whose husband has died, shall be entitled to a fully paid bereavement (iddat) leave for four months and ten days from the date of death. The non-Muslim working woman, whose husband has died shall be entitled to a paid leave of 21 days.

The worker shall have the right to accumulate leave entitlements provided that they do not exceed two years and he shall be entitled to take his accumulated leave all at once subject to the consent of the employer. Subject to the agreement of both parties, the worker may accumulate the leave for more than two years.

Safety and Health

Worksite-specific health and safety guidelines should be issued by employers.

This law implies that the employer shall take all the safety measures to protect the worker. The worker shall not bear any cost and no amount shall be deducted from worker's remuneration to provide them with protection means.

The worker shall be entitled to private insurance coverage against work injuries and occupational diseases.

The law and ministerial decree say that accommodation must be "suitable".

The employer should be responsible for the employee's health, necessary clothing and transportation. In particular, the employer must provide health insurance for any worker and allow for time off for illness as may be necessary.

It is prohibited to employ women at night during the period from 10:00 p.m. to 7:00 a.m. However there are exceptions such as hospitals, sanatoriums and private treatment homes.

It shall be prohibited to employ any woman in work that is hazardous, arduous or harmful to health or morals.

Freedom of Association

Migrant workers can join established unions and associations in Kuwait and enjoy the privileges and protections of these syndicates. But, it is prohibited by law for migrant workers to establish their own union or association. While a member of an association, it is prohibited for migrant workers to be nominated as a leader [or to vote for the leadership] of the unions and associations.

In Kuwait, there are two union confederations. The Oil and Petrochemical Industries Workers Confederation, and the Public Workers Union. Both of them are under the umbrella of the Kuwait Trade Union Federation (KTUF). KTUF has the Migrant Workers Office, which is dedicated to migrant workers related issues and opportunities.

Personal Property

The worker is entitled to retain his passport and all personal documents, including the work contract, at all times. If the employer confiscates the worker's passport without his written consent, the employer will face an administrative fine.

Termination

A worker or an employer may choose to terminate the contract.

The employer may only terminate the contract of the worker without notice for the following reasons:

- 1) if the worker commits a mistake that results in a large loss for the employer;
- 2) if worker obtained employment documents through cheating or fraud;
- 3) if the worker revealed secrets about the establishment which caused or would have caused real losses.

If a worker or an employer chooses to terminate the contract before the notice period, the party making the decision is obliged to pay the other party compensation for the notification period equal to the remuneration of the worker for the same period. That means, if a worker terminates a contract, they may be liable to pay the employer what they would have earned during the remaining months on the contract.

In case the employer terminated the worker's contract during the probation period, he shall pay end of service benefits for the period of work.

Chapter 2 : Residency and Sponsorship:

In addition to the labor law, non-Kuwaiti workers in Kuwait are also subject to the residency law (Law No. 17, year 1959) issued by the Ministry of Interior related to their residency in the country. This law is known as the "Kefala" system and governs when a worker can transfer employers.

Any non-Kuwaiti working in Kuwait should have legal documentation in one of four categories:

- Temporary residence (Article 14). This visa type is for a temporary visit (up to 3 months). It is not a work visa although some employers bring workers to Kuwait this way as a quick means of recruitment. To transition to a work visa usually requires leaving Kuwait and re-entering. Migrant workers who earn over KD650 per month (private sector) or KD450 per month (public sector) may apply online for a "family visit visa" (ww.evisa.moi.kw.gov; cost is KD3).
- Governmental residence (Article 17). This is a visa issued to workers employed in the public sector.
- Work residence (Article 18). This is a visa issued to workers in the private sector.
- Domestic workers residence (Article 20). This is a visa issued to workers employed by an individual sponsor, rather than a company. This usually includes household staff such as domestic workers, cooks, nannies, gardeners and personal drivers.

