

LEGISLATIVE DECREE No.14 of 1993

Ministerial Decree Number:No.14 of 1993

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WITH RESPECT TO AMENDING THE LABOUR LAW FOR THE PRIVATE SECTOR PROMULGATED BY LEGISLATIVE DECREE NO.23 OF 1976

We, Isa Bin Salman Al Khalifa, Amir of the State of Bahrain, having examined the Constitution;

and Amiri Order No. 4 of 1975;

and Legislative Decree No. 23 of 1976 promulgating the Labour Law for the Private Sector, as amended,

and the Law of Civil and Commercial Procedures promulgated by Legislative Decree No. 12 of 1971, as amended, and upon the

submission of the Minister of Labour and Social Affairs,

and having sought the opinion of the Consultative Council,

and with the approval of the Council of Ministers,

HERBY DECREE THE FOLLOWING LAW:

(Article 1)

For the provisions of Articles 2, 3, 4, 7, 10, 12, 14, 15, 16, 26, 39, 41, 44, 45, 62, 69, 74, 79, 80, 81, 84, 85, 86, 87, 106, 110, 136, 158, 159, of the Labour Law of the Private Sector promulgated by Legislative Decree No. 23 of 1976, there shall be substituted the following:

"Article 2"

The provisions of this Law shall not be applicable to the following categories, unless otherwise stated:

1. civil servants and employees of public corporate entities that are subject to the Civil and Military Service Regulations.
2. domestic servants and persons regarded as such.
3. persons employed in temporary and casual work which is outwith the scope of the employer's business and for duration of less than one year.
4. marines ships, officers, engineers, seamen and others whose employment contract is subject to a special law.
5. persons employed in agricultural work other than:
 - a. workers employed in agricultural firms which process or market their products.
 - b. Workers permanently employed in operating or repairing mechanically driven equipment used in agriculture.
 - c. Workers engaged in management or as security guards in agricultural operations.
6. members of the employer's family, who are husband, wife, his parents and offspring's whom he actually supports.

"Article 3"

No employer shall employ a foreigner without a valid Work Permit issued by the Ministry of Labour and Social Affairs.

Workers referred to in Article 2 paragraphs (2), (3), (4), (5) and (6) are not exempted from the provisions of this Article.

The Minister of Labour and Social Affairs shall issue the orders governing the conditions of obtaining work permits for foreigners, durations thereof, renewal procedures and prescribed fees, and also the cases for suspending the renewal of such permit, withdrawal before its expiry date and cases of exemption from the conditions of obtaining such permit.

"Article 4"

The Minister of Health shall, in conjunction with the Minister of Labour and Social Affairs, issue orders for determining the necessary procedures for ascertaining the physical fitness of the foreign worker and that he is free from any infectious diseases.

The workers referred to in Article 2 paragraphs (2), (3), (4), (5) and (6) shall not be exempted from the provisions of this Article.

"Article 7"

An employer who recruits a foreign worker shall be obliged to incur the costs of repatriating such worker to the destination specified in the contract of employment, the destination in which the contract was concluded, the place from the worker came or the country of which he has its nationality if it is not feasible to repatriate him to any of the aforesaid destinations after the completion of work, expiry of his contract, cessation of renewing the work permit or withdrawing it before the expiry of its duration in accordance with Article 3 of this law and the Ministerial Orders issued for implementation thereof.

If a foreign worker joins the employ of another employer, the latter shall be liable to pay the costs for repatriating the worker in the cases referred to in the preceding paragraph.

The provisions of this Article shall be applicable to the workers provided for in Article 2 paragraphs (2), (3), (4), (5) and (6) of this Law.

"Article 10"

The Ministry of Labour and Social Affairs shall nominate registered candidates for suitable employment vacancies with due regard to their age and technical ability.

due regard shall be given to the application of the above gradually and according to a plan to be agreed upon between the Ministry of Labour and Social Affairs and the concerned ministry.

The Minister for Labour and Social Affairs shall issue an Order

regulating such nomination of candidates for employment.

"Article 12"

Every employer shall at least once every year send to the Ministry of Labour and Social Affairs any details about any anticipated reduction in manpower.

"Article 14"

Private recruitment agencies may be set to provide employment opportunities for Bahraini job seekers after obtaining a license for this purpose from the Ministry of Labour and Social Affairs. Such license shall be valid for a renewable period of one year.

A licensed private recruitment agency shall not be permitted to ask for nor accept from any worker whether before or after employing him payment of any commission, remuneration or charges in consideration for securing the worker's employment.

