

## **On External Labour Migration**

### **Law of the Republic of Belarus**

*No. 169-Z of June 17, 1999*

*[As amended of July 21, 2008]*

The present Law determines the order for the citizens of the Republic of Belarus migration for employment abroad, for attracting foreign labour force into the Republic of Belarus, and determines the legal norms for defense of workers-migrants.

#### **Article 1. Sphere of Law Application**

The Law is applicable to state bodies, other legal entities and individual entrepreneurs, that are engaged in sending citizens of the Republic of Belarus abroad for fulfilling work, in attracting foreign labour force to the Republic of Belarus, to the employers of the Republic of Belarus concluding labour agreements with workers-migrants as well as to workers-migrants and members of their families.

The present Law is not applied to foreign citizens and to persons without citizenship:

- a) having received the refugee status or additional protection or refuge in the territory of the Republic of Belarus;
- b) applying for receiving the refugee status or refuge on the territory of the Republic of Belarus;
- c) residing permanently on the territory of the Republic of Belarus;
- d) working in diplomatic offices and consulate institutions accredited in the Republic of Belarus, representations of international organizations, foreign firms situated on the territory of the Republic of Belarus;
- e) working in institutions established on the territory of the Republic of Belarus in accordance with international treaties of the Republic of Belarus, men of science and culture;
- f) clergymen carrying religious activities in officially registered in the Republic of Belarus religious organizations;

- g) studying and training in accordance with educational institutions programs;
- h) accredited in the Republic of Belarus as employees of foreign mass media;
- i) invited as lecturers or instructors for the term of 90 days to read lectures or to teach in educational institutions of higher education, of advanced professional training, staff retraining;
- j) employed in a different order stipulated by international treaties of the Republic of Belarus;
- k) founders, directors of commercial organizations with foreign investments, registered as legal persons of the Republic of Belarus.

## **Article 2.** Terms Used in the Law

External labour migration - voluntary legal migration abroad of citizens residing permanently on the territory of the Republic of Belarus as well as entrance of foreign citizens or persons without citizenship residing permanently outside the Republic of Belarus on the territory of the Republic of Belarus for receiving work under labour agreement (contract) (thereafter named labour agreement);

pendulum (near boarder) labour migration - migration of citizens of the Republic of Belarus to the territory of contiguous states and entrance of citizens of contiguous states on the territory of the Republic of Belarus for receiving work under labour agreements in case of permanent residence on the territory of the state they are leaving;

worker-migrant - any person who carries, carried or will carry work in the state he is not a citizen and a resident of;

near border worker - worker-migrant residing in the contiguous state as usual and returning home every day or at least once a week;

state of migration - any state on its territory the worker-migrant resides permanently and leaves it for receiving work in another state;

state of employment - any state the worker-migrant carries, carried or will carry work;

members of family - the person married to the worker-migrant as well as dependent children and other persons considered members of the family in accordance with the state of employment legislation.

### **Article 3.** State Administration in the Sphere of External Labor Migration

Realization of the state policy in the sphere of external labor migration is exercised by the Ministry of Internal Affairs of the Republic of Belarus, the Department on Citizenship and Migrations of the Ministry of Internal Affairs of the Republic of Belarus (hereinafter - Department), subdivisions on citizenship and migrations of the territorial bodies of internal affairs (hereinafter, if otherwise specified, - the subdivisions on citizenship and migrations).

On behalf of the Council of Minister of the Republic of Belarus questions of external labor migration are considered by other state bodies within the limits of their competence.

### **Article 4.** The Order of Attraction of Foreign Labor Force to the Republic of Belarus

Realization by legal entities and by individual entrepreneurs the activity connected with the attraction of a foreign labor force to the Republic of Belarus is made on the basis of special permissions (licenses) by the way established by the legislation of the Republic of Belarus.

#### **Article 4-1.** The Order of Realization the Activity Connected to the Job Placement of Citizens of the Republic of Belarus Abroad

Any actions, including singularly, directed on employment of citizens of the Republic of Belarus abroad, including intermediary, are carried out only at presence of the special permission (license) which are issued according to the legislation on licensing at presence of the document, confirming the arrangement between the competitor of the license and the foreign employer (or between the competitor of the license and the foreign intermediary organization in cases specified in the second part of this article) about employment of citizens of the Republic of Belarus abroad, and data on this employer, determined by the Council of Ministers of the Republic of Belarus, and also after carrying out of preliminary check of conditions of realization of this activity. The order of carrying out of such check up is determined by the Council of Ministers of the Republic of Belarus.

