

Corporate Immigration 2017: GCC overview

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GCC introduction

The Gulf Cooperation Council (GCC) was established in 1981 and its members are Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates (UAE). The main rationale behind the GCC's inauguration was to improve commercial relations between its member states, which in turn would improve the economic prospects and the political security of the region. Given this starting point, it is unsurprising to note that the immigration policies of the member states are very similar to one another.

Free trade and free movement of persons

Between the six member states, there are many enumerated rights and trade policies that limit barriers to intra-GCC trading. The economic agreement provides the right for citizens of the GCC states to take part in the complete spectrum of economic activity within each GCC member state. The enumerated economic rights of GCC citizens include the right to work in both the public and private sectors in each GCC member state, and gain access

to pension and social security benefits. From an immigration perspective, GCC citizens enjoy significantly less complex immigration requirements to work in another member state (a GCC citizen labour card may be required, rather than a full work permit) and the process for obtaining work permission is less burdensome both in terms of documentation and time. Despite this, the actual number of GCC citizens working in a GCC member state of which they are not a citizen remains very low.

The rights afforded to GCC citizens do not match those of GCC residents. Although there are some benefits to holding GCC residency, free movement within the GCC is certainly not obstacle-free for non-citizens. With the exception of Saudi Arabia (and more recently, the UAE) GCC residents may be eligible for a visit visa-on-arrival that is issued on the basis of their underlying residency. Such visa-on-arrival facilities vary from GCC state to GCC state, but often require the applicant to meet certain eligibility requirements, including having a professional or managerial job title (certain GCC states carry an exhaustive list of eligible job titles), a valid GCC residence permit and a passport that is not nearing expiry. Saudi Arabia affords no such facility to GCC residents, while the UAE permits GCC residents to apply for an e-visa prior to entry.

Common currency

Discussions between the GCC member states regarding the implementation of a common currency have been intermittently ongoing for over a decade. There are multiple factors pointing in favour of a common currency in the GCC, including the common

language of the region (unlike other common currency areas such as the EU), similar cultural background, the presence of oil as the major trading product, etc. All GCC member states' currencies (with the exception of Kuwait) are pegged to the US dollar, promoting exchange-rate stability and facilitating trade.

Various commentators have speculated as to the primary obstacles to implementing a common currency. Most recently, the volatile political climate in some of the member states has contributed to negotiations stalling. There are also longstanding barriers present on the road to establishing a GCC-wide currency. Most notably, the existence of common tax policies resulting in (potentially unwanted) political accountability, the underpinning belief that fiscal policy should remain a sovereign not region-wide issue and the absence of strong political will to implement a common currency – to the extent that the UAE and Oman pulled out of the monetary union in 2010.

GCC immigration

Historically, unemployment levels for GCC nationals within their respective countries have always been high and therefore, starting in 1998 with Bahrain and now including all six GCC countries, various 'localisation' programmes for the prioritisation of GCC nationals in the workplace have been enacted. Typically, such programmes will reserve certain occupations for GCC nationals alone and companies registered

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within that territory must also employ a certain proportion of GCC nationals in their workforce. The percentage to be employed varies with each industry sector, but as a general rule it is higher for the skilled professions (eg, banking, IT, telecommunications) and this is aligned with the overarching philosophy of the localisation programmes, which is to upskill the local talent within the GCC.

It is Saudi Arabia (the largest member of the GCC) and Oman where the localisation impact has been the most profound and where the impact continues to dictate the immigration programmes for all foreign entities registered in that country (see Saudi Arabia chapter). However, despite this aggressive drive towards localisation, foreign workers still make up close to 40 per cent of the entire GCC's population and Qatar, Kuwait and the UAE remain the largest per capita recipients (globally) of temporary labour immigration.

The immigration policies and programmes for Saudi Arabia, the UAE and Qatar are discussed in more detail in their respective chapters. What follows is intended to give an overview of immigration as it is pertains to the remaining GCC states.

Bahrain

Work permit and residency overview

Bahrain is generally supportive of expatriate employment. Often, a job offer will be subject to the employer obtaining a work permit in advance, as a quota system is implemented by

the Labour Market Regulatory Authority (LMRA) in the country. Employers are permitted to apply for work permits up to a year in advance of hiring the employee. When hiring an employee, the employer must ensure that the job title on the issued work permit directly matches the role and duties carried out by the employee.

