

Update

Qatar's New Immigration Law

Law No.(21) of 2015 Regulating the entry, exit and residency of expatriates in Qatar (New Immigration Law) has recently been published in the Arabic press and reported in various English language publications. We understand that it will be published in the official Gazette next month. The New Immigration Law states that its provisions will take effect one year after such publication, i.e. towards the end of 2016. There is yet no fixed implementation date. The Minister of Interior (Minister) through the Ministry of Interior (Ministry) and Immigration Department will be responsible for the implementation and enforcement of the New Immigration Law.

The New Immigration Law will repeal Law No.(4) of 2009 (Old Immigration Law) and the decisions and resolutions previously issued to implement it. However, until the Minister issues the new implementing decisions and regulations, the current decisions and resolutions will remain in force to the extent that they do not contradict the provisions of the New Immigration Law.

This article sets out some of the provisions introduced or amended by the New Immigration Law which may be of interest to expatriate employees currently working in Qatar and those individuals considering working in Qatar in the future. Unfortunately given that the New Immigration Law has only recently been published and given the lead time for implementation, this article cannot consider in any detail the effect the law may have on expatriates when this New Immigration Law comes into force.

This article contains general statements in relation to the New Immigration Law and should not be construed in any way as legal advice. Formal legal advice should be sought on a case by case basis when interpreting the provisions of the New Immigration Law.

Observations

- Timelines in the New Immigration Law have been amended, in some cases materially. By way of example, the period within which an expatriate employee should now be issued with his or her residence permit after entering Qatar has been extended from 7 to 30 days. 30 days is also the maximum period an expatriate employee can remain in Qatar without being obliged to obtain a residence permit.
- In relation to certain matters the New Immigration Law gives more clarity in relation to what is and what is not legally permitted.

For example whilst the New Immigration Law makes it clear that it is not acceptable for an employer to retain an employee's passport or travel document after it has been used to apply for or renew a visa, such prohibition can be waived if the employee agrees in writing that the employer can retain it, but only until such time as the employee requests its return. In addition in relation to clarity, the New Immigration Law states that a visa may not be issued without an executed employment contract being in place; historically some visas have been issued without a contract having been executed.

- In addition to the individuals who are exempt from the requirements of the Old Immigration Law, e.g. foreign leaders, diplomats, captains of sea vessels and aircraft pilots, etc. the New Immigration Law also exempts Gulf Cooperation Council nationals.

Matters of Interest

Exit Permit

The New Immigration Law obliges an employer to inform the Ministry 3 days prior to an employee exiting Qatar. Notwithstanding such obligation the law also states that, subject to an employer approving such exit the employee will be able to exit Qatar immediately. We cannot comment on how this obligation and approval will be implemented in the context of or amend the current exit permit regime. In relation to exit permits the New Immigration Law also refers to an Expatriates Exit Permit Grievances Committee to which expatriates employees will have recourse should an employer or the Ministry itself refuse to issue the expatriate employees with an exit permit when one has been requested.

Letter of No Objection

The New Immigration Law provides that the transfer of an employee's residency shall be at the discretion of the Ministry. The New Immigration

Law, unlike the Old Immigration Law, does not refer to the requirement for the employee's employer to approve the transfer, i.e. issue a letter of obligation, often referred to as a NOC. The New Immigration Law states that a transfer may be effected at the end of a definite employment term, i.e. a term which does not include a right for either party to give early notice to terminate, or after an employee has completed 5 years of employment with one employer if they have an indefinite employment term, i.e. a term which does include the right for either party to give notice. Notwithstanding these transfer rights, the New Immigration Law provides that each will be subject to the employer's rights should such transfer prejudice those rights. Again we cannot comment at this time as to how the employee's and employer's rights will each be assessed by the Ministry should a dispute arise.

Registration of Birth

Parents holding valid residence permits now have 90 days from the date of birth of their children, or the child's entry into Qatar, to apply for Qatar residency for that child. Under the Old Immigration Law the time period was 60 days. In addition, the time period for a child born outside Qatar to enter Qatar has been reduced to 6 months from 2 years.

Penalties

The penalties contained in the New Immigration Law reflect those of the Old Immigration Law for the most part. For example, a breach of the provisions, amongst other things, relating to entering Qatar with the correct travel documents, entering and exiting at the correct locations, complying with the terms of the visa which has been issued, can be punished by a fine not exceeding QAR50,000 and/or imprisonment for up to 3 years. Repeat offenders may be subject to more severe penalties, including fines of up to QAR100,000. In addition to these existing penalties, the New Immigration Law specifies some additional penalties, including,

where an employer retains travel documents without permission, QAR25,000, where an employer fails to inform the Ministry that an employee's employment has been terminated within 14 days of such termination, QAR50,000, and where a hotel or other lodging facility does not comply with its notice obligations to the Ministry, for example, where notification is not provided when a visitor or resident remains unaccounted for 48 hours or more, QAR20,000.

The New Immigration Law retains the ability of the Minister to instigate conciliation discussions with offenders to settle any breaches amicably and attaches a table setting out the payments associated with each offence. Where for whatever reason matters cannot be settled amicably final judgment will be

issued and enforced. In addition the New Immigration Law introduces a discretion for the Minister to exempt or reduce the conciliation amounts awarded to an offended person or entity on the grounds of public interest or for humanitarian reasons. Finally, in relation to penalties, the Minister or his deputy has the right to "blacklist" an offender until such time as the breaches are cured or the judgments satisfied.

NOTE: Qatari laws (saved for those issued by the Qatar Financial Centre to regulate internal business) are issued in Arabic and there are no official translations, therefore for the purposes of drafting this article we have used our own translations and interpreted the same in the context of Qatari regulations and current market practice.

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