

# LAW ON WORK PERMITS OF FOREIGNERS

Law No: 4817

Date of Endorsement: 27 February 2003

## PART ONE

### Objective, Scope and Definitions

#### Objective

**ARTICLE 1** - The objective of this Law is to obligate permits for the employment of foreigners in Turkey and to govern the principles of work permits to be issued for these foreigners.

#### Scope

**ARTICLE 2-** This Law involves;

Foreigners working independently or as employed;

Foreigners under vocational training in connection with an employer;

And real persons and legal entities employing foreigners in Turkey,

That lay within the coverage of Article 29, Paragraph 2 of Law No: 403 on Turkish Citizenship, Article 13 of Press Law No: 5680, and Decree Law No: 231 governing the Organization and Duties of the General Directorate of Publications Broadcasts and Information, who have been granted work permits or employed by ministries, public authorities and organizations in accordance with the authority stipulated by law,

With the exemption of foreigners held exempt from work permits under reciprocity principles, international law and European Union law.

#### Definitions

**ARTICLE 3** - The flowing terms used in this law carry the associated meanings attributed to them:

Ministry: Ministry of Labor and Social Security,

Foreigner: Persons not considered to be a Turkish citizen according to Turkish Citizenship Law,

Employed worker: Foreigner, who is working under the direction of a single or several employers that may be real persons or legal entities, in return for wages, salaries, commission or similar remuneration.

Independent worker: Foreigner, who is working on his own behalf and account, notwithstanding the option that he/she employs other persons or not.

## **PART TWO**

### **Obligation to Acquire Permits and the Authority to Issue Permits**

#### **Obligation to acquire permits and the authority to issue permits**

**ARTICLE 4** – Unless not stipulated to the contrary by bilateral and multilateral agreements in which Turkey stands as a party, foreigners are required to acquire a work permit before starting work in Turkey independently or as employed.

In cases the national benefit requires so or due to reasons of force majeure, a work permit may be issued after the subject foreigner starts working, on condition that the related authority is notified, that the duration of work does not exceed one month and there is Ministerial.

## **PART THREE**

### **Work Permits, Exemptions and Restrictions Regarding Work Permits**

#### **Work permits with specific duration**

**ARTICLE 5** – Unless not stipulated to the contrary by bilateral and multilateral agreements in which Turkey stands as a party, work permits are issued for a period of maximum one-year, for a specific business or operation and for a specific occupation, by taking into account the conditions prevailing in the business world, developments in the labor environment, variations in the sectoral and economic conditions, in line with the residence permit of the subject foreigner, the duration of the job contract and the duration of the work concerned.

Subsequent to the expiry of the one-year work permit, the work permit may be extended for three years for the same occupation, for the same business or operation.

Subsequent to the expiry of the three-year work permit, the work permit may be extended for six years for the same occupation, for any employer the foreigner prefers to work for.

Work permits with a specific duration may be issued for the spouse and children which are under the guardianship of the foreigner who comes to Turkey for work, whether they accompany him/her or come later on, provided that these family members have been residing officially and uninterruptedly mutually with the subject foreigner for a period of five years.

The Ministry is authorized to extend or restrict the geographical locality of work permits with specific duration.

## **Work permits with indefinite duration**

**ARTICLE 6** – Unless not stipulated to the contrary by bilateral and multilateral agreements in which Turkey stands as a party, foreigners who reside in Turkey for a period of eight years officially and uninterruptedly, and foreigners who officially hold a cumulative job experience of six years in Turkey may be issued work permits with indefinite duration, not restricted for an operation, an occupation or an administrative or geographical locality. Likewise, the conditions prevailing in the business world, or the developments in the labor environment are not to be taken into account while issuing such work permits.

## **Independent work permits**

**ARTICLE 7** – The Ministry may issue independent work permits to foreigners who will work independently, on condition that such foreigners have resided in Turkey officially and uninterruptedly for a period of five years.