Although 'Bahrainisation' requirements apply to companies that have hired 10 or more expatriates, there are currently no written rules confirming Bahrainisation rules and regulations. Employers are required to confirm requirements for their sector at the Ministry of Industry and Commerce. Passports are usually held by the sponsoring company so that they are available for instant inspection by immigration authorities. Inspections are carried out regularly to ensure illegal workers are quickly discovered. Israeli passports holders and those with Israeli stamps in their passport will be refused entry to Bahrain.

Employment visas (short- or long-term paid employment)

Step 1: no objection certificate (NOC)

The NOC is required to enter Bahrain for employment. This is issued by the General Directorate of Nationality, Passports and Residence Affairs (NPRA). The employee must carry the NOC to present at the border. The NOC must be attested by the NPRA, at the Bahraini embassy in the employee's home country or at the entry point in Bahrain. The NOC is valid for three months.

Step 2: medical test

Employees of all nationalities are

required to undergo a medical check-up in their home country and provide a medical certificate evidencing that they are fit to work. The medical certificate must be issued from an authorized centre. Employees are also required to complete a medical test upon arrival in Bahrain. Employees who are already working in Bahrain and have resigned from their job to join another employee are required to undergo a further medical test. A health check-up by the Ministry of Health in Bahrain is mandatory every two years.

Step 3: work permit

The employer must first apply for a work permit, usually while the prospective employee is out of country. Work permits are allocated to companies based on the sector, number of employees, and Bahrainisation requirements. Once the employer has been granted the work permit, it can allocate the work permit to a specific employee, as long as the duties the employee's role encompasses directly match the role for which the work permit was allocated. The work permit is valid for two years.

Upon landing in Bahrain, the employee will submit his or her fingerprints and have a photo taken at the LMRA counter. If this is not possible at the airport then the employee is required to visit LMRA headquarters within one month of arrival.

Step 4: residence permit

A residence permit must be obtained within one month of entry. The application is submitted to the NPRA with the following documents.

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Step 5: ID card

All residents of Bahrain are required to obtain a local ID card issued by the Central Informatics Organisation (CIO). The applicant must schedule an appointment at a CIO identity centre, pay the fee and submit a photo, fingerprints and signature. Following this, an ID card will be issued. People of all ages are required to obtain an ID card (although children are not required to provide their biometrics or signature).

Social insurance

All foreign and local staff are required to be registered with the General Organisation for Social Insurance (GOSI). GOSI contributions are as follows:

- Bahraini employees: 10 per cent of basic salary and recurring constant allowances contributed by the employer, 5 per cent of basic salary and constant allowances contributed by the employee; and
- Expatriate employees: 3 per cent of basic salary and recurring constant allowance contributed by the employer.

Business visas (short-term unpaid business activities)

There are multiple options for those wishing to enter Bahrain to carry out unpaid, short-term business activities. Applicants of certain nationalities may make an e-visa application in advance of their trip on the Bahrain Ministry of the Interior website. GCC residents and certain nationalities are eligible to receive a two-week business visitor visa on arrival at the border, as long as they can

provide evidence of an onward ticket and assurance that they will not undertake paid employment. Other individuals are required to apply for a two-week business visitor visa at the Bahraini embassy in their home country or country of residence. The evidentiary requirements are stricter in this instance, and the applicant must provide proof that he or she is a 'bona fide businessperson'.

Transfer

In Bahrain there is an option to enter the country as a visitor, and later transfer to a work visa. The applicant must have already signed an employment contract, and the work permit needs to have been allocated to him or her before making the application.

Additionally, employees are permitted to transfer to another employer within Bahrain. If the current employer does not consent to the transfer, the employee must have worked for one full year with the current employer. The employee must provide the current employer with written notice that he or she will transfer, and the new employer must complete the new employment application at LMRA. If the current employer consents to the transfer, the current employer will work together with the new employer to complete the transfer application at LMRA.

Kuwait

Work permit and residency overview

Traditionally, Kuwaiti labour and immigration laws have been extremely tightly regulated and

the issue of work visas to foreign workers subject to close control. Any foreign national wishing to stay in Kuwait for an extended period of time must first secure work authorisation. This authorization is applied for when the employee is in his or her native country and will be granted only if a contract of employment exists between the Kuwaiti employer and the foreign national employee. In contrast to the other GCC states the issuance of a work visa in Kuwait is subject to security clearance checks both in the home country and in Kuwait. Kuwait also frequently bans certain nationalities from entering and residing within its borders. These bans are often implemented on a short-term basis (ie, a nationality that is 'banned' one month may find itself eligible to reside in Kuwait the next month), but can sometimes last for significant periods of time. In addition, restrictions on specific nationalities are heavily dependent on prevailing diplomatic relations and are subject to change without prior notice.

