

SAUDI ARABIA

ABDULAZIZ A. AL-BOSAIFY
law office in association with
CLYDE & CO LLP
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مكتب عبدالعزيز عبدالله البصيلي
للمحاماة والاستشارات القانونية بالاشتراك مع
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Saudi Arabia visa amnesty update



By Sara Khoja and Antonio Michaelides

Earlier this year, the Ministry of Labour (MoL) in Saudi Arabia (KSA) launched a series of surprise labour inspections designed to root out unlawful working in KSA. The scale of the irregularities discovered lead to the declaration of an amnesty which, following an extension, will now expire on 03 November 2013 (Amnesty).

Each foreign individual (meaning an individual who is not a KSA national or a national of one of the other five Arabian Gulf Cooperation Council (AGCC) countries) working in KSA must have a KSA - registered entity or national sponsoring him for work and residency visa purposes.

Such authorisation permits the individual to work for the individual or entity sponsoring him in the role specified on the labour card and residency permit. It is unlawful under KSA immigration and labour regulations for an employee sponsored for work and residency by one company to work for another company or in a role other than that specified in his authorisation papers. It is also unlawful for an employer to employ workers who are under the sponsorship of others.

The MoL will inspect the firms and investigate any violations, and report them to the Ministry of Interior (Mol). The Mol shall arrest, deport and take punitive measures against violators who are working for their own benefit and against those who abscond as well as the employers, benefactors of such violators, those covering for them and transporting them in addition to any person having a role in such violation.

The Rules for Dealing with Expatriates in Violation of the Laws (the Rules) published by the MOI include 14 articles identifying the competent authority for enforcing the penalties, the penalties and the employer's obligations. Employers who have been charged with violation of the Rules will be prohibited from recruiting foreign employees for a maximum period of 5 years. Examples of violations include:

- Hiring illegal immigrants;

- Leaving the employer's workers to work on their own account or for someone else; or
- Hiring workers of others without following the statutory rules and procedures.

The Amnesty only covers individuals who have work and residency sponsorship under one employer but who are working for another and individuals who had lawful sponsorship which has since expired but have remained in KSA and now work illegally for another employer. The Amnesty only applies to persons whose violations were committed before April 6th, 2013 and government fees incurred on the violations will not be exempted under the Amnesty.

All employers and individuals are required to correct the status of their employees or their individual status respectively by the expiry of the Amnesty; through either ensuring that the correct

sponsorship is put in place or repatriating individuals to their home countries. Employers in violation of the labour and immigration laws will be subject to a fine of SAR 10,000 per employee employed unlawfully, and a potential jail sentence of at least 2 years (maximum 5 years).

The KSA authorities are encouraging individuals and employers to benefit from the Amnesty and have made it clear that leniency will be shown to those correcting violations. The Amnesty and greater enforcement action must be viewed against the wider aim to promote the employment of KSA nationals and modernise labour arrangements in KSA (in agreement with the major labour exporting countries such as the Philippines, India, and Indonesia).

In addition, a series of amendments to the KSA Labour Law have been published. These, along with other proposals (such as unemployment benefit for KSA nationals and measures to enhance job

location and recruitment for returning graduates to KSA) will be the subject of attention in the coming months.

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**Abdulaziz A. Al-Bosaily Law Office
in association with Clyde & Co LLP**

Tel: (966) 11 200 8817

Fax: (966) 11 200 8558

Email: sara.khoja@clydeco.com

antonio.michaelides@clydeco.com

www.clydeco.com