

LAW ON EMPLOYMENT AND WORK OF FOREIGNERS
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CHAPTER I

GENERAL PROVISIONS

Content of the Law

Article 1

(1) This Law shall regulate the terms and conditions for employment or work of foreigners in the Republic of Macedonia, unless otherwise determined by international agreements.

(2) A foreigner shall be considered an employed person in the Republic of Macedonia if he has established labour relation with an employer on the basis of employment contract, whose seat or place of residence is in the Republic of Macedonia or if the foreigner has acquired a status of self-employed person pursuant to this Law.

(3) Services performed by foreigners or other forms of work performed by foreigners on the basis of employment contracts or other contracts under the civil law, and which are in force in the territory of the Republic of Macedonia as for a limited period shall be considered work performed by foreigners according to this Law.

Article 2

Definition of terms

(1) Certain expressions used in this Law shall have the following meaning:

1. 'Foreigner' shall mean a person who is not a citizen of the Republic of Macedonia.

2. 'Foreigner is also an apatride' or a person who no state considers its citizen by operation of the national law.

3. 'Asylum seeker' shall mean a foreigner who has status of a person who seeks recognition of his right to asylum, pursuant to the Law on Asylum.

4. 'Recognized refugee' shall mean a foreigner who has been recognized the right to asylum and he/she is entitled to equal rights and responsibilities as of those of the citizens of the Republic of Macedonia with some exceptions referred to in the Law on Asylum.

5. 'Persons under humanitarian protection' shall mean a foreigner who has been recognized the right to asylum due to humanitarian protection pursuant to the Law on Asylum.

6. 'Persons under temporary protection' shall mean a foreigner who has been recognized the right to temporary protection pursuant to the Law on Asylum.

7. 'Employer' shall mean legal or natural person registered to perform activity and other persons referred to in the Law on Labour Relations who employ workers on the basis of employment contract.

8. 'Worker' shall mean a natural person, who on the basis of employment contract has established labour relation with employer, and on that ground has been registered for mandatory social security by the employer.

9. 'Seasonal work' shall mean temporary work depending on the shift of seasons.

10. 'Seasonal border worker' shall mean a foreigner who is employed or performs work in the Republic of Macedonia and returns to his permanent place of residence at least once per week.

11. 'Self-employed person' shall mean a natural person who performs independent economic activity providing economic benefit and generating additional value (investment, innovation, technology transfer, provision of job positions) for the economy of the contry where it is performed. The self-employed person is to provide livelihood through the independent activity he performs, registered in an appropriate legal register and to pay social security contributions.

12. 'Representative of a foreign company' shall mean a natural person, who according to the law or the acts published by a legal person or sole owner, is authorized to represent a legal person or a sole owner and is registered in the appropriate register.

13. 'Posted worker' shall mean a natural person who has established labour relation with a foreign employer in the course of the provision of the agreed service in the territory of the Republic of Macedonia and for which the employer pays social security contributions.

14. 'Foreign Company' shall mean a legal person who performs activity for the profit it has been established for, or whose seat is located out of the Republic of Macedonia.

15. 'Presence in the market': According to this Law a foreign company shall be considered present in the market of the country when it has a branch office or other organizational form of business activities in the territory of the Republic of Macedonia, registered under the regulations of the Republic of Macedonia or if it has a commercial company owning a minimum of 50 % of the share.

16. 'Posting persons in companies': shall mean periodical posting natural persons who work for a foreign entity with head office out of the Republic of Macedonia in the organizational unit of the said foreign entity in the Republic of Macedonia.

17. 'Crossborder services' shall mean services provided in the Republic of Macedonia by a foreign company on the basis of a contract concluded with a domestic legal entity.

18. 'Business visitor' shall mean a foreign natural person who stays in the Republic of Macedonia, and who does not make incomes in the Republic of Macedonia or who does not sell or offer services on direct basis, but only participates in business meetings, establishes business contacts including negotiations concerning provision of services or similar activities and including those services and activities linked with the foreign company preparation to acquire presence in the market of the Republic of Macedonia. Those types of activities may be performed in the Republic of Macedonia for a limited period of 90 days within six months commencing from the date of the first entry.

Article 3

Application of the Law

(1) The provisions referred to in this Law shall apply to all foreigner unless otherwise determined by this Law or international agreement.

(2) The provisions referred to in this Law shall not apply to:

1. Foreigners who pursuant to the international law enjoy privileges and immunity and possess a special document issued by or registered in the Ministry of foreign Affairs;
2. Foreigners who provide services in the country on the basis of appropriate bilateral or multilateral agreements or agreements with the European Union or international organizations involved in professional assistance, education, post graduate studies or researches or who provide services as a part of projects organized under aforementioned agreements and are registered in the competent ministries;
3. Foreigners reporters for foreign media or foreign correspondents, accredited in the Republic of Macedonia;
4. Foreigners who perform office work in established religious communities and foreigners who organize and manage charitable and humanitarian activities within registered organizations and religious communities;
5. Foreigners who, on the basis of a contract concluded with the Ministry of Defence or Ministry of Interior provide services for the requirements of the national defence and security and persons who upgrade their capacity in those areas;

6. Foreigners who are members of marine crew or aircrew or foreigners employed by road and rail traffic companies with seat registered abroad;
7. Foreigners who, according to the law are registered in the Trade Register in the Republic of Macedonia as founders, partners and members of company supervisory boards, and who are not representatives;
8. Business visitors;
9. Foreigners and their associate technical staff, who as lecturers participate in organized professional meetings, make presentations and scientific achievements or occasionally participate in their implementation;
10. Foreigners who reside in the Republic of Macedonia on the basis of international agreements to participate in programmes for international exchange of school students or university students as well as foreigners who reside due to specialization, professional advancement or practical qualifications;
11. Foreigners who, on voluntaree basis, are engaged in the framework of organized youth camps and other forms of temporary participation of young people on international level, organized by authorized organizations, schools, institutions, ministries or local communities;
12. Foreigners who, by themselves, provide creative services in the field of culture as participants in cultural workshops, meetings, colonies and other cultural events or as reporters from such events, creators and revisers in the field of music, musical performances, folk dances, ballet and literary works, photography, video, film and art of electronic media as well as associate staff to instructors, reporting and organizational and technical staff and as experts in the field of protection of cultural heritage, librarianship, archive ship and creative culture, who does not stay in the country for more than 7 days; With regard to the creative services in the field of culture referred to in the previous paragraph, the provider of a service shall supply prior consent from the Ministry of Culture;
13. Foreigners who participate in sports and chess competitions;

(3) The provisions provided for in this Law shall not apply to citizens of the Member States if reciprocity has been obtained under international agreement in terms of free access to the labour market, employment and free flow of services by transferred workers and related to other forms of work subject to this Law.

Article 4

General provisions

(1) The Assembly of the Republic of Macedonia on a proposal from the Government of the Republic of Macedonia (hereinafter referred to as: the Government) determines the migration policy and the general policy for employment and work of foreigners by resolution that will be enforced according to this Law and the bilateral and multilateral agreements. The draft Resolution of the Government of the Republic of Macedonia is drawn up by the Ministry of Interior in cooperation with the Ministry of Foreign Affairs and the Ministry of Labour and Social Policy. Based on the policy for work employment of foreigners determined, the Government shall establish a work permit quote, on annual basis, approved for the next year by Decision made not later than the fourth quarter of the current year.

(2) Pursuant to the established policy for employment and work of foreigners, the Government shall conclude agreements setting up the conditions for a certain category of workers, and the course of the services between the signatory countries which shall be exempted from the quotas envisaged and shall adopt measures for protection of the domestic labour market determined by this Law.

(3) The foreigners, who pursuant to the provisions referred to in this Law may get employed or self-employed, or commence work in the Republic of Macedonia, shall mandatorily possess work permit and regulated residence in the country, and the person in charge of registration, shall register their work as operation of a foreigner according to the provisions referred to in this Law. In certain cases laid down in this Law, work performed by foreigners on the basis of work registration certificate shall be permitted in exceptional cases;

(4) Work registration certificate on a prescribed form-certificate shall be a document to confirm the lawfulness of the work performed by foreigners in the country.

(5) Employment or work contract concluded between employer and foreigner lacking work permit shall be considered nulled.

(6) Foreigners in the Republic of Macedonia may only perform work for which they possess work permit.

(7) The employer may not, when employing or granting work to a foreigner, treat inequally the employment or job seeker due to race, skin colour, gender, age, health condition, or disability, religious, political or other beliefs, union membership, national or social background, family status, property status, sexual orientation or other personal circumstances. The prohibition of direct or indirect discrimination in those cases shall refer to discrimination of the candidate to employment or worker pursuant to the Law on Labour Relations.

(8) The employer shall be obliged to cover the expenses relating to work permit attainment and regulation of labor relation pursuant to this Law and other regulations

laying down the expences determined. The employer may not charge the said financial costs up to the foreigner's account. The employer shall be obliged to ensure that the foreigner he has employed shall have minimum rights concerning working hours, breaks and holiday periods, night work, minimum annual leave, salaries, healthcare and security at work and special protection of workers laid down in the legal regulations and general collective agreement or in industrial collective agreement provided more favourable for the worker.

