



النهضة العربية للديمقراطية والتنمية
Arab Renaissance for Democracy & Development

Legal Paper
Legal Aid Unit

Non-Jordanian Work Permit's Fee Regulation

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Brief

In this paper we discuss the legal situation of migrant workers in Jordan, whose numbers has increased significantly in the last ten years, prompting the authorities to find legislative and regulatory solutions that seek to balance the situation of local and expatriate workers.

The analysis below highlights the different stages the work permit **Non-Jordanian Work Permit's Fee regulation** for non-Jordanians went through, in terms of the adoption and amendment of texts, and their impact on the categories covered by this regulation, and examines its suitability to the needs of non-Jordanian workers in Jordan and the success the (free work permit) regulation has achieved in terms of facilitating their work and improve their economic opportunities.

Arab Renaissance for Democracy and Development (ARDD) seeks through its programs and services to establish a democratic society in which everyone enjoys social, economic and political justice regardless of their situation and background, including Syrian refugees and other nationalities coming to Jordan.

As part of its efforts in this regard, ARDD's Legal Aid Department seeks to explain the legal procedures and labor rights of non-Jordanians and the conditions of work in Jordan, in addition to holding several awareness workshops in many regions of the Kingdom to clarify the most important and important points related to work permits.

Background

With the increasing population and increasing numbers of refugee's waves in Jordan over the last ten years, the number of non-Jordanian workers in Jordan has increased significantly. This has led to the emergence of mixed economic migrations and asylum seekers and refugees, as both refugees and migrants seek employment, prompting official agencies to find regulatory and legislative solutions that balance the situation of expatriate and local labor in the country.

To achieve these objectives, the official authorities endeavor to establish the necessary legal restrictions and controls to regulate the conditions of incoming workers, including the requirement of a work permit, and to regulate the professions that non-Jordanians are allowed to practice. Therefore, the Jordanian Labor Law

stipulates in article 12 that a non-Jordanian worker may not be employed unless a work permit is issued to him/her in addition to issuing a work permit regulation stating the procedures and conditions that must be met to issue a permit related to the to be practiced profession.

Problem Statement

The previously applied work permit regulation required the existence of an employer to apply for a permit from the Ministry of Labor. The approval for the issuance of this permit is subject to the nature of work, closed professions, and unemployment rates among Jordanians. The work permit fee is between 500-600 JD or more which the employer is obliged to pay.

Since the beginning of the Syrian refugee wave in 2011, the Syrian refugees' relentless pursuit of employment opportunities and the limited assistance provided. Solutions were bound to be found to help and facilitate the issuance of work permits according to the nature of work that has attracted a high demand among these workers, especially in the agricultural and construction sector.

However, the idea of linking the permit to a one-year employment contract has not been well received neither by the employer nor the worker. This is due to the seasonal nature of these occupations, which led both employers and workers evading issuing work permits opting for the alternative; working illegally and resort to informal work.

Proposed Solutions

With the help of donor countries and the outcomes of the 2016 London Conference, the Ministry of Labor has found a solution to overcome these challenges by creating a new type of work permit, known as the free work permit.

The essence of this solution, is to issue a free work permit thus allowing Syrian refugees to work in the agricultural and construction sectors - the two sectors which the Ministry of Labor approved for these refugees - this permit is not related to the employer or the existence of a contract between him/her and the worker, and is exempted from Fees. This decision has encouraged many Syrian refugees to issue this type of permit, to be able to work under the umbrella of law and formally and can move from one employer to another unconditionally.

On September 16, 2019, the Ministry of Labor announced that, as of the end of June of the same year, it had issued 152,540 work permits for Syrian refugees, including 54,459 work permits in the agricultural sector and 24724 permits in the construction sector. These figures indicate the importance of implementing these types of work permits and are somehow indicative, of the extent to which Syrian refugees accept such permits, although there are other challenges and perspectives that prevent many of them from issuing these permits, such as the fear of cutting aid and the lack of commitment of the refugee to a specific work or employer.