The special permission (license) to realize the activity connected with employment abroad during summer vacations of citizens, trained in the organizations of an education system of the Republic of Belarus, by student's programs on which the Ministry of Education gives the conclusion about an opportunity of employment of citizens abroad, issued at presence of the document confirming the corresponding agreement between the competitor of the license and the foreign employer or the foreign intermediary organization. In other cases the conclusion of contracts on employment of citizens of the

Republic of Belarus abroad with the organizations and citizens, including foreign, which are not direct employers, is prohibited.

Legal entities and individual entrepreneurs carrying out activity, connected with employment of citizens of the Republic of Belarus abroad are obliged:

to register in subdivisions on citizenship and migration of central administrative board of internal affairs of the Minsk city executive committee, the Departments of Internal Affairs of regional executive committees labor contracts with foreign employers concerning each citizen of the Republic of Belarus working abroad with presentation of data on the employer, stipulated by part one of this Article;

to conclude with citizens of the Republic of Belarus the written contract about assistance in employment outside the Republic of Belarus which should contain the obligation on giving the assistance in the conclusion of such labor contract with the foreign employer, a duty of a party, to give the full and objective information on the employer, character of prospective work, preliminary conditions of the conclusion of the labor contract, the responsibility of the party rendering service for granting the mismatching information;

to check reliability of the information on foreign employers;

to represent to the subdivisions on citizenship and migrations of central administrative board of internal affairs of the Minsk city executive committee, the Departments of Internal Affairs of regional executive committees in a place of the registration the information on the citizens of the Republic of Belarus who have left to work abroad, within five working days from the date of their departure and in the same term - from the date of their returning.

The Ministry of Internal Affairs of the Republic of Belarus submit not later than 5th day of each month to the Ministry for Foreign Affairs of the Republic of Belarus the summary data about the citizens of the Republic of Belarus who have left to work abroad, and the citizens of the Republic of Belarus who have come back after the ending of work.

In the purpose of regulation of a labor market, protection of the rights and freedom of citizens of the Republic of Belarus the Council of Ministers of the Republic of Belarus has the right to make to the President of the Republic of Belarus suggestion on implementation of temporary restrictions on issuing of special permission (licenses) for realization of the activity connected with employment of citizens of the Republic of Belarus abroad.

#### **Article 5. Order for Leaving and Entrance of Workers-Migrants**

Citizens of the Republic of Belarus going abroad for work must have a labour agreement concluded with the employer and a visa of the state of employment issued by its diplomatic office or a consulate institution.

The order of attracting workers-migrants, age and other requirements to them are determined by the legislation of the state of employment, international treaties of the Republic of Belarus.

Workers-migrants enter the Republic of Belarus for work and return to the state they left under the visa issued in the established order by the diplomatic office or the consulate institution of the Republic of Belarus abroad.

Visa may be extended in case of:

- a) extension of the validity of the labour agreement with the worker-migrant;
- b) presentation of documents supporting the validity of reasons of its not being used (disease, calamity, etc.) and reservation of the working place in accordance with the labour agreement concluded with the employer.

Workers-migrants arrived the Republic of Belarus must register at the subdivisions on citizenship and migration of for the place of their temporary residence in the established order.

After the period of the labour agreement expired workers-migrants and members of their families may leave the Republic of Belarus at any time.

#### **Article 6.** Entrance and Stay of Members of Workers-Migrants' Families

Members of workers-migrants' families may enter the Republic of Belarus together with the worker-migrant or may join him during the period of his work when it is stipulated by the terms of the labour agreement concluded with the employer.

#### **Article 7.** Group Movements of Workers-Migrants

Group movements of workers-migrants are fulfilled basing on the international treaties concluded by the Republic of Belarus and determining the order of entrance, leave and stay of groups of workers-migrants, conditions of work and of its payment, social security.

#### **Article 8.** Pendulum (Near Border) Labour Migration

The state favors exchange working forces between the pendulum (near border) territories of the Republic of Belarus and of the neighboring states in the interests of the

economic, scientific, technical, cultural and educational development. Control over the near border labour migration is realized by the subdivisions on citizenship and migration.

The order of attracting near border workers to the territory of the Republic of Belarus, their legal status are regulated by the corresponding international treaties, the legislative acts of the Republic of Belarus.