(9) The employer who has, pursuant to the employment and insurance regulations in case of unemployment, been issued licence to post workers to other employers – beneficiaries on the basis of concession contract, may not conclude employment contract with foreigners who do not possess work permit valid for certain period.

(10) A foreign employer, who engages posted workers for provision of services in the Republic of Macedonia, shall be obliged to, when providing services, observe the Law on Labour Relations of the Republic of Macedonia.

(11) Legal entities established in the Republic of Macedonia, when concluding contracts encompassing work provided by foreigners with foreign contracting parties, shall be obliged to observe the provisions referred to in this Law related to the conditions met by foreigners for obtaining work permit.

(12) Foreigner residing in the Republic of Macedonia for the purpose of specialization, professional advancement or practical qualifications as well as foreigners who reside in the Republic of Macedonia on the basis of international agreement due to participation in international exchange programmes for school or university students shall not be entitled to work or engage in work in the course of their stay.

(13) Any facilitation, incentive or participation in illegal employment of foreigners or of Macedonian citizens abroad by an employer or by responsible person shall be forbidden and in opposition to the provisions of this Law.

CHAPTER II

LIMITATION OF THE NUMBER OF FOREIGNERS

IN THE LABOUR MARKET

Article 5

Establishment of work permit quotas for foreigners

(1) In line with the migration policy, the conditions and fluctuation of the labour market, every year the Government shall establish work permit quotas (hereinafter referred to as: quota) thus limiting the number of foreigners in the labour market.

(2) The quota to the Government shall be proposed by the Minister competent for the matters in the field of labour on a proposal from the Employment Agency of the Republic of Macedonia (hereinafter referred to as: the Employment Agency) in cooperation with the Ministers responsible for the relevant fields pursuant to the legal regulations, for which the Economic- social Council may deliver its opinion as well.

(3) The quota shall cover neither foreigners who based on reciprocity agreement with the European Union have been entitled equality with the citizens of the Republic of Macedonia nor foreigners who according to this Law are not anticipated to have to obtain personal work permit, foreigners who possess personal work permit, representative and posted foreign workers to attend additional training courses.

(4) The quota shall be divided into groups of work permits for the following purposes:

1. Employment of foreigners in the Republic of Macedonia;
2. Foreigners posted in the Republic of Macedonia;
3. Training and advancement;
4. Seasonal work for foreigners;
5. Various services from foreigners.

(5) The quota provided for in paragraph 4 item 1 of this Article may not exceed 5% of the population of the Republic of Macedonia that is legally employed based on the State Statistical Office data.

(6) The quota provided for in paragraph 4 item 1 shall also cover permits for which the Republic of Macedonia grants consent pursuant to the international agreements with the countries whose citizens lack equal status with the citizens of the Republic of Macedonia.

(7) The Government may, in addition to the entire quota for employment and work permits to foreigners, place limitations and bans on employment and work of foreigners by regions, areas, companies and job positions. Furthermore, it may place limitations and bans to the flow of new foreign workers on the whole or in certain municipalities should reasonable grounds exist for the public or general commercial interest.

(8) The following grounds shall be considered reasonable for taking the measures referred to in paragraph 7:

1. Conclusion of international agreements on which basis the requists for employment of foreign workers are reduced;
2. Increased unemployment trends;
3. Decline of the need for foreign workers resulting from the employment policy programs;

4. Estimation that the foreigner concerned may not return to his country of origin following his work permit expiry;
5. Requests from the competent chamber or representative union on national level supported with evidence for mislaid job positions in particular sectors.

(9) The Government may decide on special measures to limit the number of self-employed foreigners for individual activity if the growth of the number of self-employed foreigners affects the growth of the national unemployment in the activity concerned.

(10) Initiative for taking the measures referred to in paragraph 9 of this Article may be proposed by the competent sectoral minister, expert association, competent chamber or representative union on national level.

(11) Individual increases of the annually determined quotas in the course of the year shall be approved in exceptional cases if the Government establishes that it is of public commercial interest for the country. In such cases, the Government shall establish the scope and duration of this kind of increases on a proposal from the competent chamber in coordination with the representative unions on national level, the ministry in charge of matters in the field of labour and the ministry responsible for the relevant field the exemption is proposed in.

(12) The Government may determine, for special cases of international tenders, that work permits are issued out of quota, without inspecting the situation in the labour market. In those cases the Government shall decide on the number of foreign workers and other necessary conditions pursuant to this Law.

(13) The authorities deciding on foreigners registration concerning performance of independent expert and other professional activities performed on the basis of sole owner status, when making decisions on foreigner registration within the appropriate register, shall be obliged to take into consideration the limitations and measures adopted by the Government.

Article 6

Establishment of priorities

(1) The quota established by the government concerning particular objectives shall be divided in line with the following priorities:

1. Valid work permits;
2. Work permits issued on the basis of international agreements covering already agreed quotas;
3. New work permits.

(2) The following categories of foreigners shall have priority for issuance of new work permits:

1. Foreigners having been issued work permit regardless the situation and conditions in the labour market;
2. Close family members of Macedonian citizens and of foreigners who possess residence permit in the Republic of Macedonia;
3. Foreigners who have attained professional education of lacking workers for the vacant job positions.

Article 7

Restrictions for new employments or work

(1) New employments or jobs for foreigners shall not be permitted if it affects the economy and employment rate.

(2) Applications for issuance of work permits submitted by employes established in the Republic of Macedonia, according to paragraph 1 of this Article shall be rejected in the following cases:

1. If, six months prior to the submission of the application for work permit for foreigners, the employer has dismissed the permanent employed workers;
2. If the employer has refused to employ an unemployed person referred to by the Employment Agency, and who has met the requirements.
3. If, within three years prior to the application for work permit issuance, the employer has been imposed an infringement penalty as provided for in the provisions referred to in this or other Law, related to illegal work or employment.
4. If the employer showed negative results in the previous year of his operation, if the salaries paid to his employees were under the level determined by the industrial collective agreement, if he violated the legal regulation concerning labour relations or if he did not settle his tax and contribution liabilities.
5. If the employer as company or sole owner cannot show positive results from the previous year of his operation;
6. If the employer as company or sole owner, within one year prior to the submission of the application for work permission for foreigner, was granted assets from the state budget to retain the job positions.

(3) Restrictions referred to in paragraph 2 of this Article, other than the cases referred to in item 4, exclude employment of certain scarce expert profiles.

CHAPTER III

WORK PERMITS

Article 8

General provisions

(1) Work permit is a document on which basis domestic or foreign employer shall conclude employment or work contract or performs other operation with foreigner pursuant to the provisions referred to in this Law.

(2) The work permit is issued as follows:

1. personal work permit,
2. employment permit,
3. work permit.

(3) The personal work permit is issued for a fixed-time period to 1 or to 3 years or for non-fixed time period.

(4) The employment permit in general is issued for a period up to one year, unless otherwise determined by this Law.

(5) The work permit is issued under various time limits depending on the purpose it is issued for.

(6) The work permit in general is issued on the basis of application submitted by employer, unless otherwise determined by this Law.

(7) A foreigner may be issued only one work permit valid for the same period.

(8) The foreigner's work permit shall be revoked and abolished if:

1. the foreigner's temporary or permanent residence permit has expired pursuant to law;
2. the foreigner resides out of the borders of the Republic of Macedonia for a continuous period of over six months, except in cases when the posting has been ordered by the employer in foreign country or if the foreigner has been absent for the purpose of education, sickness, maternity or childcare leave.
3. the foreigner performs other work, other than that the permit has been issued for.

(9) The provisions from Article 8, item 2 referred to in this paragraph shall not apply to foreigners who possess personal work permit valid for a permanent period.

(10) The Minister competent for the matters in the field of labour, shall prescribe a procedure for work permits issuance as well as for the form and content of certain types of work permits, as well as the content of the form of the certificate.

(11) The application for work permits shall be accompanied by applicant's statements stating that he/she has not been imposed an infringement penalty according to this Law and that se/she has not been granted assets from the state budget for maintaining the productive job positions.

(12) If the employer, due to some reasons, does not establish the labour or contractual relation or terminate the labour or contractual relation with the foreigner prior to the expiration of the work permit validity, he/she shall be obliged to return the work permit to the issuing body. This shall also apply to self-employed persons, if they discontinue their activity prior to the expiration of the permit .

Article 9

Competent authorities

(1) The procedures for work permit issuance, renewal and deprivation as well as the procedures for issuance of certificates provided for in this Law shall be instigated by the Employment Agency, pursuant to the Law on General Administrative Procedure.

(2) Against the Employment Agency decision, as a first instance body, rejecting the foreigner's application for work permit, the foreigner shall be entitled to appeal to the Ministry competent for the matter in the field of labour within 8 days from the date of the receipt of the decision.

(3) The Ministry competent for the matter in the field of labour shall adopt its decision within 15 days from the date the appeal has been submitted.

(4) Administrative procedure may be instituted befor competent cour atgainst the decision of the Ministry in charge of the matter in the field of labour, according to the Law on Administrative Dispites.

