

COMPARISON BETWEEN THE SPONSORSHIP LAW NO. 4 OF 2009 AND LAW NO. 21 OF 2015.



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Law No. (21) of 2015 Regulating the entry, exit and residency of expatriates in Qatar (“ New Sponsorship Law”) has been published in the Arabic in the official Gazette . The New Sponsorship Law will repeal Law No. (4) of 2009 (“Old Sponsorship Law”) and the decisions and resolutions previously issued to implement it. The New Sponsorship Law provisions will come into effect on 13 December 2016. The Minister of Interior (“Minister”) through the Ministry of Interior (“Ministry”) and Immigration Department will be responsible for the implementation and enforcement of the New Sponsorship Law.

There have been few amendments to the Old Sponsorship law No. 4 of 2009. Our observations post comparing both the laws are as follows:

A. Exclusion of the term “Sponsor” and inclusion of the term “Recruiter”.

❖Article 1 of the Old Sponsorship Law, defined the term “Sponsor” as

“Residence Sponsor”

Means the employer, head of a household, or a visitor recruiter who acts as a sponsor, where sponsorship includes granting an exit permit for the sponsored person.

❖Whereas in the New Sponsorship Law such term as been removed and instead in the Article 1 of the New Sponsorship Law a new term has been added as “Recruiter” which has been defined as

“Recruiter”

The party, employer, head of a household, or host who recruits the Foreign National, or who receives transfer of his Residency in accordance with the provisions of this law.

B. Lifting of 2 year ban for expatriate for re-entry.

❖ Article 4 of the Old Sponsorship Law reads as below:

“An entry visa may not be granted to an Expatriate who was previously a resident in the State of Qatar for employment purposes until two years have elapsed from the date of departure. The Minister or his authorized representative may waive this period and the competent authority may, subject to a written approval from the ex-sponsor, grant an exemption from the period so specified.”

❖ Whereas, Article 4 of the New Sponsorship law reads:

- ❖ “The Competent Authority, or any other body determined by the Minister, shall issue Entry Visas in accordance with the provisions of this law. These Visas may be terminated after their issuance for reasons related to the general welfare.
- ❖ The Entry Visa does not permit the Foreign National seeking work anything except for what is stipulated in his agreed-upon labor contract in accordance with the legal conditions and regulations.
- ❖ It is not permitted to transfer a Visa, nor its right of disposal, to another person or party, nor to exchange a Visa with another person or party, regardless of the whether transfer, right of disposal, or exchange was met with compensation or not. The implementing regulation for this law specifies the terms and conditions afforded those Visas, and their specific durations.”
- ❖ By virtue of the article in the Old Sponsorship Law, an expat after having completed an employment contract in Qatar and after leaving Qatar could not return to work with another employer until two years. However we notice that the New Sponsorship Law is silent on such a restriction and therefore the current two-year ban on expatriates who want to come back to the country on a new work visa may no longer be applicable.





C. Exit Permit

❖ Article 18 of the Old Sponsorship Law laid down that if an employee wants to exit the country he has to obtain the exit permit from the Residence Sponsor as defined in Article 1 above. Article 18 states that:

“Each Expatriate granted an entry visa to the State of Qatar shall have a sponsor. Save for women sponsored by the head of the family, minors and visitors staying thirty days or less, all Expatriates may only leave the country temporarily or permanently on submission of an exit permit granted by the residence sponsor.....”

❖ While Article 7 of the New Sponsorship Law states that:

“The Foreign National laborer must notify the Recruiter each time the Foreign National leaves the country in accordance with the employment contract.

In the event that the Recruiter obstruct the Foreign National laborer's departure, the Foreign National may seek recourse at the Foreign Nationals Exit Grievances Council, whose formation, purview, organizational structure, and official proceedings shall follow in accordance with a decree from the Minister. The Foreign Nationals Exit Grievances Council must take action on the request of the Foreign National Laborer within three working days of the request's submission. “

Taking the similar position, the New Sponsorship Law also obliges an employee to inform the employer prior to an employee exiting Qatar. Notwithstanding such obligation the law also states that, an employee may appeal to the Expatriates Exit Permit Grievances Committee in case the employer refuses to grant an exit permit to him upon his request and that the Foreign Nationals Exit Grievances Council must take action within 3 days of request's submission.