## **Exceptional cases**

### **ARTICLE 8** –

- a) Foreigners, who are married to Turkish citizens and who are living with their spouses under conjugal community or foreigners who have settled in Turkey although their conjugal community have terminated after a period of at least three years and their mutual children generating from their union with their Turkish spouse,
- b) Those who have lost their Turkish citizenship as a consequence of the provisions of Articles 19, 27 and 28 of Turkish Citizenship Law No: 403, and their offspring,
- c) Foreigners who were born in Turkey and foreigners who have come to Turkey before having reached age of majority, stipulated by their national laws or by Turkish Law in case they are stateless, and who have graduated from a vocational school, academy or university in Turkey,
- d. Foreigners who are regarded as immigrants, refugees or nomads by Settlement Law No: 510,
- e. European Union citizens and spouses and children of these persons who are not citizens of the European Union,
- f. Employees working at the service of the diplomats, administrative and technical personnel assigned at embassies and consulates of foreign states and representations of international establishments in Turkey, and spouses and children of diplomats, administrative and technical personnel assigned at embassies and consulates of foreign states and representations of international establishments in Turkey, within the framework of reciprocity principle (*the restriction is valid for the second group only*),
- g. Foreigners who come to Turkey for scientific and cultural activities that will continue for more than one month and sports activities that will continue for more than four months,
- h. Foreigners of key status who will be employed by ministries and public authorities and organizations authorized by law, for the procurement of goods or services through contracts or by tenders, execution of a job or operation of a facility,

May be granted work permits, notwithstanding the durations stipulated by this Law, unless not stipulated to the contrary by bilateral and multilateral agreements in which Turkey stands as a party.

### **Periods included in the official duration of work and periods considered as a discontinuation of residence**

**ARTICLE 9** – Annual leaves and periods recompensated by insurance authorities for occupational accidents, occupational diseases, sickness and and maternity, temporary disability and joblessness are regarde as official working periods.

In case the total time spent by the foreigner away from Turkey does not exceed six months, the duration of work is considered not interrupted. Yet, the time spent outside Turkey is not considered as working period. In case the foreigner fails in extending his/her residence permit for a period of more than six months, although he/she is within Turkey, his/her residence is considerd as interrupted regarding work permit provisions.

### **Work permit exemption certificate**

**ARTICLE 10** – A work permit exemption certificate may be provided by the Ministry to foreigners who are held exempt from work permit procedure, upon their application, with the rights and privileges stipulated by bilateral and multilateral agreements in which Turkey stands as a party are reserved.

### **Restrictions on work permits**

**ARTICLE 11** – In cases necessitated by conditions prevailing in the business world, developments in the labor environment, variations in the sectoral and economic conditions concerning employment, work permits may be restricted for a certain time for agriculture, industry or service sectors, for specific occupations or administrative or geographical locality, notwithstanding the rights and privileges stipulated by bilateral and multilateral agreements in which Turkey stands as a party, within framework of the reciprocity principle.

## **PART FOUR**

### **Issuing, Extending, Rejection and Cancellation of Permits and**

#### **Application for Judicial Solution**

### **Issuing or extending permits**

**ARTICLE 12** – Foreigners file their applications for work permits at the representations of the Turkish Republic in the countries they reside. The representations convey these applications directly to the Ministry. The Ministry evaluates these applications in accordance with Article 5, by consulting realted authorities, and issues work permits to foreigners considered appropriate. This permit is valid only if the necessary work visa and residence permit are available. Foreigners having received work permit are required to apply for entry visa within ninety days following the date they receive the work permit and to apply to the

Ministry of the Interior for a residence permit within thirty days following their entry to Turkey.

Foreigners holding a valid residence permit, as well as their employers may file their applications directly to the Ministry.

Work permits are issued by the Ministry upon the written application of foreigners holding residence permits or their employers in accordance with this Law or the Directive to be issued accordingly.

Applications will be answered by the Ministry latest within ninety days.

### **Consulting related authorities**

**ARTICLE 13** – Work permits for foreigners for the occupations, crafts and jobs they may be employed at, are issued by the Ministry, by taking the considerations of related authorities with regard to the terms stipulated by this Law, including occupational competence.

Provisions relating to the jobs and occupations not permitted for foreigners by other Laws are reserved.