(5) In case where it is ascertained that the conditions laid down in Article 8 item 8 of this Law exist, the Employment Agency shall adopt decision concerning deprivation of the work permit and annulment of already issued certificate.

(6) The Employment Agency, when depriving the work permit, or making negative decision with regard to the work permit, shall be obliged to state information on the reasons for rejecting the work permit application, or depriving the work permit enclosing legal instruction for appeal against this decision.

(7) The Employment Agency shall inform the Ministry of Interior on the decision concerning deprivation of the work permit.

Article 10

Procedure for work permit issuance on the basis of application by foreigner

(1) The foreigner shall submit application for work permit issuance to the diplomatic-consular mission of the Republic of Macedonia abroad, in the country of citizenship or in the country he/she resides in on the basis of residence permit.

(2) In case there is no diplomatic-consular mission of the Republic of Macedonia in the country the foreigner lives in, or resides in on the basis of residence permit, the foreigner shall apply for work permit issuance to the diplomatic-consular mission of the country with which the Republic of Macedonia has concluded joint representation agreement.

(3) Provided that there is no diplomatic-consular mission in the country where the foreigner lives in or resides on the basis of residence permit as referred to in paragraphs 1 and 2 of this Article, the foreigner shall apply to the diplomatic-consular mission of the Republic of Macedonia in the nearest country.

(4) The application referred to in paragraphs 1, 2 and 3 of this Article shall include data, documents and evidence on the type of activity to be performed in the Republic of Macedonia, the place and the period to be realized in, qualification capacity (field) as well as activity plan for the self-employment capacity, accompanied by investment and economic benefit for the country, the number of employees as well as evidence on available funds concerning realization of the activity.

(5) The diplomatic-consular mission of the Republic of Macedonia in the relevant country shall communicate the application received to the competent services in the Ministry of Foreign Affairs and the Ministry of Interior in the Republic of Macedonia.

(6) The Ministry of Interior shall, following the completed inspection, forward the application to the Employment Agency, which within period not longer than 7 days shall deliver it for approval to the Ministry of Economy.

(7) The Ministry of Economy shall, within 30 days with regard to the indicators in the business plan, forward an information to the Employment Agency which elaborates the foreigner's self-employment economic capacity, taking into consideration limitations and measures adopted by the Government according to this Law.

(8) The foreigner who has acquired positive opinion by the Ministry of Economy concerning his/her self-employment in the Republic of Macedonia shall be issued work permit by the Employment Agency and which shall be delivered to the Ministry of Foreign Affairs to be forwarded to the diplomatic-consular mission of the Republic of Macedonia in the relevant country.

(9) The foreigner who has acquired negative opinion by the Ministry of Economy concerning his/her self-employment in the Republic of Macedonia shall be issued decision on rejected application for work permit by the Employment Agency and which

shall be delivered to the Ministry of Foreign Affairs to be forwarded to the diplomatic-consular mission of the Republic of Macedonia in the relevant country.

(10) Upon obtaining long-term residence visa, or decision for approval of temporary residence in the Republic of Macedonia, the foreigner may enter the Republic of Macedonia and shall be obliged to, within 5 days from the date of the entry in the Republic of Macedonia, to register in the Ministry of Interior for the purpose of issuing temporary residence permit in the Republic of Macedonia.

(11) Upon obtaining the temporary residence permit by the Ministry of Interior, the foreigner shall be obliged to register his independent activity pursuant to the law applicable to trade companies and to certify the commencement and discontinuation date in the Employment Agency – Employment Centre, in the local headquarters where the company was registered (trade association).

(12) With exception of paragraphs 1, 2 and 3 of this Article, a foreigner may submit application for work permit issuance to the Employment Agency, if he/she possesses:

- temporary residence permit on the basis of family reunion,
- temporary residence permit of a of a citizen of the Republic of Macedonia close family member,
- temporary residence permit for humanitarian purposes,
- recognized refugee's ID card, ID card of a person under humanitarian protection and ID document pursuant to the Law on Asylum and temporary protection,

(13) Procedures concerning conditions for registration or delete of a foreigner who performs registred expert or other commercial activity shall be enforced by the authorities and competent chambers laid down in relevant laws.

Article 11

Procedure for work permit issuance on the basis of application by employer and service beneficiary

(1) The application concerning establishment of work relation with foreigner in the Republic of Macedonia shall be submitted by the employer to the Employment Agency – Employment Centre.

(2) The application referred to in paragraph 1 of this Article shall include data on the number of employees, qualification capacity (field), the type of business and the period of their engagement, decription, place of work, labour cost expresed in hour unit as well as statement that he/she shall agree, if the sought labour force is lacking in the domestic labour market, to be provided by the foreign citizen.

(3) The employer shall certify and verify the reply by the Employment Agency on the application concerning the lack of the labour force in the domestic market and shall forward it to the diplomatic-consular mission of the Republic of Macedonia in the country where he/she shall employ workers from, through the Employment Agency.

(4) The diplomatic-consular mission of the Republic of Macedonia abroad shall forward the application received by the Employment Agency of the Republic of Macedonia to the competent employment service of the relevant country for the purpose of enforcement of the procedure for selection of workers in line with the employer's application.

(5) The competent employment service of the foreign country shall, following the selection of its workers, forward the list of selected workers with the data as provided for in paragraph 2 of this Article to the diplomatic-consular mission of the Republic of Macedonia to be delivered to the competent services of the Ministry of Foreign Affairs and the Ministry of Interior in the Republic of Macedonia.

(6) The Ministry of Interior shall, following the inspection, deliver the list of workers to the Employment Agency, which shall summon the employer to select from the list of workers and to fill in and sign employment contracts.

(7) Following the selection, completed and signed employment contract by the employer, the Employment Agency shall issue to the employer work permit for the persons he has signed employment contract with and together with the employment contract shall be delivered by the employer to the diplomatic-consular mission of the Republic of Macedonia in the relevant country.

(8) The diplomatic-consular mission of the Republic of Macedonia in the relevant country shall inform the competent employment service of the country concerned for the purpose of notification and posting the persons to the diplomatic-consular mission of the Republic of Macedonia in the country concerned for the purpose of obtaining long-term residence visa provision (visa 'D'), or for provision of decision on temporary stay in the Republic of Macedonia as laid down in law.

(9) The application for work permit by foreign employer to engage workers in the Republic of Macedonia, and who have already concluded labour relation in a foreign company shall be submitted to the diplomatic-consular mission of the Republic of Macedonia in the country where the company has been registered (trade association).

(10) The application for work permit obtaining provision of services to a foreigner shall be submitted by the beneficiary of the services in the Republic of Macedonia to the diplomatic-consular mission of the Republic of Macedonia in the country of citizenship or in the country of the residentship on the basis of the residence permit.

(11) The application referred to in paragraphs 9 and 10 of this Article shall include data on the number of workers, qualification capacity (field), type of work and engagement period of the workers in the Republic of Macedonia, description,

conditions, place of work, labour cost expressed in hour unit as well as the contract of the work to be realized.

(12) The diplomatic-consular mission of the Republic of Macedonia shall deliver the application to the competent services of the Ministry of Foreign Affairs and the Ministry of Interior in the Republic of Macedonia, which, according to the Law, shall inspect the data.

(13) The Ministry of Interior, following the inspection, shall forward the application to the Employment Agency, which upon the inspection of the employer or the beneficiary of the services shall issue work permit for the persons he has signed the contract for work engagement in the Republic of Macedonia, which shall, through the competent bodies and according to law, be delivered to the diplomatic-consular mission of the Republic of Macedonia in the relevant country.

(14) The foreigner shall, upon obtaining work permit, apply for long-term visa issuance (visa 'D'), or for decision on temporary residence in the Republic of Macedonia under procedure laid down in law.

(15) Upon the long-term visa obtaining, the foreigner may enter the Republic of Macedonia and shall be obliged to, within 5 days from the date of his entry in the Republic of Macedonia, register in the Ministry of Interior for the purpose of issuing temporary residence permit in the Republic of Macedonia.

(16) The employer shall be obliged to, upon obtaining temporary residence permit by the Ministry of Interior, certify the commencement and discontinuation date of the work performed by foreigners in the Employment Agency – Employment Centre in the employer's local office.

Article 12

Personal work permit

(1) Personal work permit is a renewable or permanent form of work permit, which in the course of its duration shall facilitate the foreigner free access to the labour market.

(2) Application for personal work permit may be submitted by a foreigner who shall fulfil the conditions referred to in this Law as well as by asylum seeker.

(3) Personal work permit shall be issued for a period laid down in this Law regardless the situation conditions in the labour market. Personal work permit valid for a period of one year shall be issued to:

- Close family member of Macedonian citizen who possesses valid temporary residence permit;
- Close family member of foreigner who possesses personal work permit for non-fixed time period;

- Foreigner originating from the Republic of Macedonia or his/her successor to third generation who is lacking Macedonian citizenship;
- Foreigner who resides in the Republic of Macedonia on the basis of temporary residence permit concerning family reunion;
- Foreigner asylum seeker whose request for asylum recognition has not been resolved within a period of 1 year, following the expiry of the period of 1 year (the work permit shall be issued for a valid period of three months with possible extension);
- Foreigner with recognized refugee status;
- Foreigner under humanitarian protection;
- Foreigner under temporary protection.