Conditions for Sponsorship Transfer

To transfer sponsorship of employment within the private sector, the worker needs consent of the original employer. This is permitted one year after the issue date of the work permit, a condition which may be waived for a fee of 300 KWD.

A worker in the private sector may petition the Ministry of Social Affairs and Labor to request a sponsorship transfer without the consent of the sponsor if three years have passed since the date of issuance of the work permit.

If the worker wishes to transfer before 3-years have passed but does not have the consent of the original employer, the worker may file a complaint with the Labor Relations Department of the Public Authority for Manpower. From that date forward, the employer may not file an absconding case against the worker. Reasons that the Labor Relations Department might approve such a request before 3-years are: (1) if the Labor Relations Department believes in the merit of the worker's case; (2) if the Labor Relations Department finds

that the employer provided a false accusation against the worker.

If the worker is hired under a government contract, the three-year clause does not apply. Instead, the worker may be eligible to request a transfer at the end of the government contract, as long as the employer does not have another government contract that he wants to transfer the worker to. Government contracts may mandate the employer to transfer workers to another employer to continue work on the same government project, or to work on a new government project with the same employer.

A worker in the private sector can transfer to the public sector in case he provide a written agreement by the government agency where he is transferring to.

It is sometimes possible for a domestic worker to transfer to the private sector, subject to approval by the Ministry of Interior.

Conditions for Exiting the country

The worker is free to leave the country without any permission from the employer. The worker will be banned from leaving the country in case he/she has criminal charges against them. A worker who has taken out a loan from any local bank is free to travel abroad if she/he is paying their installments on time.

Important to Know: “Absconsion”

The employer has the legal authority to report a non-Kuwaiti employee under his or her sponsorship as “absconded” (or “runaway”). The intention of this mechanism is to allow employers to report a worker’s absence. However the employer has wide discretion to make such a report.

Absconsion is a criminal charge against the worker. If there is an absconsion case against you, you may be detained and sent to deportation center. After going through the legal case of absconsion, and depending on the case, most workers get sent back to their country of origin.

It is difficult to raise a labor grievance after an absconsion case is placed.

Chapter 3 : How to Submit a Complaint

All workers have the right to submit a grievance to their employer and to the Labor Relations Department. Examples of the types of complaints workers may submit include grievances about salary delays, refusal to transfer after signed agreement, physical or emotional abuse, and other rights violations experienced by the worker.

All labor complaints submitted by workers are considered and examined by the Labor Relations Department of the Public Authority of Manpower. The Labor Relations Department is solely mandated with considering, examining and clearing all individual labor disputes between workers and employers in the private sector.

The Labor Relations Department is mandated to settle disputes related to financial entitlements (such as non-payment or underpayment of wages), sponsorship transfer, absconding notifications, travel bans, and work-related injuries.

The Labor Relations Department also follows-up collective complaints (complaints involving multiple workers) at the Reconciliation and Arbitration Committee for individual and collective cases.

The process is as follows:

1 - The worker should go in person to the reception desk of the Labor Relations Department to obtain a labor complaint application. Note: the worker may not be accompanied by a legal representative at this stage. However legal consultation (a Kuwaiti lawyer or social worker from a registered organization) may accompany the worker during subsequent processes as the case is considered.

2 - Complete the form, including: full name, nationality, civil ID number, work starting date, date of last day at work, legal grounds for filing the complaint, profession, agreed wage in the contract, full name of employer, employer’s address and place of work, purpose of dispute, phone numbers. The worker should

bring copies of the work permit, civil ID, passport, and any other supporting documents. Note: Other information may be requested.

3 - The Labor Relations Unit shall register the complaint into the database and determine a competent legal investigator and the date (day and hour) of an initial hearing to consider the complaint. The Labor Relations Unit shall then notify the employer of the date (day and hour) and name of investigator. The attendance of the worker and employer will be required at that initial hearing.

4 - Next the Labor Relations Unit will contact the investigator, who may take statements from the employer and check documentation.