### **Rejection of the permit application**

**ARTICLE 14** – The application for work permit or an extension thereof will be rejected:

- a) In case the conditions prevailing in the business world, developments in the labor environment, variations in the sectoral and economic conditions concerning employment are not suitable for issuing work permit,
- b) In case there are persons domestically, who have the same qualifications to carry out the subject job within four weeks period,
- c) In case the foreigner does not hold a valid residence permit,
- d) In case the foreigner applies for a specific business or operation or a specific occupation within less than one year following the rejection of his/her previous application for the same business or operation or same occupation,
- e) In case the works of the foreigner constitute a threat against national security, social structure, public order, moral values and public health.

### **Cancellation of work permits**

**ARTICLE 15-** In case it is verified that the foreigner violates the restrictive provisions listed in Articles 11 and 13 or there exists any of the cases prescribed in Article 14 or in case it is discovered later on that the foreigner or his/her employer has filed inadequate or false information in the work permit application, the Ministry cancels the work permit and notifies the related ministry.

### **Invalidation of work permit**

**ARTICLE 16-** Work permits, besides expiry of duration, become invalid;

- a) In case the residence permit of the foreigner invalidates for any reason or is not extended,
- b) In case the duration of the passport or the substitute certificate of the foreigner is not extended (except cases in which the Ministry of the Interior or Foreign Ministry maintain affirmative considerations)
- c) In case the foreigner stays abroad continuously for more than six months, with the exception of cases of force majeure.

### **Right to apply for judicial solution**

**ARTICLE 17-** The Ministry notifies the foreigner or his/her employer - if any – concerning its decision regarding the issuing, extension, and invalidation of the work permit or rejection of application thereof in accordance with the provisions of Notification Law No: 7201.

An objection may be filed against the decision of the Ministry, within thirty days following the date of notice. In case the objection is refused, the case may be filed at administrative courts.

## **PART FIVE**

### **Obligation to Notify, Authority for Inspections and Regulations and Disciplinary Provisions**

#### **Obligation to notify**

**ARTICLE 18-**

- a) Foreigners working independently are required to notify the Ministry latest within 15 days following the date they start working and they leave working,
- b) Employers employing a foreigner are required to notify the Ministry latest within 15 days following the date the foreigner starts working; in case the foreigner does not start working within 30 days following the date of the receipt of the work permit, or in case the job contract terminates for any reason, 15 days afterwards the occurrence of such.

#### **Information to be supplied to the Ministry**

**ARTICLE 19-** Ministries, public authorities and organizations authorized to issue work permits are required to submit any information regarding the work permits they have issued, extended or cancelled to the Ministry within 30 days following the date of the related issuing, extension or cancellation. Alternatively, ministries, public authorities and organizations employing foreigners are required to submit any information concerning the foreign employee to the Ministry within 30 days following the date the subject foreigner starts working.

#### **Inspection authority**

**ARTICLE 20-** The inspectors of the Ministry and Social Security Authority inspect whether foreigners and employers covered by this Law fulfill their obligations arising from this Law.

Audit and inspection staff of organizations structured within the general public budget and organizations subject to supplementary budget also examine if the employers employing foreign personnel and foreigners fulfil their respective obligations arising from this Law during routine audits and inspections they carry out at business sites, in line with the related legislation. Audit results will be notified to the Ministry separately.

### **Disciplinary provisions**

**ARTICLE 21-** Independent foreigners who fail to fulfil the notification requirement within the period prescribed in Article 18, will be fined TRL 250 million and employers will be fined TRL 250 million for each foreigner concerned.

Foreigners working as employed workers without a work permit will be fined TRL 500 million.

Employers or their proxies having employed foreigners who do not hold a work permit will be fined TRL 2,500 million for each foreigner concerned. In such a case, related employers or their proxies will be required to cover the accommodation expenses, travel expenses for the journey back to their country and health expenses if required of the foreigner, and spouse and children if concerned.

The fines stipulated in paragraphs 1, 2 and 3 would be twofold in cases the prescribed violations are repeated.