Foreigners referred to in paragraph 3 of this Article, in case their labour relation has been terminated, against their will, may register in the unemployed persons' records of the Employment Agency .

(4) Close family members of Macedonian citizenship, according to this Law shall mean:

1. spouse;
2. unmarried children to the age of 18;
3. unmarried children of his/her spouse to the age of 18;
4. unmarried children over the age of 18 and their parents the Macedonian citizen is obliged to support according to the law of the country of citizenship;
5. unmarried children over the age of 18 and the parents of the spouse the Macedonian citizen is obliged to support according to the law of the country of citizenship;
6. parents of Macedonian citizens to the age of 18.

(5) Close family members of a foreigner shall be considered:

1. spouse;
2. unmarried minors of the foreigners;
3. unmarried minors of the spouse;
4. minor foreigner's parents;
5. adult unmarried children and parents of the foreigner or spouse they are obliged to support according to the law of the country of citizenship.

(7) According to this Law, close family members of the foreigner shall be also considered the remaining relatives who have been issued residence permit in the Republic of Macedonia by the competent body due to family reunion.

(8) A foreigner who intends to establish or co-establish private commercial company pursuant to the Company Law and to represent that company on the basis of the right to establishment as well as a foreigner who intends to independantly perform expert activity shall be obtained personal work permit for self-employment pursuant to this Law issued for the purpose of representation of the company, performing the activity as sole owner or for performing professional business activities. According to this Law the permit shall be valid within one year from its expiration date.

(9) Personal work permit issued for the purpose of performing independent activity as a sole owner valid for one year may be obtained to a foreigner registered in the register as referred to in the law.

(10) The personal work permit referred to in paragraph 8 of this Article may be extended if the foreigner may prove that he/she has performed his/her activity in the period of the validity of the previous work permit, provided that he/she has not been subjected to an infringement penalty according to this Law in that period and if he/she submits positive opinion from the Ministry of Economy concerning realization of the business plan.

(11) Application for personal work permit valid for a period of three years may be submitted by a foreigner representing the company based of the right for establishment as well as by a foreigner performing his/her activity as a sole owner or by a foreigner who independently performs expert activity in the Republic of Macedonia continuously for a period of one year and who was not imposed to misdemeanor sanction for a misdemeanor provided for in this Law. The application shall be also accompanied by positive opinion from the Ministry of Economy concerning realization of the business plan.

(12) The personal work permit valid for a period of three years may be reissued to a foreigner for the same period if the foreigner during the validity of the previous work permit was not imposed to infringement penalty provided for in this Law and if he supplies positive opinion from the Ministry of Economy concerning realization of the business plan.

(13) Application for personal work permit valid for a non-fixed time period may be submitted by a foreigner who possesses permanent work permit in the Republic of Macedonia and a person with a recognized refugee status.

(14) The persons obliged to register the commencement and discontinuation date of the work performed by foreigners are the employers who establish labour relation with the foreigner or the foreigners themselves if they are self-employed.

(15) The personal work permit shall be discontinued:

1. with the expiry date of the validity of the personal work permit;
2. with the expiry of the validity of the residence permit;
3. if the foreigner abandon his/her personal work permit;
4. if the foreigner is granted citizenship of the Republic of Macedonia;
5. in case of death of the foreigner.

Article 13

Employment permit

(1) Employment permit is a form of work permit related to the need for permanent employment with employers on the basis of organization of job positions. A foreigner who has regulated residence in the Republic of Macedonia and possesses such permit may only be employed with employer who has applied for work permit.

(2) The employment permit may be only issued on the basis of application if the following conditions are met:

1. the employer fulfils the legally prescribed conditions;
2. the quota applied for this form of employment is not filled up;
3. the foreigner's employment does not affect the labour market, in particular, the domestic unemployment situation, employment structure or regional requirements concerning creation of new job positions in industries;
4. the foreigners was not imposed a misdemeanor sanction pursuant to this Law two years pending the application for employment permit; This provision shall not apply to foreigners who has lost the self-employed status.

(3) Pursuant to the provisions referred to in paragraph 2 of this Article, the employment permit, in general, shall be issued if domestic job seekers do not look for that particular job or the persons who in the view of their entitlement to employment enjoy equal status with the citizens of the Republic of Macedonia are registered in the Employment Agency record, and taking into consideration the priorities laid down in Article 6 of this Law.

(4) In cases related to athletes, workers in the field of culture, scientists, editors, staff in the diplomatic offices lacking privileged status, the employment of foreigners shall not be connected to the labour market due to the nature of the job in question, so that the employment permits concerning the abovementioned cases shall be issued regardless the conditions referred to in paragraph 3 of this Article.

(5) Whether the employment does not have seasonal character according to the provisions referred to in this Law, employment permit shall be issued for the period indicated in the employer's application. This period may not exceed one year, unless otherwise determined in this Law.

(6) Following the expiry of the employment permit it may not be extended, except if first employment of a foreigner is in question if the permit has limited issuance to four months. Upon the expiry of this period, the permit shall be renewed for one year without checking the conditions referred to in paragraph 3 of this Article, provided that neither the employer nor the foreigner in that period has violated the provisions referred to in this Law.

(7) The first employment of the foreigner in the country shall be considered employment of a foreigner who does not possess residence permit in the country. In case of seasonal workers, it shall be considered first employment if the foreigner, when applying, does not possess valid work permit.

(8) Pending the expiry of the employment permit, the employer may re-apply for permit, pursuant to the conditions laid down in this Law.

(9) If the Employment Agency determines that it is impossible to eliminate the deficit in particular expert profiles of workers in the labour market with a period of two years, it may, in exceptional cases, issue work permit valid for a period of two years under condition that the application for permit is submitted by the same employer the foreigner works for continuously two years.

(10) Close family members of Macedonian citizens or of foreigners who possess work permits shall be issued employment permits to be valid as long as to the validity period of their residence permits provided that they are recorded as unemployed in the Employment Agency and fulfil the requirements posed by the employer.

(11) The employment permit shall be issued as a part of the quota determined for employment of foreigners in the Republic of Macedonia.

(12) Employers where the foreigners take their labour relation shall be persons who are obliged to register the commencement and discontinuation date of the work performed by foreigners according to this Law .

(13) The employment permit shall be discontinued:

1. by the expiry of the period the permit has been issued for;
2. by the expiration of the validity of the residence permit;
3. if the labour relation is terminated;
4. if the foreigner has been granted citizenship of the Republic of Macedonia;
5. in case of death of the foreigner.

Article 14

Work permit

(1) Work permit shall be a type of work permit with priviously determined time limit on which basis the foreigner may temporary work in the Republic of Macedonia in line with the purpose the permit has bee issued for.

(2) With regard to the purpose, the work permit shall be related to:

1. Work performed by posted foreign workers;
2. Training and advancement of foreigners;
3. Seasonal work of foreigners;
4. Work performed by foreign representatives;
5. Individual services by foreigners.

(3) A foreigner shall be issued work permit on the basis of application submitted by the employer or other legal person according to this Law.

(4) The work permit shall be issued within the quota determined for particular purposes.

(5) Following the expiry of the work permit, the foreigner may not be issued employment permit or personal work permit unless he/she temporarily discontinues his/her job in the country, except for the cases determined by the law.

(6) Following the expiry of the work permit, it may be renewed only in exceptional circumstances pursuant to the provisions referred to in this Law.

(7) The person obliged to register the commencement and discontinuation date of the job performed by a foreigner who possesses work permit shall be the employer where the work is performed, unless otherwise determined by this Law.

(8) The work permit shall expire:

1. with the expiry of the period it has been issued for;
2. with the termination of the labor relation or work permit;
3. in case of death of the foreigner.

CHAPTER IV

CROSBORDER PROVISION OF SERVICES BY FOREIGN COMPANIES THROUGH POSTED WORKERS

Article 15

Conditions for crossborder provision of services

(1) Crossborder services in the Republic of Macedonia may be provided by foreign companies through posted workers if the conditions laid down in this Law and other regulation are fulfilled.

(2) Provision of crossborder services through posted workers shall not be permitted if presence of foreign companies in the market is required, according to the international agreements and regulations of the Republic of Macedonia

(3) Provider of foreign services in the Republic of Macedonia may be a foreign company providing services in its own behalf and account on the basis of contract concluded with a client – user of the services from the Republic of Macedonia.

(4) The foreign company may provide services through posted workers employed in the foreign company for at least one year. A posted worker may be individually re-granted work permit several times for a maximum of three months in one calendar year. If the contract is continued due to objective reasons, the work permit may be renewed for a period up to one month.

(5) Work permit to a foreigner shall be issued on the basis of application submitted by foreign employer – service provider. According to this Law, the service provider shall be obliged to register the job performed by posted foreign workers if within the last three years pending the application for work permit the foreign employer or the foreigner has not been imposed infringement penalty under to this Law.

(6) A foreign employer may apply for work permit for posted workers if the former meets all legally provided conditions with regard to performing activity in the Republic of Macedonia. The foreign employer shall be obliged to provide written statement that he/she shall observe the conditions laid down in the Law on Labour Relations of the Republic of Macedonia in the course of the provision of services in the territory of the Republic of Macedonia.