Workers introduced by private recruitment agencies shall be considered as workers once they are employed by the employer having all the rights which are enjoyed by other workers of the establishment and their relationship shall be established directly between them and the employer without any intervention by the private recruitment agency the duty of which shall cease and its relationship with them shall discontinue once they are introduced to the employer and joining his service.

Licensing conditions for establishing the private recruitment agencies, licensing fees, renewal fees and the rules and procedures to be observed by these agencies shall be determined by orders to be issued by the Minister of Labour and Social Affairs.

"Article 15"

An employer may instruct a recruiting agent to supply him with foreign workers only in accordance with the terms and conditions

and upon payment of the fees prescribed by an Order issued by the Minister for Labour and Social Affairs.

For the implementation of the provisions of this Article, a recruiting agent means every person who supplies one or a group of foreign workers to an employer. Such agent shall not be permitted to engage in recruiting activities unless a license is obtained for this purpose from the Ministry of Labour and Social Affairs, which license shall be valid for a renewable period of one year. An employer shall not enter into a contract with such an agent unless he has a valid license.

The workers supplied by a recruitment agent shall be considered as workers of the employer once they join his employ having all the rights enjoyed by the establishment's workers and their

relationship shall be directly with the employer without any intervention from the recruitment agent whose duty shall cease and his relationship shall be discontinued once they are introduced to the employer and upon joining his service.

The contract between an employer and the recruitment agent shall be evidenced in writing and shall contain such details as the type of employment, the rates of wages, the employer's obligation to pay such wages directly to the workers, the approximate duration of employment and the countries from which the workers have come.

Neither the employer, nor his representatives, nor the recruiting agent shall charge a worker any amount in consideration of such employment or retaining him in his job.

"Article 16"

An exemption from the provisions of this Chapter shall be applicable to key positions, which are filled by persons who are considered as authorized agents acting on behalf of their employers in exercising their powers.

"Article 26"

An apprentice shall be deemed to be every person who enters into a contract of employment with an establishment to work in such establishment for the purpose of learning an occupation or trade for a fixed period of time during which the apprentice shall work under the supervision of the employer for a wage or remuneration. Unless there is a specific provision in this chapter, an apprenticeship contract shall be subject to the provisions of this law.

"Article 39"

A contract of employment shall be confirmed in writing irrespective of the worker's nationality. The contract shall be in duplicate, of which one shall be retained by the worker and the other by the employer. In the absence of written contract it shall be admissible to prove all its conditions by all legal methods of proof.

The contract of employment shall include in particular the following particulars;

1. the employer's name and the address of the business premises.
2. the worker's name, qualifications, nationality, occupation, residential address and the necessary personal identification details.
3. date of appointment.
4. the nature, type and place of employment agreed to in the contract.
5. the duration of the contract, if it is for a definite period.

6. the wage mutually agreed upon, the method and date of payment in addition to all the elements of the wage such as the benefits in cash or in kind as mutually agreed upon.

7. any special conditions agreed upon by the two parties.

The worker shall be given a receipt for the documents and certificates which may have been deposited with the employer.

"Article 41"

If the contract of employment provides for the employment for a probationary period, such period shall not exceed three months. The probationary period clause or the period thereof shall not be evidenced unless recorded in the employment contract or by a written statement given by the worker.

Nevertheless, a worker may be employed under probation for a period not exceeding six months in the occupations to be determined by an Order of the Minister of Labour and Social Affairs.

Either party may terminate a contract of employment during the probationary period if he finds that its continuance is not appropriate, provided that the party terminating the contract gives the other party one day's notice.

The same employer shall employ no worker under probation more than once.

"Article 44"

An employer who employs foreign workers may not pay them wages or remunerations which are more than these paid to Bahraini workers having equal skills, technical capabilities and academic qualifications except to the extent where the need arises for recruitment of foreign workers.

"Article 45"

An employer shall be empowered to entrust the worker with duties other than these which are not agreed upon, provided that entrusting such duties are not intended to offend the worker.

"Article 62"

During the two years after the date of giving birth, a female worker returning to her work after the maternity leave shall be entitled to a period or two periods of rest not exceeding a total of one hour daily in addition to the normal intervals of rest given to all workers in order to suckle her newly born child.

The employer shall request the female worker every six months from the date of delivery to provide an official certificate from the health centre located in the vicinity of her residence indicating that she continues to suckle her child, but if she fails to submit such

certificate within two months from the date of the employer's request, she shall forfeit her right to the rest interval for suckling her child.

Meanwhile, and employer, taking into consideration the female worker's conditions and the business interest shall fix the time for taking the interval of rest referred to in the first paragraph of this article.