On September 2, 2019, the Ministry of Labor decided, through the draft work permit fees regulation for non-Jordanians for 2019, which obtained the approval of the Prime Minister and became effective as of Sunday 22/9/2019, to adopt the same permit previously approved - Any work permit - granted to Syrian refugees to be applied to all non-Jordanian nationalities on Jordanian grounds. Apparently, this decision was taken as an analogy to the experience of this type of permit with Syrian refugees - which has proved somewhat successful - despite the lack of studies showing this, which is the role assigned to the Ministry of Labor.

The issuance of a new regulation of fees for work permits coincides with the start of the Ministry of Labor's legalizing the status of violating migrant workers' process which entails giving them a period to rectify their situation, which began on Sunday 15 September 2019 and lasts for two months.

This regulation includes many legal texts related to the organization of the work of expatriate workers, and represents an important opportunity and a qualitative shift in terms of formulating the idea of work permits and canceling the idea of linking the work permit to one employer, especially in the field of seasonal occupations such as construction and agricultural sector.

The adoption of a free work permit has had a positive effect in encouraging Syrian refugees to obtain the kind of permits that allow them to work formally.

According to this decision, the Ministry of Labor granted Syrian refugees the right to obtain a work permit in the agricultural and construction sectors, which is not directly related to the employer and is exempted from fees.

Under this recently approved regulation, the 'free permit' applies not only to Syrian refugees, but to all non-Jordanian workers on Jordanian grounds, as well as to refugees of different nationalities.

These efforts are aimed at establishing a firm statutory legislation that defines the regulations and legal texts regulating this type of permits and fees imposed on it. Hopefully such decision will contribute to regulating the labor market, reducing informal work, and enhancing legal protection for all workers in Jordan, regardless if they were Jordanian, migrant workers or refugees.

Raising awareness of the rights of non-Jordanians working in Jordan

Through its services and focus on the work of Syrian refugees and other nationalities, ARDD seeks to clarify the legal procedures, labor rights of non-Jordanians, and working conditions in Jordan, ARDD has conducted many awareness building workshops to explain the main work permits issues, including free work permits, aiming to strengthen the protection regulation, ensure the correct application of laws, regulations and procedures, and enable marginalized groups of refugees, women and others to access justice and ensure their rights within national and international legal frameworks.

Moreover, ARDD, has consistently sought to outline the legal challenges and difficulties facing refugees and other migrant workers, and has also produced numerous research papers and studies on refugees, migrants and general employment, focusing on the importance of finding solutions that guarantee their work and their rights, taking into consideration protecting them from exploitation.

ARDD considers that the work permit fee regulation for 2019 is an important opportunity to regulate the work of non-Jordanians and contribute to curbing exploitation, and to provide protection to non-Jordanians, despite having some reservations, which ARDD hopes to be taken into account, in addition to clarifying the most prominent points mentioned in this regulation and the situation adjustment decision.

The Regulation's main texts

- The regulation included provisions that unify work permit fees for many sectors to become 500 JD.
- The regulation included two new types of work permits:
 1. Permit for day labor (free permit) in three sectors (agricultural sector, construction, loading and unloading), the fees of which shall be as follows:
 - Agricultural: JD 1,500 annually
 - Construction, upload and download: JD 2,000 annually
 2. Work permit for those with specialized skills, the fee of which is JD 2,500 annually

The idea of Free work permits does not link the worker to the issuance of a work permit, which requires a work contract between him/her and the employer for a period of one year, instead the workers sponsor themselves in such types of permits so that the sponsorship is regulated through a central body determined by the Ministry of Labor.

This situation is similar to the practice of such type of free work permits for Syrian refugees. Certain cooperatives have been assigned for the purpose of issuing and sponsoring permits in the agricultural sector and trade unions in the construction sector. This type of permit allows workers to move from one employer to another freely and without complications or the requirement of obtaining a clearance and other things that were previously applied. As for the required procedures and papers, they are still preparation as the Ministry of Labor has not issued any instructions about them.