(7) Pursuant to the provision referred to in paragraph 6 of this Article, the foreign employer shall be obliged to ensure that the posted workers have minimum rights to working hours, breaks and holiday periods, night shift work, minimum annual leave, salaries, healthcare and safety at work and special protection to workers laid down in the legal regulations and the general collective agreement or in the industrial collective agreement provided more favourable for the worker.

(8) The Employment Agency performs inspection of the Contract for performing of services with the term plan and proof of registration of the contracting parties. The inspection involves : the value of the Contract, time of performing the Contract, number of foreign workers engaged with the Contract, locations of the realization of the Contract, subject of the Contract and the appropriate registered activity which will be carried out on the territory of the Republic of Macedonia based on the Contract.

(9) The individual contract referred to in paragraph 3 of this Article may be implemented up to three months. The implementation of the contract may be extended under exceptional circumstances if the provider of services and the client provide evidence that on the basis of well established reasons (force majeure, lagging behind the accomplishment of the work connected to the operation determined in the contract, and etc.) the contract cannot be implemented for a period of three months.

(10) In exceptional cases when the service is of particular importance for the country and the client is a state administrative body or other state authority or body of the local government or holder of public function, the service may be provided for a longer period as determined in paragraph 9 of this Article. Pending the application for work permit, the client shall have to provide, on the basis of well established argument, written consent by the Minister in charge of the matter in the field of labour that in arrangement with the Minister competent in the field of the particular activity shall be decided on the justification of the extension of the period for provision of services and on the determination of the period for provision of services as well as on the number of posted workers - service providers.

(11) The Minister in charge of the matter in the field of labour may, if there is no reciprocity (real reciprocity) to diminish or change crossborder provision of foreign services through posted workers on the basis of previously obtained opinion by the

Minister competent in the field of the particular activity, the competent chamber and unions on national level, provided that the further provision of services may affect the employment condition or the possibility of competition of the domestic service providers in the foreign labour markets or if other harmful effect on the labour market exists.

(12) It shall be considered that reciprocity exists unless counter evidence is provided, and if there is a suspicion, an opinion shall be requested from the Minister in charge of labour issues.

Article 16

Exemptions

(1) The services referred to in Article 15 of this Law may in exceptional cases be provided without work permits as laid down in this Law.

(2) In the cases referred to in paragraph 1 of this Article, the client of the service established in the Republic of Macedonia shall be the person obliged to register the commencement and discontinuation date of the work performed by a foreigner.

Article 17

Workers posted to re-training in Macedonian companies

(1) Re-training of posted workers may be carried out if the Macedonian company owns capital stock of at least 10% in a foreign company or in case of business and professional cooperation or technology transfer between companies, and based on the mutual agreement between the companies they should realize an annual turnover in MKD equivalent of at least 50.000 Euros.

(2) Re-training of posted foreign workers shall be carried out in a company established in the Republic of Macedonia on the basis of re-training agreement signed by the Macedonian and foreign company.

(3) The re-training agreement must include the provisions related to the amount and conditions of payouts of the foreign posted worker, manner of covering the expenses for accommodation and food allowance as well as re-training programs. The training program shall include: list of foreign workers, listing of the job positions in the foreign company and their professional education, way of additional education – individual or in group, where separate groups may have maximum of five foreign workers, scope of additional education, profession or job position where the foreigner shall be re-trained, rights and obligations of the foreigner while re-trained, venue of the re-training activity and ways of training check.

(4) The Macedonian company shall be obliged to ensure that the posted workers have minimum rights to working hours, breaks, holiday periods, night work, health care and safety at work and special protection of workers as laid down in the provisions of the Law on Labour Relations and in the general collective agreement.

(5) The foreign company may post individual worker to re-training several times maximum for three months within a period of two years.

(6) Posted workers' work permit referred to in paragraph 1 of this Article shall be issued on the basis of application submitted by the foreign company that is obliged to register the foreigner's job pursuant to the provisions laid down in this Law.

(7) In the course of the re-training, the posted foreign worker shall be provided appropriate health insurance pursuant to the regulations of the Republic of Macedonia.

Article 18

Posted foreign workers to carry out re-training of Macedonian workers in Macedonian companies

(1) Re-training of Macedonian workers in Macedonian companies may be carried out by posted foreign workers if a Macedonian company has capital stock capital stock of at least 10% in a foreign company or in case of business and professional cooperation or technology transfer between companies, and based on the mutual agreement between the companies they should realize an annual turnover in MKD equivalent of at least 50.000 Euros.

(2) Re-training of Macedonian and foreign workers shall be carried out in a company established in the Republic of Macedonia on the basis of agreement related to re-training signed by the Macedonian and foreign company.

(3) The re-training agreement must include the provisions related to the amount and conditions of payouts of the foreign posted worker, manner of covering the expenses for accomodation and food allowance as well as re-training programmes. The training program shall include: list of foreign workers, listing of the job positions in the foreign company and their professional education, way of additional education – individual or in group, where separate groups may have maximum of five Macedonian workers, scope of additional education, profession or job position where the foreigner shall be re-trained, rights and obligations of the foreigner while re-trained, venue of the re-training activity and ways of training check.

(4) The Macedonian company shall be obliged to ensure that the posted workers have minimum rights to working hours, breaks, holiday periods, night shift work, healthcare and safety at work and special protection of workers as laid down in the provisions of the Law on Labour Relations and in the general collective agreement.

(5) The foreign company may post individual worker to re-training several times maximum for three months within a period of two years.

(6) Posted workers' work permit referred to in paragraph 1 of this Article shall be issued on the basis of application submitted by the foreign company that is obliged to register the foreigner's job pursuant to the provisions laid down in this Law.

(7) In the course of the re-training, the posted worker must be provided appropriate health insurance pursuant to the regulations of the Republic of Macedonia.

CHAPTER V

DESIGNATION OF WORKERS

Article 19

General provisions on designation of workers

(1) A foreign legal entity, pursuant to the conditions laid down in this Article, may temporary post their workers from their permanent job location abroad to a branch office or other organizational unit to be present at the market of the Republic of Macedonia for the purpose of accomplishing some specific tasks or for providing contractual services in the territory of the Republic of Macedonia.

(2) The foreign employer must obtain work permit to designate the workers referred to in paragraph 1 of this Article, which shall be issued without inspection of the situation and conditions in the labour market, as a share of the quota determined for posted foreign workers and must register the job performed by the foreign workers pursuant to the provisions laid down in this Law. The work permit shall be issued provided that the foreign employer or worker have not been imposed misdemeanor sanction in the previous three years before submitting of the application, pursuant to this Law.

(3) A foreign legal entity may designate workers he has employed provided that the workers have been employed by that legal entity for at least one year. Foreign workers may be designated to work in the Republic of Macedonia up to one year, unless otherwise determined by this Law or by international agreement. Foreign workers may be re-designated to work in the Republic of Macedonia following the temporary discontinuation of the work imposed by the significance of the previously issued work permit.

(4) The entitlement to designation of workers shall be subject to the principle of reciprocity. The existence of reciprocity shall be established according to the provisions referred to in Article 15(11) of this Law.

(5) The Government may determine cases subject to exemption of the principle of reciprocity taking into consideration the general economic interest expressed in a form of opinion supplied in the competent chambers, representative unions on state level and in the competent ministries. With regard to international tenders, the Government may

precisely determine the number of designated workers, the designation period and other conditions to be taken into account to hinder the harmful effect in the market concerning employment of the domestic population.

(6) Employers shall be obliged to provide foreign workers temporary designated in the Republic of Macedonia appropriate conditions as laid down in the Law on Labour Relations, pursuant to the provision referred to in paragraph 7 of Article 15 of this Law.

(7) In the course of performing their work in the Republic of Macedonia, foreign workers designated in organisational units in the Republic of Macedonia must possess appropriate health insurance according to the regulations of the Republic of Macedonia.

Article 20

Posting persons within associations of the company

(1) Posting persons within associations of the company shall be permitted if the legal entity has registered a branch office or other affiliated trade company (hereinafter referred to as: Organizational unit) in the Republic of Macedonia. In such cases, foreign employees may temporarily post workers residing abroad, who have been previously employed by the employer for at least one year, to work in the Republic of Macedonia for the purpose of performing special tasks within the organizational unit.

(2) The foreign employer may, according to the provision referred to in paragraph 1 of this Article temporarily post the following persons to work in the Republic of Macedonia:

1. Persons holders of major functions, but not registered in the Court Register of the Republic of Macedonia, mainly in charge of general supervision of the organizational unit managers, on the basis of instructions supplied by the company Managing Board or General Assembly of the company as well as managing the organizational unit, sector or subsector of the organizational unit and supervision and control by other experts engaged for supervision, expert and operational work; authorized hiring of interns and dismissal of workers or other personnel matters.

2. Natural persons working for legal entity and are of or have special significance, which is of vital importance for provision of services, research equipment, methods and management of the company. Assessment of the need for such special knowledge shall take into account not only the particular knowledge about the company but also the fact that the person in question is in disposal of high level of education valid for the type of work or job position for which special expert knowledge and membership in professional associations are necessary.

