

HR Law Hotline

June 05, 2015

EMIGRATION: PROCESS FOR RECRUITMENT OF INDIAN WORKERS BY FOREIGN EMPLOYERS STREAMLINED

- Introduction of an online portal for foreign employers recruiting Indian workers.
- MOIA now makes it mandatory for foreign employers of ECR countries desirous of recruiting Indian workers to accredit themselves with their respective Indian Mission/Consulates.
- Services of the online portal available to foreign employers only post accreditation by the Indian Mission/Consulate at their respective countries.
- Foreign employers accredited by the Indian Mission/Consulate shall be allowed to carry out functions such as application for permit, cancellation of emigrant registration, generation of employment contracts, updating emigrant details, cancelling unutilized jobs, etc. on the online portal.

The Ministry of Overseas Indian Affairs, Government of India ("MOIA") has launched an online eMigrate system¹ for carrying out various procedures under the Emigration Act, 1983 ("Emigration Act"). Under the Emigration Act, any Indian national can be recruited for a job abroad either through (i) a Recruiting Agent registered under the Emigration Act or (ii) directly by an employer having a valid permit under the statute. While the Emigration Act does not specify a requirement for accreditation prior to obtaining the permit, the MOIA now makes it mandatory for foreign employers of Emigration Check Required ("ECR") countries² desirous of recruiting Indian workers to accredit themselves with their respective Indian Mission/Consulates. The accreditation process can be carried out either online through the eMigrate system or offline by submitting physical documents to the Indian Mission/Consulate.³ At the time of accreditation, the foreign employer is required to specify *inter alia*, (i) details of the projected manpower requirement for a period of 5 years from the date of application and (ii) the terms and conditions of employment for different categories of jobs. The declared terms and conditions of employment is meant to act as a specimen contract and form part of the employment contract at the time of actual recruitment.

The online portal shall also facilitate employers to (i) re-submit their applications of accreditation (in case of incomplete application); (ii) apply for capacity enhancement; (iii) apply for employer permit; (v) generate employment contracts; (iv) apply for cancellation of emigrant registration; (v) cancel unutilized jobs etc.

ANALYSIS

The requirement for mandatory accreditation and scrutiny of foreign recruiters before allowing them to employ Indian emigrants or facilitate emigration has been introduced keeping in mind the pressing need to safeguard the interests of such emigrants and increase accountability of foreign employers.

The online portal will now facilitate prospective recruiting agents, employers and project exporters to apply for registration and accreditation in quick time. The emigrants can also apply directly for emigrant registration on the online portal. The eMigrate portal will hence help automate and streamline the current emigration processes and in particular the operations of offices of the Protector of Emigrants ("PoE") and Protector General of Emigrants ("PGoE"). The online portal will bring together all key stakeholders involved in the emigration lifecycle including the Indian Missions, PoE, PGoE, employers, recruiting agents, emigrants and insurance agencies on a single platform.⁴

– Preetha S & Veena Gopalakrishnan

You can direct your queries or comments to the authors

¹ <https://emigrate.gov.in/ext/>

² <http://moia.gov.in/services.aspx?ID1=110&id=m6&idp=104&mainid=73>

³ <https://emigrate.gov.in/ext/faqAction.action#EmpQ1>

⁴ <https://emigrate.gov.in/ext/about.action>

DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.

Research Papers

Fintech

May 05, 2025

Medical Device Industry in India

April 28, 2025

Clinical Trials and Biomedical Research in India

April 22, 2025

Research Articles

2025 Watchlist: Life Sciences Sector India

April 04, 2025

Re-Evaluating Press Note 3 Of 2020: Should India's Land Borders Still Define Foreign Investment Boundaries?

February 04, 2025

INDIA 2025: The Emerging Powerhouse for Private Equity and M&A Deals

January 15, 2025

Audio

CCI's Deal Value Test

February 22, 2025

Securities Market Regulator's Continued Quest Against "Unfiltered" Financial Advice

December 18, 2024

Digital Lending - Part 1 - What's New with NBFC P2Ps

November 19, 2024

NDA Connect

Connect with us at events, conferences and seminars.

NDA Hotline

Click here to view Hotline archives.

Video

Vyapak Desai speaking on the danger of deepfakes | Legally Speaking with Tarun Nangia | NewsX

April 01, 2025