Foreigners working independently without a work permit will be fined TRL 1 billion and if there is a business site or sites concerned, Regional Directorates of the Ministry will resolve to close these business sites and the related provincial governorates will be assigned with the said task. In case the said violations are repeated, the business facility will be closed and administrative fines will be applied in twofold.

Fines stipulated by this Law will be notified to the related persons by Regional Directorates of the Ministry, together with reasons thereof, in accordance with Notification Law No: 7210. Administrative fines have to be paid to the tax offices or provincial finance directorates within 7 days after the date of notice. Related authorities may file objection to the fine at the authorized criminal court of peace. Filing an objection does not stop the pursuit and collection of the fine.

Foreigners working independently or as employed and employers employing foreigners who are fined according to this Law will be reported to the Ministry of the Interior.

Law No: 6183 on the Pursuit and Collection of Public Receivables will be effective for administrative fines and other receivables not paid in due time.

### **Directive**

**ARTICLE 22-** Procedures and principles of issuing, classification and cancellation of all types of work permits, foreigners to be held exempt from work permits and measures for

notification obligations will be governed by a directive to be issued in association with this Law.

The Directive to be prepared for the execution purposes of this Law will be issued within six months following the date of publication of this Law, jointly by the Ministry, Ministry of the Interior, Foreign Ministry, Ministry of Finance, Ministry of Development and Housing, Ministry of Health, Ministry of Tourism, State Planning Organization, Undersecretariat of Treasury, Undersecretariat of Maritime and Undersecretariat of Foreign Trade by taking considerations of other related ministries, public authorities and organizations and occupational organizations that are regarded as public authorities.

### **Employment of foreign personnel in foreign investments**

**ARTICLE 23-** Foreigners to be employed by companies and organizations established within the scope of Law No: 6224 on the Encouragement of Foreign Investments can be employed by means of work permits to be issued by the Ministry in accordance with the procedures and principles to be designated by the Directive to be prepared jointly with the Undersecretariat of Treasury.

## **PART SIX**

### **Amendments Made in Some Laws**

**ARTICLE 24-** Staff positions designated in the annex List 1 have been established and supplemented to Table 1 for the Ministry of Labor and Social Security which had been annexed to Decree Law No: 190.

**ARTICLE 25-** The following paragraph has been supplemented to Law No: 3146 on the Organization and Duties of the Ministry of Labor and Social Security, to read as paragraph (h), and the previous paragraph (h) has been designated as paragraph (i):

- h. To carry out the tasks prescribed by the Law on Work Permits of Foreigners,

**ARTICLE 26-** Article 34 of Law No: 6235 on Chambers of Turkish Engineers and Architects dated 27 January 1954 has been amended to read as follows:

Article 34. Foreign contractors and foreign organizations are entitled to employ foreign experts in engineering and architecture related projects of the state, public and private organizations or persons they undertake solely or jointly with domestic companies, under work permits to be issued by the Ministry of Labor and Social Security in consultation with the Ministry of Development and Housing and Union of Chambers, exclusively for the specific works.

**ARTICLE 27-** Article 35 of Law No: 6235 has been amended to read as follows:

Article 35. Regarding works outside the scope of Article 34, foreign engineers and architects holding B.S. and M.S. degrees may be employed under work permits to be issued by the Ministry of Labor and Social Security in consultation with the Ministry of Development and Housing and Union of Chambers.

**ARTICLE 28-** Article 119 of Petroleum Law No: 6235 dated 7 March 1954 has been amended to read as follows:

Article 119. Holders of petroleum rights are entitled to employ foreign administrative and technical staff and experts under work permits to be issued by the Ministry of Labor and Social Security in consultation with the Ministry of Energy and Natural Resources and Ministry of the Interior.

**ARTICLE 29-** The following paragraph has been supplemented to Article 21 of the Private Education Establishments Law No: 625 dated 8 June 1965, to succeed paragraph 4:

Foreigners to work within the scope of this Law are subject to the provisions of the Law on Work Permits of Foreigners.