D. No objection certificate

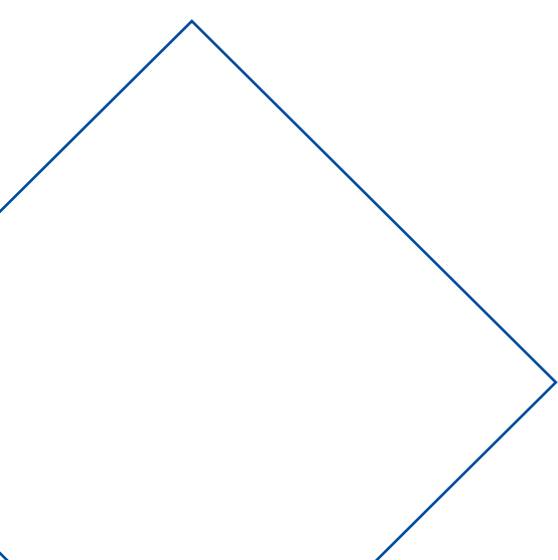
- ❖ As indicated in the above paragraph previously in the Old Sponsorship Law it was stated that expats could not return to work in Qatar for two years after their contract ended unless they had their sponsor's approval.
- ❖ In this regard, Article 22 of the Old Sponsorship further stated:

“The competent authority may transfer the sponsorship of an employee who is an Expatriate to another employer under a written agreement between the new and former employers and with the approval of the competent authority of the Ministry of Labour, taking account of the categories subject to the provisions of the Labour Law.”
- ❖ Deviating from this position, the New Sponsorship Law has provided for new provisions concerning the former concept of No Objection Certificate (“NOC”) and Article 21 of the New Sponsorship Law states:

“The employer, the Competent Authorities, and the Ministry of Labor and Social Affairs may agree to transfer the Foreign National laborer to another employer before the time limit in the contract has been reached, or after five years of working for the employer if the contract did not specify a time period.

The Foreign National laborer may, with authorization from the Competent Authorities and the Ministry of Labor and Social Affairs, transfer to another employer in the event of the Recruiter's death or dissolution of the body corporate for any reason.

In all cases, the employer serving as the Recruiter shall not have his legal rights, nor the contract between him and Foreign National, violated, in accordance with the referenced Labor Law.”
- ❖ Pursuant to the New Sponsorship Law, the former concept of NOC has been changed.
- ❖ An expat having a definite period contract (also called as fixed term contract) can change his employment under a different employer if the term of his employment is over by seeking approval from Ministry of Interior (MOI) and Ministry of Administrative Development, Labour and Social Affairs (“MOLSA”).



- ❖ Supplementing the above, an expat having a definite period contract can change his job even before the expiry of his term of the contract by obtaining permission from his employer, the MOI and MOLSA.
- ❖ For the expat having an indefinite duration contract (also called as open ended contract) can change jobs after completing 5 years of service with the same employer by serving two months' notice and seeking approval from MOI and MOLSA.
- ❖ However at this point in time, it is unclear whether this provision will be retrospectively applicable or not i.e. in simple words, it cannot be ascertained as yet whether the calculation of this 5 year term will commence from the date of existing employment contracts of each employee or after the effective date of the new law. To the best of our knowledge and experience we assume this position will be clarified with the issuance of the succeeding statutory executive regulations.
- ❖ The New Sponsorship Law also provides for, an expat to also move to another sponsor with the approval of MOI and MOLSA if the sponsor is dead or the company no longer exists for any reason.
- ❖ Nevertheless as a caveat, all such provisions shall not prejudice employer's rights under the employment contract or under the provisions of the existing labor law of Qatar.
- ❖ In addition to the above amendments, according to Article 26 of the new law, if a foreign worker is terminated as a punitive measure and he did not appeal his dismissal or his plea was rejected by a court, he shall not be permitted to come back to Qatar before the expiry of four years. Also, an expatriate worker repatriated upon a court verdict cannot come back unless he got the approval of the Minister of Interior.

NOTE: Law No. 21 of 2015 is officially issued in Arabic and there are no official translations, therefore for the purposes of drafting this article we have used our own translations and interpreted the same in the context of Qatari regulations and current market practice.