"Article 69"

The payment of accrued wages, regardless of the value or nature thereof shall be evidenced by all legal methods of proof.

An employer shall enable the worker to become familiar with the details of his wages and, whenever required, to ascertain the accuracy of such account.

"Article 74"

An employer shall not deduct more than ten percent of the wage of a worker in repayment of any funds loaned to the worker during the term of the contract. He shall not charge any interest for such loans. This provision shall be applicable to wages paid in advance. In respect of loans granted for houses, such deduction from the wage may be increased to a proportion which shall not exceed

twenty-five percent of the wage, provided that a prior declaration in writing from the worker concerned authorizing such deduction from his wage within such percent limitation shall precede the granting of a loan.

An employer shall be authorized to add a total amount to the value of the loan given to the worker for covering administrative expenses.

If a worker terminates his employment before repayment of the loan owed by him, the employer shall be entitled to take all the necessary legal actions including making a set-off between the amounts borrowed by the worker and sums of his dues from the employer.

"Article 79"

A worker may be employed for extra hours if this is required for the interest of the business, provided that the basic and extra hours of work shall not exceed sixty hours per week unless the Ministry of Labour and Social Affairs shall have granted permission for a long period.

A worker shall receive payment for each extra hour equivalent to hours wage entitlement increased by a minimum of twenty five percent thereof for hours worked during the day, and by a minimum of fifty percent thereof for hours worked during the night which shall be deemed to being from seven o'clock in the evening until seven o'clock in the morning, provided that the wage due for

such hours shall be paid in accordance with the provisions of Article 68 of this Law.

"Article 80"

Friday shall be deemed to be a weekly day of rest on full pay. An employer may alter this day to any other day of the week for certain of his workers, provided the number of days worked does not exceed six days a week.

An employer shall grant a worker a weekly day of rest on full pay for a period of no more than 24 successive hours, provided that the weekly hours of work shall not be more than 48 hours.

Meanwhile, an employer shall require a worker to work on his weekly day of rest if so require for the interest of the business for which he shall be paid an overtime wage equivalent to 150% of his normal wage or, he shall be granted another day for rest.

No worker shall be employed on his weekly day of rest more than twice consecutively unless he gives his consent to such employment.

"Article 81"

Official holidays on full wage which shall be granted to a worker are as follows:

- First day of Al-Hijra Calendar Year.
- Eid El-Adha.
- Eid El-Fitr.
- 1st Muharram.
- 10th ,11th and 12th Thulhaja.
- 1st , 2nd ,and 3rd Shawal.
- The Prophet's Birthday.
- 12th Rabie Al-Awal.
- National Day.
- 16th December.
- Ashoora.
- 9th and 10th Muharram.
- First day of the New Gregorian Year.
- 1st January.

When conditions of work require the worker to work on any official holiday, he shall be paid an additional sum equivalent to 150% of his normal wage or, he shall be granted another day in lieu thereof.

An employer shall pay full wage to a worker in respect of any other official holidays granted by an Order to be made by the Minister for Labour and Social Affairs in accordance with an order to be

prescribed by the Council of Ministers.

"Article 84"

Every worker who has completed one year's continuous service with his employer shall be entitled to leave on full pay for a period of not less than 21 days for each year increased to a period not less than 28 days after five continuous years of service.

A worker shall be entitled to such leave upon a quantum merita in respect of the proportion of his service in that year.

A worker may not waive his entitlement to leave and he may receive payment of monies in lieu thereof pursuant to the provisions of Article 86 of this Law.

"Article 85"

An employer is entitled to schedule the date of annual leave. Such leave, other than the first half of the prescribed entitlement, may be taken at intervals with the consent of the worker.

An employer may approve the deferment of the annual leave entitlement at the request of a worker for a period not exceeding two years provided the worker shall take ten consecutive days of his annual leave entitlement in each year.

"Article 86"

A worker shall be entitled to receive a cash consideration equivalent to his wages for the days of annual leave due to him after two-year period referred to in the preceding Article or if he terminates the contract of employment before having taken all his annual leave and such payment shall be for the period which he has not taken as due leave.

"Article 87"

A worker shall be entitled to leave on full pay as follows:

- Three days in the event of his marriage;
- Three days in the event of the death of his/her spouse or any of his/her relatives to the fourth degree of relationship;
- Three days in the case of death of his/her spouse's relatives to the first degree of relationship and one day to the fourth degree of relationship.
- One day upon the birth of his child.

Concerning the aforementioned circumstances, the employer shall be entitled to request the worker to submit the documents establishing the facts relating thereto.