(3) The designation period of the workers referred to in paragraph 2 of this Article shall be determined in line with the acts of the foreign legal entity. The designated person in general shall retain the status of posted worker for a period of one year. The

work permit shall be issued on the basis of the application submitted by the foreign legal entity.

(4) In cases where international agreement provide for any extention of the posted worker status or where the authorized body in the country has not extended this status, the foreigner may not renew his work permit; the employer may apply for employment permit for the foreigner, which shall be issued without inspecting the situation and conditions in the labour market fulfilling the conditions provided for in other provisions referred to in this Law related to obtaining work permit.

CHAPTER VI

TRAINING AND ADVANCED TRAINING OF FOREIGNERS

Article 21

Conditions for training and advanced training

(1) The work permit issued for training and advanced training of a foreigner in general shall refer to cases where the Republic of Macedonia has concluded such agreement with the country of foreigner's citizenship. Unless otherwise determined by this Law, the training and advanced training programmes shall be carried out on the basis of the employment contract with the foreigner for a limited period, concluded for a maximum of one year. Provided that the training or advanced training programmes cannot be completed within that period, the work permit may be extended for a maximum of six months or one year in case where the training is carried out in the field of medicine.

(2) The training or advanced training of foreigners in exceptional cases may be carried out without prior conclusion of international agreement, and in that case the activities shall be presented through developing programmes or projects for cooperation on international level which as a return it shall be verified following the issuance of the work permit. The training or the advanced training of foreigners, which may be carried out without prior conclusion of international agreement, shall be in interest of a particular economic sector, ministry or the units of the local self-government and the city of Skopje.

(3) Permit for work performed by a foreigner shall be issued on the basis of application submitted by the training and advanced training programme organizer such as company, authorized institution or state authority in the Republic of Macedonia. The organizer must organize the work performed by the foreigner pursuant to the provisions referred to in this Law.

(4) The training and the advanced training may be carried out without conclusion of employment contract provide that it is determined in other laws.

(5) In case of paragraph 4 of this Article a written contract must be concluded between the provider of the training programme and the organization where the

foreigner shall carry out the training and the advanced training programme. The contract must include provisions applicable to joint relations concerning obligations and responsibilities undertaken by the contracting parties, and related to the implementation of the programme.

(6) In the course of the implementation of the training programme the foreigner must be provided with appropriate health insurance pursuant to the legal regulation in the Republic of Macedonia.

(7) Under the specified conditions, the foreigner may participate in the programme of individual or advanced training only once.

(8) The work permit, according to this Article, shall be issued as a share of the quota distributed for training and advanced training regardless the terms and conditions of the labour force and with regard to other provisions referred to in this Law applicable to obtain work permits.

CHAPTER VII

SEASONAL WORK FOR FOREIGNERS

Article 22

General provisions

(1) Seasonal work for foreigners shall be permitted within the activities of seasonal character in case where the demand in the labour market temporary surpasses the offer serving as basis to determine the annual quota for these purposes.

(2) A foreigner with a permanent residence in a foreign country shall be issued work permit upon application submitted by the employer. According to this Law the employer shall be also obliged to register the commencement and discontinuation date of the job performed by the foreigner. A natural person not registered for performance of such activity cannot be employer of seasonal foreign workers.

(3) The work permit shall be issued as a share of the quota determined for seasonal work. According to this Law the permit shall be issued provided that the foreigner has not been imposed infringement penalty within the period of the last two years pending the application for work permit.

(4) The employer may apply for seasonal work permit for the foreigner valid for six months, and for seasonal work in construction for nine months and only once in the calendar year, unless otherwise determined by this Law.

(5) For the purpose of performing the seasonal work the employer shall conclude fixed-time employment contract with the foreigner.

(6) The foreigner performing seasonal work may be reissued work permit for any purpose for the following calendar year. Upon the expiry of the permit for seasonal work in construction, the work permit may be reissued for any purpose after seven months.

Article 23

Seasonal work in agriculture and forestry

(1) Without prejudice to the provision referred to in Article 22(4) of this Law, the permit for work in the field of agriculture and forestry may be extended or reissued to the same employer or to other employer up to three times per year unless the complete duration of the work exceeds six months in one calendar year. On the basis of the opinion by the chamber competent for agriculture and forestry, provided that emergency conditions for production occurred (extension of the vegetation period), the employer may require exceptional continuation of the work permit up to one month.

(2) The employer may be legal or natural person registered for performance of activity and natural person owner or lessee of a farm, forest or agricultural land.

Article 24

Seasonal work in construction

1) The validity of the permit for seasonal work in the field of construction shall be limited to maximum of nine months within a period of twelve months.

2) The permit for seasonal work may be reissued to the same foreigner upon the expiry of the period laid down in Article 22 paragraph 6 of this Law not considering if the application is submitted by the same or another employer.

CHAPTER VIII

WORK BY FOREIGN REPRESENTATIVES OF COMPANIES

Article 25

Conditions of work

(1) Companies or companies sole owners established pursuant to the law applicable to trade companies shall be obliged to obtain work permit for a foreigner designated for their representative, according to the provisions referred to in this Law.

(2) A company employing ten or fewer workers may obtain one work permit for a foreign representative of a company and one work permit for a foreign representative of a branch office regardless the number of branch offices.

(3) A sole owner employing ten or fewer workers may obtain one work permit for one foreign representative of a sole owner and one work permit for a foreign representative of a branch office regardless the number of branch offices.

(4) A foreign company performing business operation in the Republic of Macedonia, and has one or more branch offices may obtain one work permit for the representative of a particular branch office if the branch office employs ten or fewer workers.

(5) Foreign representatives shall be issued work permit on the basis of application submitted by the employer not considering the situation and conditions in the labour market for a period of one year with possible extension.

(6) The work permit may be re-extended provided that the employer prove that the company or the owner have performed their activities in the course of the validity of the previous work permit and if the foreigner as natural person has not been imposed penalty during that period for infringement pursuant to this Law.

(7) The employer shall be the person obliged to register the commencement and discontinuation date of the job performed by the foreigner.

CHAPTER IX

CONTRACTUAL SERVICES PROVIDED BY FOREIGNERS BASED ON WORK PERMIT

Article 26

Conditions for individual services provided by foreigners

(1) Foreigners not registered for performance of activity, and have permanent residence out of the Republic of Macedonia may obtain work permit for provision of contractual services only under justified conditions where the service provider shall compulsory possess expert knowledge that cannot be provided through the domestic market offer.

(2) The work permit shall be issued by the Employment Agency on the basis of application submitted by a client performing the work and as a share of the quota of work permits distributed for individual services provided by foreigners. The client must register the commencement and discontinuation date of the work performed by the foreigner pursuant to the provisions referred to in this Law.

(3) The work permit may be issued more than once within one calendar year; however for a full period of up to ninety days. The foreigners providing services in the field of science, culture, sports, healthcare and education may be issued work permits valid for one year if conditions for establishing labour relation exist. The work permit shall be issued the client providing the service or a person referred to in paragraph 1 of this Article has not been imposed infringement penalty pursuant to this Law within the last three years pending the application for work permit.

(4) The Employment Agency shall ensure whether basic reasons for issuance of permit for provision of individual services exist taking into consideration the situation and conditions in the labour market and the quota of permits on disposal. The Employment Agency shall, in case of suspicious whether the issuance of the permit is justified, decide on the basis of prior opinion provided by competent sector, professional association or ministry in charge of particular activity or by another competent authority.

(5) Provided that the contract related to the work performed by a foreigner is concluded for a period of one year, the work permit may be renewed on annual basis, to the termination date of the contract.

CHAPTER X

SERVICES PROVIDED BY FOREIGNERS BASED ON REGISTRATION OF WORK

Article 27

Contractual services provided by foreign artists and professional authors

(1) Foreigner such as artist performers or professional authors who perform entertainment programs, solely or in groups of performances in the Republic of Macedonia, who provide creative services in the field of culture as participants in cultural workshops, meetings, colonies and other cultural events, creators and revisers in the field of music, musical performances, folk dances, ballets and literary works, photography, video, film and art of electronic media as well as experts in the field of protection of cultural heritage, librarianship, archive ship and creative culture for realization of activities in the Republic of Macedonia, may provide such services up to seven days. Exception are performances in a circus and amusement parks where the activity shall be performed without provision of work permits for the entire stay in the country.

(2) The foreigners referred to in paragraph 1 of this Article shall supply consent by the Ministry of Culture in order to provide their creative services in the field of culture, and to regulate their stay. The application for consent to the Ministry of Culture shall be accompanied by plan and programme of activities to be realized and a list of previously realized activities, whereupon the Ministry of Culture keeps record of the applications and opinions issued to foreigners.

(3) The condition for provision of services pursuant to paragraph 1 of this Article shall be registration of the work in the Employment Agency. The organizers or the

clients of the services in the place of the provision of the service, or if the work is performed on a number of locations, in the location of the seat of the organizer or client shall be responsible for registration of the work in the Employment Agency.

(4) In case the work performed under a contract last longer than the period laid down in paragraph 1 of this Article, the foreigners related to this work shall be obliged to obtain work permit in line with the type of work they perform.