**ARTICLE 30-** Article 3 of the Law No: 2527 Facilitating Foreigners of Turkish Ancestry to Perform their Occupations and Crafts Freely in Turkey and Their Employment in Public and Private Establishments or Businesses, dated 25 September 1981 has been amended to read as follows:

Foreigners of Turkish ancestry, in order to facilitate them to perform occupations, crafts and jobs or be employed in such, which are permitted for Turkish citizens by laws, will be granted permits by the Ministry of Labor and Social Security in consultation with the Foreign Ministry and Ministry of the Interior and other related ministries and public authorities in accordance with this Law and the Law on Work Permits of Foreigners, provided that these persons carry the qualifications specified by the related laws and fulfil the requirements.

**ARTICLE 31-** Article 18, paragraph (a), subparagraph (1) of Tourism Encouragement Law No: 2634, dated 12 March 1982 has been amended to read as follows:

Foreign expert staff and artists may be employed in licensed facilities under work permits to be issued by the Ministry of Labor and Social Security in consultation with the Ministry (*of Tourism*) and Ministry of the Interior.

**ARTICLE 32-** The below paragraph has been supplemented to Article 26 of Law No: 2634:

Foreigners to work within the scope of paragraph (1) above are subject to the provisions of the Law on Work Permits of Foreigners.

**ARTICLE 33-** The title of the Tariff 6 associated with Fees Law No: 492, dated 2 July 1964 has been amended to read as follows:

Passport, visa, residence permit and Foreign Ministry endorsement fees and fees for work permits to be issued for foreigners:

**ARTICLE 34-** The list below has been supplemented to Tariff 6 associated with Law No: 492:

IV - Work permits to be issued to foreigners are subject to the following fees:

1. Work permits with specific duration:
  - a. For 1 year (including 1 year) TRL 50.000.000.-
  - b. For 3 years (including 3 years) TRL 150.000.000.-

Extensions are subject to same fees.

2. Work permits with indefinite duration: TRL 250.000.000.-
3. Work permits for independent work: TRL 500.000.000.-

Foreign Ministry is authorized to designate the work permit fees by taking reciprocity principles into consideration.

## **PART SEVEN**

### **Provisional and Final Provisions**

#### **Abolished Provisions**

**Article 35-** Law No: 2007 dated 11 June 1932 on Crafts and Services Reserved for Turkish Citizens in Turkey has been abolished.

**PROVISIONAL ARTICLE 1** – Work permits that have been issued before the date this Law comes into effect, to foreigners working independently or as employed, in accordance with the provisions of the former legislation, will be valid until they expire, provided that they are not cancelled by the Ministry or become invalidated as per the provisions of this Law.

**PROVISIONAL ARTICLE 2** – Information concerning foreigners that have been issued work permits or employed by public authorities or organizations before the date this Law comes into effect, will be submitted to the Ministry within 90 days following the date this Law comes into effect, by the authorities who have issued the involved permits.

**PROVISIONAL ARTICLE 3** – Work permits in process, which have been applied for by foreigners before the date this Law comes into effect, will be issued by public authorities and organizations authorized by the provisions of the former legislation in effect before the date of effect of this Law. These authorities will inform the Ministry thereof, within 30 days after issuing the concerned work permits.

#### **Coming into force**

**ARTICLE 36** – Whereas Article 24 of this Law will come into force on the date of its publication, other provisions will come into force six months after the date of publication.

#### **Execution**

**ARTICLE 37** – The provisions of this Law will be executed by the Council of Ministers.

## LIST 1

**NAME OF AUTHORITY:**

**DIVISION:**

**STAFF POSITIONS ALLOCATED:**

Category	Title	Grade of Staff Position	Quantity
GAS*	Department Head	1	1
GAS	Branch Manager	1	2
GAS	Specialist	1	3
GAS	Chief	3	1
GAS	Chief	4	1
GAS	Chief	5	1
GAS	Programmer	2	1
GAS	Data processing and control operator	3	2
GAS	Data processing and control operator	4	3
GAS	Computer operator	3	3
GAS	Computer operator	4	3
<b>TOTAL</b>			<b>21</b>

- General Administrative Services