Similar to its GCC neighbours the Kuwaiti government has implemented a localisation programme known as 'Kuwaitisation', which restricts the hiring of foreign nationals to ensure that Kuwaiti nationals comprise a specified percentage of the workforce. The Kuwaitisation quota varies from sector to sector, and is also determined by the role itself within the company. Severe sanctions are imposed if a company is found to be in breach of Kuwaitisation laws, including but not limited to the stripping of all benefits and

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privileges derived from any government or non-government organisation (eg, long-term leases of state-owned properties), and the imposition of an additional annual fee for each work permit issued to non-Kuwaiti employees in excess of the authorised non-Kuwaiti percentage.

Process overview

Step 1: work authorisation

An offer of employment must be accepted to obtain a Kuwait work authorisation. A Kuwaiti employer sponsor shall apply for work authorisation from the Ministry of Social Affairs and Labour (MOSAL).

Step 2: work visa

After receipt of the work authorisation the sponsor must submit a working (no objection) visa to the Ministry of the Interior (MOI). Upon issuance, the working visa is generally valid for three months prior to entry to Kuwait and for two months after entry. It can take up to two weeks to receive a working visa. The working visa is sent to the employee in his or her home country and it is then filed at the consulate with other supporting documents.

Step 3: arrival in Kuwait – work permit

Upon the assignee's arrival in Kuwait, the sponsor must apply to the MOSAL to receive a work permit for the assignee detailing how long the assignee will be working in Kuwait. This process will take approximately one week.

Step 4: security check

The assignee must then apply to the MOI for a fingerprint inspection. Generally, receipt of the fingerprint certificate takes one to two weeks provided the related security check comes back clear. The MOI will investigate whether the assignee is subject to any penal judgment in Kuwait and whether he or she is being pursued by any other authorities in Kuwait. This process also includes a security check by the Criminal Intelligence Department.

Step 5: in-country medical

The assignee must undergo another medical check (hepatitis and HIV tests, chest X-ray, etc) in order to receive a health clearance certificate. Generally, receipt of the health clearance certificate is obtained within five to 15 days (assuming the medical check is satisfactory). Once the health clearance certificate is obtained the sponsor must obtain a health insurance certificate.

Step 6: residence permit application

The sponsor must apply to the MOI (immigration department) to obtain a residence stamp in the assignee's passport. A residence stamp is valid for a minimum of one year and a maximum of three years, and is usually renewable at the request of the sponsor. After obtaining the residence stamp, the assignee must then apply to the Public Authority for Civil Information within one month to obtain a civil ID card.

Important

The assignee must accomplish each of the above residency requirements before leaving Kuwait. In the event of departure from Kuwait before receiving

the residence stamp, the assignee will be required to repeat the entire residency process.

Oman

Work permit and residency overview

'Omanisation' has become increasingly pervasive over the past few years. For example, the Ministry of Manpower statistics confirm that in 2006, 55 per cent of employees in the travel and tourism sector were required to be Omani. This had increased to 95 per cent by 2010. In the IT, technical support and infrastructure sector, 11 per cent Omanisation was required in 2006, while 15 per cent was required by 2010. Expatriate employees generally require increasing levels of skill or experience to be granted a work visa and most roles (if possible) will be filled by an Omani national. Furthermore, companies are rewarded for meeting Omanisation targets by way of preferential treatment with the Ministry of Manpower. Conversely, a fine may be imposed on companies that do not meet targets. The Omani authorities also maintain a list of positions that are Omanised and are therefore not available to foreign national employees.

Recently, the Ministry of Manpower has adopted a stricter stance towards the policy of having foreign nationals serve a two-year 'cooling off' period prior to changing employment within Oman. Strictly speaking, all foreign nationals (on an indefinite employment arrangement) are required to stay outside of Oman for two

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years prior to changing employers. Historically, this requirement could be bypassed if the existing employer would provide a no objection certificate (NOC) permitting the transfer. However, as of the time of writing, the Omani authorities are adopting a strict stance on any transfers of employment prior to the completion of the cooling-off period, even if an NOC can be furnished. The Ministry of Manpower may, at its discretion, permit the transfer request if authorized representatives of both the existing and the new employer personally visit and sign off on the request.

Additionally, it should be noted that there are freezones in Oman that offer significant advantages for expatriate employers and employees. Businesses within Omani freezones may be 100 per cent owned by a foreign national, goods are not subject to customs on imports and exports, and there are no taxes imposed on profits and dividends for the first 30 years. Personal income is also free from taxation. Within freezones, Omanisation requirements are much less stringent.

