

**Ministerial Decision No. 2194 of 2016**

**On: Executive Rules for Law No. 68 of 2015 on Domestic Workers**

**Vice President of the Council of Ministers and Minister of Interior**

- After reviewing Law No 23 / 68 on Regulations of the Police Force and its Amendments
- After reviewing the Emirate Decree No. 17 of 1959 on the Law on Foreigner Residency and the laws amending it
- Law No. 16 of 1960 on Issuing the Penal Code and the laws amending it
- Law No. 17 of 1960 on Issuing the Criminal Procedural and Trial Law and the laws amending it
- Law No. 91 of 2013 on Combating Trafficking in Persons and Smuggling Migrants
- Law No. 111 of 2013 on Licensing Commercial Stores
- Law No. 68 of 2015 on Domestic Workers
- Law No. 69 of 2015 on Establishing a Closed Shareholding Company to Recruit and Employ Domestic Workers
- And based on the presentation of the Undersecretary.

**Has Decided**

**Article One**

The provisions of these Executive Rules for the Domestic Workers Laws whose provisions shall accompany this decision shall come into effect.

**Article Two**

The Undersecretary must enforce this decision and it shall come into effect on the date of publication in the Official Gazette.

**Vice President of the Council of Ministers**

**Minister of Interior**

**Mohammad Khaled Al Hamad Al Sabah**

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## Ministerial Decision NO. 2194 of 2016, Cont'd.

### Article 1

In the enforcement of the provisions of these Rules, the following phrases and words shall have the meanings defined for them beside them:

1. The Law: Law No. 68 of 2015, referenced.
2. Competent Minister: Minister of Interior
3. Domestic Worker: Every male or female mandated with manual labor inside private homes (and anything that falls within that scope) for individuals, in accordance with a written contract.
4. Employer: The person joined by a document worker in accordance with a contract drafted by the Ministry of Interior.
5. Offices: Which undertake the recruitment of domestic workers, licensed by the Ministry of Interior to practice the activity of recruiting domestic workers.
6. Companies: Which undertake the recruitment of domestic workers, licensed by the Ministry of Interior to practice the activity of recruiting domestic workers.
7. External offices: Offices sending domestic workers, operating outside the State of Kuwait, with a license to practice the activity of sending domestic workers by the official entities in those countries and accredited by the embassies of the State of Kuwait in them.
8. Domestic Workers Directorate: Domestic Workers Directorate at the Ministry of Interior.
9. Wages: Everything earned by the domestic worker, including basic wages outlined in the labor contract which are paid by the employer at the end of every month, at no less than the minimum outlined in accordance with Article 19 of the Law.

### Article 2

It is prohibited to practice the activity of recruiting domestic workers without securing valid licensing issued by the Ministry of Interior.

### Article 3

To issue or renew licensing for offices to practice the profession of recruiting domestic workers from abroad, the licensing applicant must fulfill the following conditions:

1. A Kuwaiti citizen of a good reputation.
2. Never sentenced to a penalty as a result of a felony or a crime relevant to honor or honesty, unless he has been rehabilitated.
3. No less than thirty years of age and no more than 70 years of age at the time of applying to request issuing or renewing an office license to practice the profession of recruiting domestic workers.
4. Fit and healthy with no disability that makes him unable to conduct the work, in accordance with a certificate issued by a competent government entity.

The license applicant must submit a letter of guarantee in accordance with the conditions, circumstances and value decided by a decision of the Interior Minister.

#### **Article 4**

Notwithstanding the provisions of Law No. 69 of 2015 referenced, the following terms and conditions must be fulfilled to issue or renew licensing for companies practicing the profession of recruiting domestic workers from abroad:

First: For partnership companies all the partners must fulfill the conditions referred to Article 3 of these Rules.

Second: For shareholding companies, the manager in charge of managing the company or any of its branches must fulfill the conditions referred to Article 3 of these Rules.

In all cases, the company must submit a letter of guarantee in accordance with the conditions, circumstances and value decided by a decision of the Competent Minister.

