

LABOR LAW

Iraqi labor law does not impose an obligation on employers to employ a certain percentage of Iraqi nationals. An exception applies where an investment license is required for a project in which case, according to the Investment Law, at least 50% of the employees in the workforce of the project must be Iraqi nationals. Furthermore, in projects conducted under a foreign investment license, Iraqi nationals must be given priority over foreign workers, unless it can be shown that there are no Iraqi nationals whose skills and qualifications would match the relevant position. Foreign investment law also imposes an obligation on foreign investors to train their Iraqi employees and to enhance their skills.

The essential provisions of Iraqi labor law are embodied in Law No. 71/1987 and in ICC Articles 900 to 926. Some amendments were made by CPA Order No. 89. The Labor Law, however, is expected to undergo major changes in the near future. The Social Security Law (Law No. 39/1971) contains further provisions relevant to the employer-employee relationship.

1. Employment Contracts

As a general rule, Article 10 of Law No. 71/1987 provides that Arabic is the language recognized for the employer/employee relationship, contracts, registers and instruments of work. However, the use of Kurdish is also recognized for labor contracts and other business entered into in the autonomous area of Kurdistan.

In addition to the aforementioned provisions of Article 10, the Labor Law requires employment contracts to contain a number of mandatory provisions; they must be in writing, specify the kind of work and the amount of the wage. Salaries and wages must be paid in IQD.

The term of an employment contract may either be fixed or indefinite, depending on the nature of the work. The Labor Law gives employers the right to hire employees on a probationary basis for a period of up to three months. This period, in which the employee is expected to demonstrate his skills and conduct, should be specified in the employment contract.

2. Working Hours and Annual Leave

As a general rule, employees should not work longer than eight hours per day for six days per week. However, the working hours may be increased in exceptional cases. The increase is treated as overtime, for which the wage must be increased by 50% to 100%, depending on the type and nature of the work.

Employees are entitled to annual leave after a period of one full year of employment. The annual holiday is 20 days per year and is increased by two days for every five years of employment. According to Article 71 of the Labor Law any agreement to waive or abandon the annual holiday, in whole or in part, for compensation or other advantage, is null and void.

3. Termination

Termination of employment contracts is very difficult in Iraq.

The Labor Law includes a comprehensive list of the authorized grounds for termination. They are the following: (i) mutual written agreement; (ii) expiry of the term of the contract; (iii) the will of the employee, after following certain procedures; (iv) incapacity due to illness for more than six months; (v) incapacity of the employee amounting to at least 75%; and (vi) decline in the establishment's business provided that the Labor Minister has been informed. The Labor Law also contains provisions concerning termination of illegal employment contracts. In addition, it is possible to terminate an employment contract in accordance with the general principles of the Civil Code.

Chapter 1 of Part VIII of Law No. 71/1987 regulates labor disputes. According to Article 131 of that Law, if the differences between the employer and the employee have reached the stage of a dispute, both parties shall seek conciliation after informing the Minister of Labor and Social Affairs and the President of the General Federation of Employee Unions, who can then assist the parties in their efforts to reach a mutually acceptable solution.

If conciliation fails, disputes between employers and employees will be submitted to the Labor Cases Tribunal at the Court of Cassation. The Labor Cases Tribunal must give its judgment in open session within 15 days. Its decision is final.

4. Work Permits

The Labor Law distinguishes between Arab and foreign employees. Arab employees are treated as Iraqis and thus require no work permit. Employers need only inform the Labor office within 10 days before the commencement of the employment of an Iraqi employee and 30 days before the commencement of the employment of an Arab employee. Foreign employees require work permits and may not, according to Article 23 of Law No. 71/1987, be employed before they acquire a work permit; employees of branches of foreign companies in Iraq are exempted from this requirement.

Directive No. 18/1987 concerning the employment of foreigners in Iraq empowers the Minister of Labor and Social Affairs to issue work permits to foreigners in light of market needs for foreign workers. Work permits are issued for one year and must be renewed by the foreign employee at least one month before the expiry date. The Directive also sets out the conditions and procedures for obtaining a work permit whether from within or outside Iraq.

5. Labor Disputes

Labor courts were introduced by the Labor Law (Articles 137 to 147) as a mechanism for resolving labor disputes. Labor courts were established pursuant to Article 137 in each Governorate.

Appeals from decisions of the Labor Courts are heard by a three-member tribunal established in the Court of Cassation under the name "Labor Affairs