Employment visas (short- or long-term paid employment)

Process overview

Step 1: procurement of labour clearance

The first step of the Omani work authorisation process is to apply for a labour clearance or quota with the Ministry of Manpower. Historically, labour clearance applications have been filed

manually, but as of now, electronic applications are possible. The application itself would specify the number of employees requested, the proposed job titles, the gender, and other biographical details. Supporting documentation, including the employee's legalised degree, a valid business contract in Oman justifying the need to sponsor foreign national employees, and other corporate documentation is submitted over the counter. The Ministry of Manpower exercise significant discretion in adjudicating labour clearance applications and special attention must be paid to ensuring that the job titles being selected are not restricted, that the employee has academic credentials that match the proposed job title, that the job titles being applied for are in line with the commercial activities of the sponsoring entity, and that the sponsoring entity has maintained the prescribed Omanisation requirements. Omanisation requirements depend on the commercial activities of the company, its size and even its geographical location.

Step 2: medical in home country

Certain South Asian and Middle Eastern nationalities must procure an out-of-country medical examination prior to entering Oman. Medical examinations must be conducted at a Gulf Approved Medical Centres Association medical centre. Original medical clearances are then sent to Oman and are used to apply for a work or employment visa with the Royal Omani Police (ROP) in Oman. In the event the foreign national is in Oman (on a visit visa) while the labour clearance is being procured, he or she may be able to obtain medical clearance from an authorised facility

within Oman. This can be used for applying for the employment visa. Although the applicant may stay in Oman during the labour clearance process, he or she must be outside of the country when applying for the work visa.

Step 3: work visa application and entry into Oman

Once the labour clearance is procured, a work visa application may be filed with the ROP. There are two different strategies that may be adopted:

- Entry on the basis of a visa-on-arrival: select nationalities (including most European and North American countries) are granted a visa on arrival on the basis of their nationality. Individuals eligible for a visa on arrival may enter the country and regularise their status without exiting the country. However, in this approach, applicants cannot proceed to work until the final residence card is issued.
- Entry on the basis of a work visa: a formal work visa application with the ROP would permit the employee to enter Oman and proceed to work for the employer straight away. The original work visa is placed at the airport of entry, while a copy of the visa and the deposit receipt is sent to the applicant. Upon arrival, the employee would collect the original visa from the visa section at the airport and pass through airport immigration. The two-year residence permit is endorsed on the employee's passport at the time of arrival. Individuals eligible for a visa on arrival may also opt to enter Oman on a formal work visa, but would need to procure an out-of-

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country medical clearance (see Step 2).

Step 4: in-country medical test

Individuals of all nationalities must complete a medical test in Oman at an approved clinic. The assignee must provide a residence card application, together with passport photos and passport to complete the medical test. The medical report will also need to be attested by the Ministry of Health.

Step 5: residence card

Within 30 working days of arrival the assignee must procure a residence card confirming his or her right to reside in Oman for the duration of employment.

Business visas (short-term unpaid business activities)

Many nationalities are eligible to apply for a business visa at the airport, or land border to Oman. Any fee-paying work is strictly prohibited. The following visas may be obtained:

- Single-entry business visas valid for one month and renewable for a fee;
- 10-day business visas obtained at land and sea ports of entry; and
- Multiple-entry business visas valid for one year.

This visa may be obtained upon

arrival at the airport, or in advance by applying at an Omani embassy, consulate or trade representative abroad. These are subject to discretion and may not always be available.

The primary short-term business visa in Oman is referred to as the Express Visa. This visa allows for single entry only and is valid for 21 days from the date of entry. Strictly speaking, Express Visas are meant to facilitate short term travel by professional and managerial job title-holders and, as such, may require the applicant to provide a valid academic degree that matches the proposed engagement. Express Visas must be sponsored by a local Omani entity and are applied for with the ROP.

Employment transfer

It is notoriously difficult to change jobs while in Oman. As mentioned previously, foreign national employees must exit Oman and remain outside for a period of two years prior to seeking new employment. In practice, the Ministry of Manpower may accept requests made prior to this cooling-off period if a special request is made by both the previous and new employer.

Investor residence visa

An individual may be granted a self-sponsored investor residence visa provided they make a capital

investment of at least 100,000 to 150,000 Omani rials.

The visa is granted for a period of two years, and is renewable for a further two years upon expiry.

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