#### **Article 5**

All offices and companies recruiting domestic workers and their branches must commit to visiting the Domestic Workers Directorate whenever requested to do so in accordance with a summons issued by that Directorate.

#### **Article 6**

The domestic worker recruitment offices and companies shall commit to returning the domestic worker back to his home country and refund the amounts paid by the employer within six months from the date of receiving the domestic worker to work for the employer in the following cases:

1. An obstacle preventing the domestic worker from performing his work in which the employer had no hand.
2. Affliction of the domestic worker with a communicable disease or any physical, health or psychological disability preventing the domestic worker from continuing to work, in accordance with a memorandum issued by a competent authority.
3. The existence of a legal obstacle imposed by public interest, preventing the employer from issuing a residency permit for the domestic worker.
4. The administrative deportation of the domestic worker for public interest requirements.
5. The office, company or their branches provided the employer with inaccurate information or data about the domestic worker.
6. The domestic worker refuses to continue with the work or left it to an unknown destination, on condition that the official authorities are informed that the domestic worker left work within six months from the date of receiving the domestic worker to work for the employer.

#### **Article 7**

Domestic worker recruitment offices and companies, and their branches, shall retain books and records relevant to the practice of the domestic worker recruitment activity and enable the employees identified by a decision of the Minister of Interior to access them, provided that these records contain at least the following:

1. A record in which the names of the domestic workers to be recruited and those who fall within their category outlining at a minimum the name, nationality, date of birth, professional, academic degree, experience, languages, religion, social status, weight and height.
2. A record in which the names of the domestic workers and those who fall within their category who have been recruited from abroad, registering at a minimum the name of the domestic worker, nationality, profession, salary, passport number, visa number, employer's name, employer's phone number, date of entry into the country and date of delivering the domestic worker to the employer.
3. A record in which the names of the domestic workers and those who fall within their category who were hosted at the domestic workers rest area affiliated with the Ministry of Social and Labor Affairs, outlining at a minimum the name of the domestic worker, nationality, profession, unified or civil number, employer's name, date of entry into the country, date of entry into the domestic workers rest area, date of delivering the domestic worker to the employer and date of leaving the domestic workers rest area.

#### **Article 8**

The employer shall abide by the following:

1. Pay the agreed upon wage at the end of every month.
2. Write a receipt that the domestic worker received the wages monthly, and the receipt of transferring the domestic worker's salary shall be considered a form of proof that the domestic worker received the wages.
3. Payment of the wages of the domestic worker from the actual date of starting work. The burden of proof of payment of wages to the domestic worker shall be on the employer.
4. Feed and clothe the domestic worker working for him.
5. Treat and nurse the domestic worker at the public hospitals.
6. Provide appropriate housing to the domestic worker, which fulfills decent health living requirements.
7. Refrain from keeping any personal identity documents or papers belonging to the domestic worker with him, such as the passport or civil ID cards, except with the consent of the domestic worker.
8. Refrain from mandating the domestic worker to undertake any harmful or hazardous work threatening his physical health or safety, or undermining his human dignity.
9. Refrain from mandating the domestic worker to work outside the State of Kuwait without his consent or employing him by others. Any violation of this shall require his return to his own country at his expense.

## **Article 9**

The domestic worker shall abide by the following:

1. Perform the work agreed upon in the contract, and exert the care of an ordinary person in this work.
2. Carry out the instructions of the employer, as stipulated in the contract.
3. Preserve the funds, property and secrets of the employer and his family members.

## **Article 10**

The employer must, before the domestic worker starts to work for him, sign a recruitment contract matching the form drafted by the Domestic Workers Directorate at the Ministry of Interior, whether the domestic worker is recruited through his knowledge or through a domestic workers recruitment office or company. In the event of a dispute between the two parties, the Arabic version of the contract shall prevail.

## **Article 11**

Upon the expiry of the contract between the employer and the domestic worker, the employer shall commit to handing over to him all his dues outlined in the contract and stipulated in the Law.

The contract may be renewed between them automatically unless either party expresses a desire to refrain from renewing the contract at least two months from the expiry of the contract.