- Work permits fees for domestic workers were reduced from 600 JD to 500 JD annually.

Exemptions

The issuance of the Work Permit Fees Regulation also coincided with several exemptions to work permit fees violations.

This includes utilizing exemption period, whose start and end have not yet been announced, to correct the legal status and obtain work permits to benefit from exemptions, which came as follows:

- In economic sectors and activities such as construction, loading and unloading, 20% of the fines and fees for previous years, first-time work permit renewal fees, renewal or transfer from one employer to another are collected. A maximum of five years imposed on previous years.
- As for the domestic workers and alike sectors, 25% of the fines and fees imposed on previous years, the fees for issuing a work permit for the first time, renewing it, or transferring from one employer to the last five years shall be collected as a maximum. The agricultural sector is excluded as fees are fully charged.
- 50% of the work permit fee shall be collected for migrant workers who hold work permits within the domestic workers sector and the like with a maximum of five years if the worker wishes to move from work at home to work for beauty salons.

- Other economic sectors other than those mentioned above, 50% of the fines shall be collected from the fines and fees imposed on previous years, the issuance of a work permit for the first time, renewal, or transfer from one employer to another, up to a maximum of five years imposed on previous years.
- As for Aqaba Special Economic Zone (ASEZ), 50% of the work permit fee is collected for the previous years, up to a maximum of five years, in which the worker did not obtain a work permit except agriculture, where the fees are fully paid.
- As for Free Work Permits, the worker is exempted from all previous work permits fees provided the fees are paid for the work permit that the worker will currently issue.
- Those who wish to leave the Kingdom permanently are exempted from all work permit fees in addition to “no objection” fees in order to enable them to withdraw their dues with social security.
- Non-Jordanian spouses and wives are exempted from previous work permit fees completely.

Observations, challenges and opportunities

ARDD regards the new work permit procedures as an important opportunity for all nationalities on the Jordanian territory, whether they are refugees or migrant workers, to benefit from.

These procedures equate all nationalities to benefit from the concept of the free permit and protects them from exploitation and informal labor.

The period of exemptions from fees and fines is an excellent opportunity to rectify the situation of non-Jordanian workers in Jordan, and a call to urge employers to take advantage of the new regulation.

In order to develop and build on these procedures and to ensure their success and that they achieve their objectives, we have the following question:

- Why is the agricultural sector included in the exemptions, with the condition of full fee payment? What are the reasons for this despite the adoption of a free permit in the agricultural sector? Will normal permits still apply in the agricultural sector or will they be restricted to free permits only?






- Following are some comments and recommendations concerning the regulation and its procedures:
- Regarding the fees imposed on free work permit, the worker is the one who bear the costs of work permit fees, not the employer. These fees are considered high in relation to the average pay collected by the workers in these sectors and the minimum wages for non- Jordanians Thus we conclude that the aforementioned will hinder workers› from applying to free work permits and to being exploited by employers and brokers.
- We suggest that the employer›s obligation (normal work permit) to pay fees for any irregularities or abuses, or in the case of work without a work permit should be explicitly stated, where the employer bears the payment of the previous fines and fees. The worker shall not be deprived of his social security entitlements until her/his situation is rectified, and the employer is held responsible for not issuing a work permit to him as stipulated in article 12 of the Labor Law.
- Publications and awareness sessions on the new regulation, outlining the required papers, dissemination of awareness to all groups about these new procedures, and the use of various media to ensure that information is accessible to all, are essential.
- In order to achieve the objectives of this Law, exemptions must also be linked to residence fines for violating the Residence and Foreigners› Law of restricted nationalities. Since the correction of employment conditions and the issuance of a work permit is through the Ministry of Labor which is subject to approval of the Ministry of the Interior and obtaining residence permits. In the absence of rectification of residence conditions, the worker will not be able to rectify her/his legal status due to the accumulation of residence fees and fines, which constitutes an impediment to the purposes of achieving and rectifying the situation.



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