(5) The services laid down in paragraph 1 of this Article may be provided several times on the basis of certificate for job registration up to 30 days within one calendar year.

Article 28

Services related to commercial fairs

(1) Foreign workers posted to a country for the purpose of installation, mounting and displaying equipment and items for commercial fairs and exhibitions where their employer participates, shall not require to obtain work permit, provided that they complete their services within the period not surpassing the duration of the commercial fair.

(2) In the cases of paragraph 1 of this Article, the foreign employer displaying his/her products and items shall be obliged to register the work performed by the foreigners in the Employment Agency in the place of the provision of the service.

Article 29

Services related to supply of goods and post-sale services

(1) The work permit shall be not required in the following cases:

1. if the services provided by foreign workers are related to supply of goods and installation of machines, devices and equipment, if the service provider gives initial instructions to the client's staff and if the services are accompanied by dismantlement of machines, devices and equipment;
2. if regular services are required related to maintenance if those services have been agreed under the contract for purchase of machines, devices or equipment and if they are provided by workers employed for the manufacturer;
3. if, under the contract for purchase of machines, devices or equipment from abroad, the supplier is obliged on his/her account to fix the defects of the machines, devices or equipment purchased;
4. if the work lasts up to seven days and the person obliged registers the work performed by foreigners.

(2) The local client who is provided the services by the foreign employer and his/her workers shall be obliged to register the work.

Article 30

Work performed by foreigners residing in the Republic of Macedonia for the purpose of studying

(1) Foreigners residing in the Republic of Macedonia for the purpose of studying may perform short-term or ancillary activities without work permit, if the full period for the performance of those activities lasts up to 10 working hours within one week.

(2) Condition for performance of short-term or ancillary activities pursuant to paragraph 1 of this Article shall be registration of the work in the Employment Agency. The organizer, clients or the employer in the place of the performance of the work shall be obliged to register the work in the Employment Agency.

(3) The employer shall be obliged to cover the expenses for social security of the foreign students for the period of the performance of the short-term or ancillary activities.

Article 31

Emergency services

(1) In case of application from the local client such as trade company, state authority, local community or authorized organization it is necessary to immediately supply service by a foreign provider for the purpose of establishing or averting economic damage or other consequence as a result from natural catastrophe or other disasters or collisions, or to provide rescue operations or measures necessary to avert threats to population health it shall not be required to obtain work permit for the foreign workers or for suitably qualified foreign natural persons.

(2) The client for whom the services, referred to in paragraph 1 of this Article, are intended for, shall register the service in the Employment Agency in the place of the seat of the client within 3 days from the date of the arrival of the foreigners in the country.

(3) The provision of the services pursuant to this Article shall last up to 30 days. In case of longer presence of the foreigners, the client must require work permit for the registered foreigners, and it is to be issued regardless the situation and conditions in the labour market.

CHAPTER XI

REGISTRATION OF THE COMMENCEMENT AND DISCONTINUATION DATE OF THE WORK PERFORMED BY FOREIGNERS

Article 32

General provisions for registration of the commencement and discontinuation date of the work performed by foreigners

(1) The registration of the work performed by foreigners shall be conditional and shall apply to all foreigners who are employed or work in the Republic of Macedonia on the basis of the provisions referred to in this Law.

(2) Persons who, according to this Law, are responsible to register the work performed by foreigners shall be obliged to register the commencement and discontinuation date of the work performed by foreigners, pursuant to the provisions referred to in this Law.

(3) The Employment Agency shall issue to the person responsible for registering the work performed by foreigners a certificate in written form.

(4) The person responsible for registration of the work shall be obliged to keep the certificate during the entire period of the performance of the work in the main place of the activity, and in case of sitework on the spot where the foreigner works. If the registration is based on work permit, the responsible person shall be obliged to keep the certificate for the same period he/she is responsible to keep the other prescribed documents.

(5) The person responsible for registration of the work performed by foreigners shall be obliged to provide certificate for registration of the work at a request of supervisory body. If the person fails to do so it shall be considered that he/she does not possess such certificate.

(6) In case the certificate has been lost, the person responsible for registration shall be issued a copy thereof by the Employment Agency.

(7) Detailed instructions on the registration procedure and completion of the work performed by foreigners, the evidence enclosed to the application as well as the exchange of data on particular registrations between particular bodies and services shall be provided for by the Minister competent for the works in the field of labour.

CHAPTER XII

SUPERVISION

Article 33

Authorized supervisory authorities

(1) The supervision over the implementation of this Law shall be carried out by the Ministry of Labor and Social policy.

(2) The inspection supervision over the implementation shall be supervised by the State Labour Inspectorate of the Republic of Macedonia (hereinafter referred to as: the Labour Inspectorate).

(3) The supervision may be enforced on legal and natural person ex-officio or at a request of the Employment Agency.

(4) The Labour Inspectorate shall be obliged to communicate reports to the Employment Agency on regular basis concerning instituted proceedings and imposed penalties, and the latter shall be obliged to keep record concerning infringements committed by and imposed penalties to the employers and foreigners.

Article 34

Obligations against supervisory authorities

(1) Foreigners and employers employing or posting foreigners shall be bound to cooperate with the authorized supervisory authorities and act in compliance with the measures imposed by these authorities. They shall ensure that the competent authorities have access to the entire available documentation essential for issuance of the document permitting employment or work in the Republic of Macedonia.

(2) The foreigner shall be obliged to keep the work permit in his/her place of work and at a request of the authorized control body to deliver it as an evidence in the procedure.

(3) In case where the work permit has been issued on the bases of application submitted by the employer, he/she shall be obliged to cooperate in the supervisory procedure providing the complete necessary documentation. He employer shall be obliged to regularly keep one copy of the work permit in the seat of the company or on the building site for work if the activity is performed out of the seat of the company.

(4) The employer shall be obliged to keep the complete documentation related to the work and payouts to the foreigners within a period of 5 years from the date of discontinuation of the employment or work performed by foreigners in the Republic of Macedonia.

CHAPTER XIII

PROTECTION OF PERSONAL DATA

Article 35

Responsibilities of authorities

(1) The personal data collected in compliance with this Law, may be used only for the purposes laid down in this Law.

(2) Collection and submission of personal data according to this Law are kept in a form that allows identification of the data subject until fulfillment of the aim for collection of those data.

(3) Transfer of personal data between the organs and bodies shall be carried out for purposes determined by law, based on previously concluded agreement which guarantees personal data protection.

(4) National and other bodies and organizations in disposal of data significant for establishing possible irregularities related to the implementation of this Law shall be obliged to cooperate and deliver the data requested by the competent authority referred to in Article 33 of this Law.

CHAPTER XIV

ADMINISTRATIVE CHARGES AND COMPENSATION OF SPECIAL COSTS

Article 36

Fees

Pursuant to the law applicable to administrative charges, charges shall be paid for all application forms, documents and for all activities completed according to this Law.

Article 37

Compensation of special costs

(1) Compensation of special costs shall be paid related to issuance of work permits of transferred workers providing crossborder services in the Republic of Macedonia.

(2) The compensation of special costs shall be paid by the employer concerning costs made by the employment Agency in the procedure of issuance of work permit related to the inspection of the conditions referred to in Article 15(1) of this Law and concerning record keeping pursuant to this Law.

(3) The amount of the special costs is the real cost for the documents issued by the Employment Agency.

(4) The amount of the costs in paragraph 3 of this Article is determined by the Employment Agency.

(5) The special costs shall be source of income to the Employment Agency.

CHAPTER XV

RECORD

Article 38

Record of foreigners' work permits

(1) The record of foreigners employed or working in the territory of the Republic of Macedonia according to this Law shall be kept in the Employment Agency.

(2) The foreigners' data collected and recorded by the Employment Agency related to the applications for work permit shall include:

1. First name, family name and date of birth;
2. Gender;
3. Date of birth;
4. Foreigner's ID card number and personal record number;
5. Passport number, issuing body and expiration date
6. Place of birth and country of origin;
7. Nationality;
8. Recent place of residence abroad, permanent or present or in the Republic of Macedonia (country, place of residence, address);
9. Present permanent or temporary place of residence in the Republic of Macedonia (place of residence, address);
10. Type and number of travel document, date and place of issuance and expiry period;
11. Type of residence permit, issuance date and expiry date;
12. Level of professional education;
13. Occupation;
14. Expert knowledge;
15. Working experience;

(3) The Employment Agency may collect and record data on foreigners from the record files kept in:

1. The Ministry in charge of interior affairs related to the residence in the Republic of Macedonia and visas issued for foreigners' work in the Republic of Macedonia;
2. The Health Insurance Fund of the Republic of Macedonia in relation with health insurance and the Pension and Disability Insurance Fund of Macedonia related to foreigners' pension and disability insurance in the Republic of Macedonia.

(4) The record data referred to in paragraphs 2, 3 and 4 of this Article shall be kept within a period of two years from the expiry date of the work permit and then they shall be filed.

(5) The Employment Agency shall also keep record concerning rejected applications for work permit issuance, withdrawn work permits and nulled certificate for work commencement. The data in the evidence indicated shall be kept within a period of five years from the date of their rejection, withdrawal or annulment and then they shall be filed.