The burden of proof for renewing the contract or the lack of renewal shall be on the employer.

## **Article 12**

The domestic worker shall receive the wages designated in the work contract at the end of every month, provided it is no less than the minimum wage outlined in a decision of the competent minister in accordance with Article 19 of the Law.

## **Article 13**

Recruitment contracts drafted by the Domestic Workers Directorate must include the following rights in accordance with Article 18 of the Law:

1. The commitment of the employer to provide food, housing and clothing for the domestic worker along with treatment in the event of a work injury and compensation for injuries resulting from it.
2. Refrain from requiring the domestic worker to work more than 12 hours a day to include rest hours. Rest hours shall be calculated as part of the working hours.
3. Earn a paid weekly rest and annual vacation.
4. Stipulate the right of the domestic worker to retain his personal documents. The employer may retain them following the consent of the domestic worker.

5. Mandate the employer to assume the costs of transporting the body of the domestic worker in the event of his death to his home country along with the payment of the wages for the month in which he died.

#### **Article 14**

Taking into account Item 2 of Article 13 of these Rules, the employer may ask the domestic worker to perform overtime work on condition that the duration of this work does not exceed two hours in a single day. The domestic worker shall be due compensation equal to the wages of half a day for that overtime.

In the event that the employer refuses to compensate the domestic worker for this overtime, the domestic worker may complain to the Domestic Workers Directorates, which may, after looking into the complaint and verifying the worker's right, obligate the employer to pay fair wages no less than double the wage listed in the work contract.

#### **Article 15**

The domestic work shall earn indemnity equal to one month of the wages designated in the work contract for every year of work if the contract is fulfilled.

#### **Article 16**

The Director of the Domestic Workers Directorate may suspend the licensing of domestic workers recruitment offices or companies temporarily, as follows:

First: Suspending licensing for three months in the following cases:

1. The office or company, or their branches, failed to visit the Domestic Workers Directorate at its request, unless it is proven there was a justification for this.
2. The office or company, or their branches, failed to deliver the domestic worker to the employer within 24 hours from entering the country, unless it is proven there was a justification for this, provided the Domestic Workers Directorate is informed of this.
3. The office or company, or their branches, failed to receive the domestic worker as soon as he arrived in the country or delayed in this without an acceptable excuse.

Second: Suspending licensing for six months in the following cases:

4. The office or company, or their branches, deal with returned domestic workers or domestic workers recruited by others.
5. The office or company, or their branches, sign work contracts that are in violation of the contracts accredited by the Domestic Workers Directorate.

In the event of a recurrence of any of the aforementioned cases in First and Second, the suspension period shall be doubled.

In all cases, the office or company shall continue to fulfill its obligations with regard to enforcing the provisions of the Law and these Rules, established before the passing of the suspension decision.

#### **Article 17**

The licensing for domestic workers recruitment shall be revoked by a decision of the Minister of Interior in any of the following cases:

1. If the licensee loses a condition of licensing.
2. If he violates Article 4 of this Law.
3. If it is proven that the licensee has received the license based on false information or forged documents.
4. The license term has expired or it was concluded by the licensee, and the office or company was dissolved or liquidated.
5. If the licensee concedes the license to others directly or indirectly.
6. If the recruitment office or company, or a branch of theirs, is used as housing for domestic workers.
7. The domestic workers recruitment offices did not correct their position in compliance with the provisions of Law No. 68 of 2015, referenced, within three months from the issuance of these Rules.

The Minister of Interior may suspending licensing instead of revoking it in any of the above cases for three months, and in the event of a recurrence the license is revoked immediately.

#### **Article 18**

The decisions to suspend or revoking licensing may be appealed before the Minister of Interior within one month from the date of notifying the licensee of the decision. He shall be notified of the Minister's decision to accept or reject the appeal within sixty days from the date of its issuance.

#### **Article 19**

In the event that the employer delays the payment of wages to the domestic worker from the date agreed upon, the domestic worker shall be due the amount of ten dinars for every month of delay for not receiving wages on time, in addition to the wages due.