#### **Article 9. Quotes (Limits) for Workers-Migrants**

The Council of Ministers of the Republic of Belarus considering the state interests and the situation at the internal labour market as well as the priority of civil rights of citizens of the Republic of Belarus concerning filling vacancies establishes the quotes (limits) for attracting foreign working force to the Republic of Belarus.

#### **Article 10. Labour Agreement**

Labour relations between the worker-migrant and his employer are determined by a labour agreement executed in the written form in the native or an understandable for the worker-migrant language and including the following data:

the period of its validity, character and place of the work, conditions and terms of payment including payment for night, extra work and work on holidays;

the amounts of bonuses, premiums and deductions from the salary;

the parties' rights, liabilities, responsibilities, the order and terms of cancellation or extension of the labour agreement;

organization of movement, nutrition, accommodation, medical assistance to the worker-migrant and to the members of his family;

the order and terms of the worker-migrant's social security;

the order of compensating for the injury to the worker-migrant's health in the process of his work and other social guaranties.

Any employer in the Republic of Belarus must register the labour agreement concluded in subdivisions on citizenship and migration.

A worker-migrant receives one copy of the labour agreement concluded between foreign employer and citizen of the Republic of Belraus before he leaves for the state of employment.

### **Article 11. Principle of Equality**

When concluding labour agreements for employment of citizens of the Republic of Belarus abroad and for attracting foreign working force the principle of equality of rights of workers-migrants with those of citizens of the state of employment must be observed in accordance with the legislation of the state of employment.

Employment of workers-migrants on terms humiliating their dignity or injuring their health is forbidden.

The citizens of the Republic of Belarus went abroad for fulfilling work under a labour agreement preserve all rights and liabilities stipulated by the legislation of the Republic of Belarus.

### **Article 12. Provision of Employment and Social Rights for Workers-Migrants**

The state takes all necessary measures for provision of the worker-migrant's employment and social rights.

When a worker-migrant's labour agreement is cancelled because of the liquidation, reorganization or reduction of the employer, corresponded state bodies take possible measures aimed at involving the worker-migrant into other equal labour relations for the period the concluded labour agreement was valid his consent being obligatory.

The privileges and compensations established by the legislation of the Republic of Belarus for the corresponding categories of citizens of the Republic of Belarus are applicable to workers-migrants as well if the labour agreement does not provide otherwise.

In case of an infringement of the labour agreement terms by the employer from the Republic of Belarus the Department and subdivisions on citizenship and migration assists the worker-migrant to receive the privileges and compensations due to him as well as to cancel the labour agreement in advance and to return to the country he is from at the employer's expense.

In case of an infringement of terms of the labour agreement with a worker-migrant being a citizen of the Republic of Belarus migrated abroad for fulfilling work by the employer the worker-migrant has right to appeal to the diplomatic office or the consulate institution of the Republic of Belarus which must take measures for defense of his rights including those for receiving the privileges and compensations due to him, for cancellation of the labour agreement and return of the worker-migrant (and of his family members) to the Republic of Belarus at the expense of the employer.

**Article 13.** Is excluded.

**Article 14.** Advance Return of Worker-Migrant to State of Migration

In case of a prior cancellation of the labour agreement through the worker-migrant's fault the expenses on his return to the state of migration in accordance with the legislation of the Republic of Belarus is paid by himself. In case of a prior cancellation of the labour agreement through the employer's fault the expenses on the return of the worker-migrant to the state of migration is paid by himself.

In case the expenses on the departure of the worker-migrant from the Republic of Belarus to the state of migration is impossible to pay out of his own funds or out of the employer's funds such expenses may be financed out of the republican budget funds.

**Article 15.** Social Security

In case of temporary incapability or disease, pregnancy and labour, birth of a child workers-migrants working on the territory of the Republic of Belarus under a labour agreement enjoy privileges, allowances in accordance with the legislation of the state of employment.

Pension provision of workers-migrants and of their families' members is regulated by bilateral international treaties of the Republic of Belarus.

**Article 16.** Compensation for Injury to Worker-Migrant's Health

Compensating for the injury to the worker-migrant's health in the result of a mutilation or another damage of health connected with his work abroad as well as in the result of a death is fulfilled in accordance with the labour agreement.

Bodies of state management of the Republic of Belarus or other institutions on behalf of them render assistance in transferring the amounts due for the injury caused to health to the worker-migrant's place of residence that fulfills payable work in the Republic of Belarus.