CHAPTER XVI

PENALTIES

Article 39

(1) A fine of EUR 1,500.00 in MKD equivalent value, in the time of the imposition of the fine, shall be imposed to an employer or responsible person as legal entity that has facilitated, induced or participated in illegal employment of foreigners in the Republic of Macedonia or of Macedonian citizens abroad.

A fine of EUR 1,000.00 in MKD equivalent value shall be imposed to a responsible person as legal entity that has facilitated, induced or participated in illegal employment of foreigners in the Republic of Macedonia or of Macedonian citizens abroad.

(2) A fine of EUR 500.00 in MKD equivalent value, in the time of imposition of the fine, shall be imposed to a foreigner who has committed infringement concerning the work due to non-issuance of work permit (Article 4, paragraph 6).

Article 40

(1) A fine from EUR 3,000.00 to 5,000.00 in MKD equivalent value, in the time of imposition of the fine, shall be imposed to employer (legal entity) or sole owner posting activities of workers and other employer-users pursuant to law and for infringement related to conclusion of work contract with foreigner lacking personal work permit for a fixed-time period (Article 4, paragraph 9).

(2) A fine of EUR 400 in MKD equivalent value, in the time of imposition of the fine, shall be imposed to a responsible person with employer for the infringement referred to in Article 4, paragraph 8.

Article 41

(1) A fine from EUR 3,000.00 to 5,000.00 in MKD equivalent value, in the time of imposition of the fine, shall be imposed to employer (legal entity or sole owner) for infringement related to conclusion of employment contract or work contract with foreigner lacking work permit (Article 8, paragraph 1).

(2) A fine of EUR 500.00 in MKD equivalent value, in the time of imposition of the fine, shall be imposed to a responsible person with employer for the infringement referred to in Article 8, paragraph 1 of this Law.

(3) A fine of EUR 500.00 in MKD equivalent value, in the time of imposition of the fine, shall be imposed to employer (natural person) for infringement related to conclusion of employment contract or work contract with foreigner lacking work permit (Article 8, paragraph 1).

Article 42

(1) A fine from EUR 2,000.00 to 3,000.00 in MKD equivalent value, in the time of imposition of the fine, shall be imposed to employer (legal entity or sole owner) for infringement related to misstatement for penalty imposed pursuant to this Law or misstatement concerning granted state budget funds for protection of productive job positions (Article 8, paragraph 11).

(2) A fine from EUR 800.00 to 1,200.00 in MKD equivalent value, in the time of imposition of the fine, shall be imposed to responsible person with employer related to infringement referred to in Article 8 paragraph 11).

(3) A fine of EUR 500.00 in MKD equivalent value, in the time of imposition of the fine, shall be imposed to employer (natural person) for misstatement related to criminal file or misstatement concerning granted state budget funds for protection of productive job positions (Article 8 paragraph 11).

Article 43

(1) A fine from EUR 1,500.00 to 2,000.00 in MKD equivalent value, in the time of imposition of the fine, shall be imposed to employer (legal entity or sole owner) who has not returned the work permit of a foreigner with whom he/she did not conclude employment or contractual relation or interrupted the labour relation or work contract prior to the expiry of the work permit (Article 8, paragraph 12).

(2) A fine from EUR 800.00 to 1,200.00 in MKD equivalent value, in the time of imposition of the fine, shall be imposed to responsible person with employer related to infringement referred to in Article 8 paragraph 12.

(3) A fine from EUR 800.00 to 1,200.00 in MKD equivalent value, in the time of imposition of the fine, shall be imposed to a self-employed person who has not returned the personal work permit valid for the period it has been issued for, provided that the person has completed the activity prior to the expiration date of his/her work permit (Article 8, paragraph 12).

(4) A fine from EUR 300.00 to 500.00 in MKD equivalent value, in the time of imposition of the fine, shall be imposed to employer (natural person) who has not returned the work permit of a foreigner with whom he/she did not conclude employment

or contractual relation or interrupted the labour relation or work contract prior to the expiration of the work permit (Article 8, paragraph 12).

Article 44

(1) A fine from EUR 1,200.00 to 2,000.00 in MKD equivalent value, in the time of imposition of the fine, shall be imposed to a foreign employer committing infringement related to not providing the right conditions stipulated in the Labor Law stated in Article 15, paragraph 7 and Article 19, paragraph 6 of this Law.

(2) A fine from EUR 800.00 to 1,200.00 in MKD equivalent value, in the time of imposition of the fine, shall be imposed to a responsible person with the employer, described in Article 15 paragraph 7 and Article 19 paragraph 6.

Article 45

(1) A fine from EUR 1,200.00 to 2,000.00 in MKD equivalent value, in the time of imposition of the fine, shall be imposed to person responsible for registration (legal entity or sole owner) committing infringement related to not registering the commencement and discontinuation date of the foreigner's job (Article 32, paragraph 2)

(2) A fine from EUR 800.00 to 1,200.00 in MKD equivalent value, in the time of imposition of the fine, shall be imposed to responsible person with employer related to infringement referred to in Article 32(2).

(3) A fine from EUR 500.00 to 800.00 in MKD equivalent value, in the time of imposition of the fine, shall be imposed to self-employed committing infringement related to not registering the commencement and discontinuation date of his/her job (Article 32, paragraph 2).

(4) A fine from EUR 500.00 to 800.00 in MKD equivalent value, in the time of imposition of the fine, shall be imposed to person responsible for registration (natural person) committing infringement related to not registering the commencement and discontinuation date of the foreigner's job (Article 32, paragraph 2).

Article 46

(1) A fine from EUR 800.00 to 1,200.00 in MKD equivalent value, in the time of imposition of the fine, shall be imposed to employer (legal entity or sole owner) for infringement related to unprovision of access to the complete available documentation on which basis the documents facilitating foreigner's employment or work have been issued (Article 34, paragraph 1).

(2) A fine from EUR 400.00 to 800.00 in MKD equivalent value, in the time of imposition of the fine, shall be imposed to responsible person with employer related to infringement referred to in Article 34(1).

(3) A fine from EUR 300.00 to 600.00 in MKD equivalent value, in the time of imposition of the fine, shall be imposed to self-employed person for infringement related to unprovision of access to the complete available documentation on which basis the documents facilitating foreigner's self-employment or work have been issued (Article 34, paragraph 1).

(1) A fine of EUR 300.00 in MKD equivalent value, in the time of imposition of the fine, shall be imposed to employer (natural person) for infringement related to unprovision of access to the complete available documentation on which bases the documents facilitating foreigner's employment or work have been issued (Article 34, paragraph 1).

Article 47

(1) A fine of EUR 300.00 in MKD equivalent value, in the time of imposition of the fine, shall be imposed to a foreigner committing infringement related to not submitting the work permit at a request of the supervisory authority (Article 34, paragraph 2).

Article 48

(1) A fine from EUR 800.00 to 1,500.00 in MKD equivalent value, in the time of imposition of the fine, shall be imposed to an employer (legal entity or sole owner) for infringement related to not keeping the work permit in the seat of the company or on the construction site out of the seat of the company (Article 34, paragraph 3).

(2) A fine from EUR 200.00 to 500.00 in MKD equivalent value, in the time of imposition of the fine, shall be imposed to responsible person with employer related to infringement referred to in Article 34(3).

Article 49

(1) A fine from EUR 800.00 to 1,500.00 in MKD equivalent value, in the time of imposition of the fine, shall be imposed to an employer (legal entity or sole owner) for infringement related to not keeping the foreigner's documentation relating to his/her work and compensations (Article 34, paragraph 4).

(2) A fine from EUR 400.00 to 800.00 in MKD equivalent value, in the time of imposition of the fine, shall be imposed to responsible person with employer related to infringement referred to in Article 34(4).

(3) A fine of EUR 300.00 in MKD equivalent value, in the time of imposition of the fine, shall be imposed to an employer (natural person) for infringement related to not keeping the foreigner's documentation relating to his/her work and compensations (Article 34, paragraph 4).

CHAPTER XVII

TRANSITIONAL AND FINAL PROVISION

Article 50

The Minister competent for the matters in the field of labour shall, within a period of 3 months from the date of entry into force of this Law, adopt regulations provided for in this Law.

Article 51

Procedures commenced pursuant to the provisions referred to in the Law on the Conditions for Establishment of Labor Relation with Foreigners and the Law on Employment of Foreigners shall be completed according to this Law, provided that the those Laws are more favourable for the persons included in those procedures.

Article 52

The documents issued as work permits pursuant to the Law on the Conditions for Establishment of Labor Relation with Foreigners and the Law on Employment of Foreigners shall be valid up to the expiry date.

Article 53

The Law on the Conditions for Establishment of Labor Relation with Foreigners (Official Gazette of SFRY No 11/78 and 64/89) and the Law on Employment of Foreigners (Official Gazette of RM No 12/93) are hereby repealed as of the date of application of this Law.

Article 54

This Law shall enter into force on the expiry of the eighth day from the date of its publication in the Official Gazette of the Republic of Macedonia, and shall apply as on the expiry of three months from the date of its entry into force.