#### **Article 20**

In the event of the validity of any complaint against the employer at the Domestic Workers Directorate the issuing of entry visas for domestic workers for the employer shall be suspended for 6 months. In the event of a recurrence, the duration shall be doubled.

#### **Article 21**

The Director of the Domestic Workers Directorate must issue a decision to extend the residency of the domestic worker, temporarily, until the complaint with the Domestic Workers Directorate is disposed

finally and the worker receives all dues, taking into account Article 11 of the Emirate Decree No. 17 of the 1959, referenced.

#### **Article 22**

Upon the conclusion of any complaints or disputes between the domestic worker and the employer, the Domestic Workers Directorate shall issue a clearance certificate to the domestic worker in accordance with the form drafted by the Directorate for this purpose indicating that the domestic worker has no rights or claims relevant to the employer or recruitment office or company.

A copy of this certificate shall be delivered to:

- The employer
- The recruitment office or company
- The domestic worker or his delegate.

#### **Article 23**

The activity of domestic worker recruitment offices, companies and their branches shall be restricted to recruiting domestic workers from abroad to work inside the State of Kuwait exclusively.

#### **Article 24**

The application for licensing to initiate domestic worker recruitment activities shall be submitted to the Domestic Workers Directorate using the form drafted by the Directorate for this purpose, along with the requirement documents and information. The licensing shall be issued by a decision of the Ministry of Interior's Undersecretary to the office or the company.

No branch may be opened until after licensing is secured for this in accordance with the aforementioned procedures.

#### **Article 25**

Licensing for offices in accordance with the provisions of these Rules shall be personal, and no one else may be mandated with managing this activity. The licensing shall conclude with the death of the licensee. The licensee may appoint an office manager on condition that he is a relative of the licensee to the second degree and that he fulfills the conditions outlined in Article 3 of these Rules, without undermining the right of the Domestic Workers Directorate to summon the owner of the office whenever it deems this appropriate. The licensing may be transferred to others in the two following cases:

1. If the age of the licensee exceeds 70 years and the transfer of the license in this case shall be to the spouse or one of the licensee's children.
2. In the event of the death of the licensee, the transfer of the license shall be in this case to the spouse, the heirs, or one of the heirs.

To transfer the license in the two cases above, the new licensee must fulfill all the conditions outlined in Article 3 of these Rules.

In the event that there is no wish to continue with the activity, the legal representative of the deceased licensee's heirs shall be granted a grace period not to exceed six months to dissolve the work of the office and dispense the guarantee amount. During the liquidation period, the following shall apply:

- A. An ad shall be placed in the office in a prominent location on the dissolution of the office's work as a result of the death of the licensee.
- B. No domestic workers shall be recruited after the date of death.
- C. The Domestic Workers Directorate shall be handed over a list of all commitments of the office towards others along with the applications to recruit domestic workers and the amounts paid to the office in their regard.
- D. The Domestic Workers Directorate shall be handed over at the end of the office's liquidation a list of the work of the legal representative of the deceased licensee's heirs to liquidate the work of the office until the date of the conclusion of the liquidation period.

The above shall apply to the licenses issued to partnership companies, while for shareholding companies the licensing shall conclude with the liquidation of the company or upon the failure to fulfill any of the licensing conditions in accordance with Article 4 of these Rules.

#### **Article 26**

The duration of licensing for domestic workers recruitment offices and companies and their branches, produced for the first time, shall be one year, and may be renewed after that annually after the office or company submits the contracts signed with their peers in the countries from whom domestic workers are recruited, provided that they are certified by the Embassy of Kuwait, if any, and accredited by the Kuwaiti Ministry of Foreign Affairs.

#### **Article 27**

Domestic workers recently arrived and not picked up within 24 hours by the employers shall be deposited at the domestic workers rest area operating under the umbrella of the Ministry of Social and Labor Affairs provided that the period of the domestic worker's stay at the rest area does not exceed 15 days, during which the domestic workers recruitment offices and companies shall assume the fees due to the Ministry of Social and Labor Affairs and the costs of repatriation to the mother country in the event that the employer does not receive the domestic worker.