5 - Both the worker and the employer shall appear in person before the competent investigator at the Public Authority of Manpower, Labor Relations Department in their registered governorate. At this point, the worker may be accompanied by a legal representative. If the employer does not appear, the investigator will issue a second notification, after which the investigator should proceed with examining the complaint.

6 - At the hearing, if both parties agree to a settlement, it will be documented in a memorandum and filed with the Labor Relations Department.

7 - If no settlement is reached, the investigator shall prepare a legal statement of that fact. If the unsettled dispute involves a financial claim, it shall be referred to the judiciary.

8 - The investigator is required to examine and close any complaint within a specified period (usually takes upto two weeks.) The investigator is legally liable for any unjustified delay.

9 - The investigator will submit a formal legal opinion about the case to the Labor Relations Department, who shall issue the final decision to accept or reject the worker's complaint whether it was a transfer complaint or any other complaint.

10 - The decision of the Labor Relations Department may be appealed by either the worker or the employer within 15 days.

Chapter 4 : Helpful Contact Information

Ministry of Social Affairs and Labor

Tel:22480000 - 22484850

www.mosal.gov.kw

Public Authority of Manpower (PAM)

Jabriya - Block 2 - Street 104 - behind the Gulf Bank

Tel:25359232

www.manpower.gov.kw

Farwaniya Governorate (Labor Disputes Unit)

Al-Dajeej Area - Opposite to the General Department of Criminal Evidence - Opposite to the Airways Building

Capital Governorate (Labor Disputes Unit)

Sharq Area - behind Bahbahani Complex

Hawalli Governorate (Labor Disputes Unit)

Tunis Street - Sadeq Roundabout

Jahra Governorate (Labor Disputes Unit)

Jahra Cooperative Society

Mubarak Al-Kabeer (Labor Disputes Unit)

South Ahmadi - Block 1 - Street 15, Building No. 5, opposite to the Kuwait Oil Company

Ahmadi Governorate (Labor Disputes Unit)

South Ahmadi - Block 1 - Street 15, Building No. 5, opposite to the Kuwait Oil Company

Ministry of Interior

Through Website: www.moi.gov.kw
Service Centers throughout Kuwait Governorates:
www.moi.gov.kw/portal/flashtry/efinal.html

General Department of Criminal Investigation, Department of Public Morals Protection and anti-Human Trafficking

Salmiya - Al-Jawazat Roundabout
Tel:25650695 - 25623888
Email: ath@moi.gov.kw

Kuwait Trade Union Federation

Salmiya - Block 11 (Hawalli Square),
Abdullah Al-Faraj Street
Tel:25636389 - 25616745
www.ktuf.org

Kuwait Society for Human Rights

North al-Shuwaikh - Block 7 - Street 71
Tel:24811593

Complaints Reception numbers

Tel: 95566580 - Arabic
Tel: 95566521 - English
Tel: 95566523 - Hindi
www.kuwaithr.org

Embassy of India

Al Daiya - Embassies Area - Block 6
Tel:22550379 - 22530600 - 22550349

www.indembkwt.org

Open House at the Embassy starts daily from 6:30pm for any questions or concerns please call the Hotline 2497522614 :7/

Embassy of the Philippines

South Surra - Sideeq- - Block 1 - 101 Street
Tel:22528422 - 22511806
www.kuwaitpe.dfa.gov.ph

Embassy of Nepal

Al Jabriya - Block 8 - Street 13
Tel:25243254 - 25243257
Email: kuwait@mofa.gov.np

Embassy of Sri Lanka

Al Jabriya - Block 10 - Street 107
Tel:25339140 - 25339142 - 25339104
www.slembkwt.org

Embassy of Ethiopia

Al Jabriya - Block 10 - Street 107
Tel:25334291 - 25348198 - 25330128
Email: ethiokuwait@yahoo.com

Embassy of Pakistan

Al Jabriya - Block 11 - Street 101
Tel:25327649 - 25327651
www.pakembkw.org



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