"Article 106"

A contract of employment made for a period of definite duration shall automatically terminate at the end of the period. Meanwhile, if both parties continue to abide by it after its expiry without any express agreement it shall be deemed to have been received by both parties for an indefinite period under the same terms as

contained therein.

A contract of employment concluded for the performance of a specific work shall terminate upon the completion of the work as agreed; if such work is renewable by its nature and if the contract continues in operation after the completion of the mutually agreed work, the contract shall be deemed to have been implicitly renewed for the period required to perform the same work again. When a contract of employment is for a definite duration of more than five years, the worker may terminate it without liability for payment of compensation at the expiry of five years.

"Article 110"

Any worker who is dismissed without legitimate reason from employment may request amicable settlement between him and the employer. Such request shall be submitted to the Ministry of Labour and Social Affairs within a period not exceeding ten days from the date of receiving notice of dismissal from the employer or from the date of giving him such notice by a registered letter or any other method proving the delivery thereof.

The Ministry of Labour and Social Affairs shall, upon the submission of such application, immediately take such steps as may be expedient to reach an amicable settlement of the dispute. If such settlement is not reached, the Ministry shall refer the request within a maximum period of two weeks from the date of making the request to the High Civil Court for considering the award of compensation to the worker if such action is relevant. The reference shall be accompanied by a report in quintuplicate containing a summary of the dispute, the two parties' agreement and the Ministry's comments and recommendations. The Court Clerk shall, within a period of three days from the date of arrival of the document to the Court, fix a date for a hearing within not later than ten days from the date of reference. The worker and the employer shall be notified by registered mail, or by any method proving the delivery thereof, of the date of the hearing and there shall be annexed to the said notice copy of the memorandum prepared by the Ministry of Labour and Social Affairs.

The Court shall propose to the two Parties reaching an amicable settlement of the dispute, failing which the court shall thereupon adjudicate upon the issue of the case within one month from the date of the first hearing and the burden of proving that the dismissal took place for a legitimate cause shall rest with the employer. Pending the judgment of the compensation claim, the Court may pass an uncontested judgment obliging the employer to pay a temporary compensation to the worker not exceeding three

months wages to be deducted from whatever amount the court may award to him. If no compensation is awarded to the worker or if award is less than the temporary compensation given to him, he shall be compelled to refund the amount which was unjustifiably taken.

In making an assessment of the compensation amount, the Court shall give due consideration for the current custom and usage, nature of business, worker's period of employment, remaining period of the contract if it is for a definite duration and in general in all conditions resulting in the occurrence of damages.

"Article 136"

An Arbitration Board shall consist of:

1. three judges of the High Civil Court nominated by the Minister for Justice and Islamic Affairs at the commencement of each judicial year;
2. a representative of the Ministry of Labour and Social Affairs nominated by the Minister concerned from amongst senior officers of that Ministry.
3. a representative of the Ministry of Commerce and Agriculture nominated by the Minister from amongst the senior officers of that Ministry.
4. a representative on behalf of the workers nominated by the General Committee of Bahrain Workers (GCBW) from amongst its members, provided that such representative shall not be member of the Joint Committee in establishment against which the dispute is being heard before the arbitration board or from the workers directly involved in this dispute.

If the GCBW fails to nominate a workers' representative within the time limit fixed by the Chairman of the Arbitration Board, he shall himself nominate such representative on its behalf;

5. a representative on behalf of the employer concerned elected by the Bahrain Chamber of Commerce and Industry from amongst its members but having no direct relationship with the dispute. If the Chamber does not nominate the employer's representative within the time limit determined by the Chairman of Arbitration Board.

shall participate in its deliberations without being empowered to offer any opinion upon its decisions. The Arbitration Board shall convene its meetings in the Ministry of Justice and Islamic Affairs. The Board's meetings shall be held under the Chairman of the most senior judge. The meetings of the Arbitration Board shall be valid

notwithstanding the absence therefrom of both or either the representatives of the workers or of the employer concerned. The parties to the dispute shall bring their representatives on the day fixed for the hearing intended for the examination of such dispute.

"Article 158"

Any person who contravenes the provisions of Article 3, 4, and 7 and of any of the Orders issued for implementing Article 3 and 4 shall be guilty of an offence punishable by a term of imprisonment not less than three months and not exceeding six months and a fine of not less than BD200 and not more than BD500, or to any one of these penalties. The penalty for payment of a fine shall be equivalent to the number of the persons in respect of whom the offence has been committed.

