

## 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 system<sup>1</sup> 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") countries<sup>2</sup> 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.<sup>3</sup> 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.<sup>4</sup>

– Preetha S & Veena Gopalakrishnan

You can direct your queries or comments to the authors

<sup>1</sup> <https://emigrate.gov.in/ext/>

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

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

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

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not substitute the need to refer to the original pronouncements.