In case of a worker's death the employer organizes the transportation of the body and personal things of the diseased to the territory of the state of migration and pays all the expenses connected with the accident. The employer informs about the accident the



diplomatic office or the consulate institution of the state of migration and presents the documents related to the worker's death.

Deportation of the worker-migrant to the state of migration in case of a mutilation or a disease caused during his work in the Republic of Belarus is not allowed excluding those cases when the victim soundly expresses his desire to leave or it is stipulated by the corresponding international treaty of the Republic of Belarus.

#### **Article 17. Transfer of Financial Funds**

Workers-migrants fulfilling work in the Republic of Belarus may transfer the money they earned and their savings to the territory of the state of migration in accordance to the legislation of the Republic of Belarus if the applicable international treaties of the Republic of Belarus do not provide otherwise.

#### **Article 18. Taxation of Workers-Migrants**

Workers-migrants fulfilling work in the Republic of Belarus are taxed in accordance with the legislation of the Republic of Belarus.

Elimination of collecting double taxes from the workers-migrants' income is regulated by international treaties of the Republic of Belarus.

#### **Article 19. Workers-Migrants' Personal Property, Instruments and Equipment Import and Export**

Workers-migrants and their family members living together with them may import temporarily to the Republic of Belarus for the period the contract is valid commodities for their personal use including those they need for their settling down, instruments and equipment necessary for fulfilling their functional duties as well as export the same in accordance with the legislation of the Republic of Belarus.

#### **Article 20. Responsibilities of Economic Entities**

Economic entities must provide the corresponding bodies of state management of the Republic of Belarus and workers-migrants employed under labour agreements with objective information about the character of the work, about the order of payment and labour protection, about the living conditions, about the social and medical security,

about the payment of the passage of workers-migrants and their families' members to the place of their work and return to the state of migration.

Economic entities carrying activities connected with employment of citizens of the Republic of Belarus abroad as well as with attracting foreign working force to the Republic of Belarus that misled the workers being employed and presented untrue data about the character of work to the state migration bodies of the Republic of Belarus are deprived of the permission to carry such activities and are made responsible in accordance with legislation of the Republic of Belarus.

#### **Article 21.** Prevention of Illegal Labour Migration

The Department and subdivisions on citizenship and migrations together with other state bodies take measures for prevention and suppressions of illegal migratory movement, illegal hiring of citizens of the Republic of Belarus to work abroad and foreign citizens to work in the Republic of Belarus.

The Department and subdivisions on citizenship and migration have the right to check the activity of legal entities and individual entrepreneurs, connected to the attraction in the Republic of Belarus of a foreign labor force and employment of citizens of the Republic of Belarus abroad.

Legal entities and individual entrepreneurs which has commit an infringement of the established order of a direction of the citizens of the Republic of Belarus for labor activity abroad and attraction of foreign citizens to work in the Republic of Belarus shall be punished according to the legislation of the Republic of Belarus.

#### **Article 22.** Providing Information in the Sphere of the External labor Migration

The Department and the subdivisions on citizenship and migrations provide to citizens of the Republic of Belarus with a trustworthy information in sphere of external labor migration and take the measures directed on prevention of distribution of the information, misleading.

The publication of information (advertising) announcements on employment of citizens of the Republic of Belarus abroad without the coordination with the Ministry of Internal Affairs of the Republic of Belarus is prohibited. Legal entities, individual entrepreneurs and mass media take responsibility stipulated by the legislation of the Republic of Belarus for violations of the order of advertising about activity in sphere of external labor migration, and also in case of declaration the advertising as inadequate

**Article 23.** International Co-operation in Sphere of External Labour Migration

The Department considering the problems arising in the process of external labour migration develops co-operation with other states and corresponding international institutions.

**Article 24.** Application of International Treaties

When other rules than those established by the present Law are stipulated by an international treaty of the Republic of Belarus the provisions of the international treaty prevail.

**Article 25.** Concluding Provisions

The present Law comes into force since the date of its publication.

The Council of Ministers of the Republic of Belarus is obliged within six month:

to work out and to present to the Chamber of Representatives of the National Assembly of the Republic of Belarus offers for adjusting the legislative acts of the Republic of Belarus with the present Law;

to adjust the decisions of the Government of the Republic of Belarus with the present Law;

to organize the revision and cancellation by republican bodies of state management of normative acts contradicting the present Law.