In addition to the aforesaid penalty, a judgment shall also be passed in case of contravening the provisions of Article 7 compelling the employer repatriate the foreign worker to the destination specified in the contract of employment, the destination where the contract of employment was conducted, the destination from which he originally came or the country the nationality of which he enjoys if it is not feasible to repatriate him to any of the aforesaid destinations. Should the employer fail to pay the aforesaid costs, a judgment shall be passed for recovery of such costs in accordance with the law.

Further, a penalty of imprisonment for a period of no less than three months and no more than six months and a fine of not less than BD200 and not more than BD500, or either penalty, shall be inflicted upon every employer who obtains a permit for employment of non-Bahraini workers from the Ministry of Labour and Social Affairs but was later proved to have been employed by another employer without the consent of the Ministry of Labour and Social Affairs and Immigration and Passport Directorate. The number of penalties shall be increased by the number of workers in respect of whom the offence is committed.

Both the owner of the establishment and its manager, or whoever acts on behalf of either, shall be deemed liable for such offence.

"Article 159"

Any contravention of the provisions of Articles 12 and 13 shall be punishable by a fine of not less than BD200 and not more than BD300. Such penalty shall be repeated as many times as there are persons relating to whom such offence is committed.

Further, a contravention of the provisions of Articles 14 and 15 and the orders issued for implementing them shall be punishable by

imprisonment for a period not exceeding six months and a fine no less than BD500, or either penalty.

(Article 2)

New Articles shall be added under No. 37bis, 155bis, 156bis, and 158bis to the Labour Law for the Private Sector promulgated by Legislative Decree No. 23 of 1976, which Articles shall read as follows:

Article 37 bis

The minister for Labour and Social Affairs, shall, with the approval of the High Council for Vocational Training, issue an order to

include the vocational classification and job description schedules which shall serve as a basis organizing employment and training activities.

Employers shall comply with schedules upon determining the job title and duties in various establishments.

Article 155 bis

For the categories mentioned in Article 2 paragraphs 2, 3, 4, 5 and 6 of this law, they shall have the right to file applications with the Ministry of Labour and Social Affairs to amicably settle their disputes with their employers. If such settlement is not feasible, the Ministry of Labour and Social Affairs shall within two weeks from the date of the applications filed by a worker refer the dispute to the High Civil Court. An exemption from payment of fees and legal costs shall be granted to proceeding relating to such disputes in all stages of litigation.

Article 156 bis

The time limit for appealing against judgments handed down in accordance with the provisions of Articles 110, 155 and 155bis of this law shall be ten days from the date of delivering them or notifying the party adjudged against their with in accordance with the provisions of Articles 216 of the Civil and Commercial Procedures Act.

Article 158 bis

Every employer who is proved to the Ministry of Interior and the Ministry of Labour and Social Affairs that he recruits foreign workers without having a need for such recruitment and if proved to be working for another employer shall have his commercial registration cancelled and shall have his business activities suspended.

The cancellation of the commercial registration and suspension of the business activities of the employer shall take place by an order

of the Minister of Commerce and Agriculture on the basis of a report from the Ministry of Labour and Social Affairs.

The cancellation of the commercial and suspension of the business activities shall result in the administrative closure of the employers premises.

The employer may file an appeal with the Minister of Commerce and Agriculture against his order for cancellation of his commercial registration, suspension of the business activities and administrative closure of his premises, and the Minister of Commerce and Agriculture shall issue subject to the consent of the Ministry of Interior or the Ministry of Labour and Social Affairs, as the case may be, his decision for endorsing or rejecting the objection during the sixty day period following its submission. The employer may appeal against the rejection decision of the Minister of Commerce and Agriculture before High Civil Court within sixty days from the date of the notice for rejecting his objection. The Lapse of sixty days after the submission of the employer's appeal without receiving a reply to his appeal shall be deemed tantamount to its rejection.

(Article 3)

Articles 5, 6, 9, 11, 46 and 47 of the Labour Law for the Private Sector promulgated by Legislative Decree NO.23 of 1976 shall be repealed

(Article 4)

The Minister of Labour and Social Affairs shall issue the necessary Orders for the implementation of the provisions of the Law.

(Article 5)

The Ministers, each in his respective capacity, shall implement this Law which shall come into force one month after the date of its publication in the official Gazette.

Signed: Isa Bin Sulman Al Khalifa
Amir of the State of Bahrain

Issued at Riffa Palace

On 18th Rabie Al Akhir, 141 Hijra
Corresponding to 4th October 1993 AD.

N.B. This translation is not official. The Arabic original is the recognized text for legal purposes.