

**Overview**

Israeli and international organizations seeking to employ foreign workers in Israel, who are not residents or citizens of the country, in management positions or in positions requiring special expertise or training, are required to apply for a work permit for a "foreign expert" (B/1 permit) from the Population and Immigration Authority in Israel.

The employment of a foreign worker without a proper work permit constitutes a criminal offense, which may lead to the imposition of fines and other criminal sanctions against the employer and its senior management, as well as against the employee himself.

The process for obtaining a permit to employ a foreign "expert" is a complex bureaucratic process that may take several months and requires the collection and preparation of various documents, the writing of an explanatory document to submit to the Authority, the payment of administrative fees and the signing of affidavits.

There are several different categories of work permits for foreign experts, which determine different threshold conditions and criteria for obtaining a work permit.

After receiving the work permit, the employer in Israel should apply for suitable work and residence visas for the foreign expert, which will ensure that he can work and enter the borders of Israel freely throughout the period of his employment.

Foreign experts are covered by all labor laws in Israel. In addition, employers of foreign experts are subject to various obligations under Israeli law, for example, to provide the foreign expert with medical insurance, suitable housing and more.

In view of the complexity of the proceedings, it is recommended to carry out the procedure accompanied by an attorney with experience and expertise in this field.

## **General**

In the era of globalization there is a growing requirement for companies and business organizations to relocate foreign workers to perform various tasks that require knowledge, expertise or proven management capabilities; whether these tasks are permanent, long-term or temporary. In Israel, among business entities, there is an increasing demand to employ this type of foreign worker. For example, according to data published by the Population and Immigration Authority (the "**Authority**"), in 2010, 2,500 "*expert*" workers were employed in Israel, while in 2017, around 6,000 foreign experts were working in Israel.

In order to employ a foreign worker in Israel who is not a citizen or resident of the country, an employer must receive a special work permit to employ such worker from the Permits Unit within the Authority. The employment of a foreign worker without a proper work permit constitutes a criminal offense, liable to lead to the imposition of fines and other criminal sanctions against the employer and its senior management, as well as against the employee himself. Furthermore, an appropriate work visa (B/1 visa) must be issued to the employee, which will be issued only once the employer has been granted the relevant permit.

Generally, a foreign workers' permit in Israel is granted to employers within certain sectors of the economy, including construction, agriculture, nursing and restaurants. An organization that wishes to employ a worker in Israel in a different industry not included within those sectors mentioned above must submit an application for a work permit under the "*Expert Permit*" category, which is a wide-ranging category, whereby it is possible to apply to employ workers in a variety of sectors, according to the criteria detailed below.

The process for obtaining a permit to employ a foreign "*expert*" is a complex bureaucratic process requiring the collection and preparation of various documents, the writing of an explanatory document to submit to the Authority, the payment of administrative fees and the signing of affidavits and, therefore, it is recommended to conduct the procedure accompanied by a lawyer who has experience in the field.

## **Categories of Foreign Experts Permits**

**Expert with "expert remuneration"** - This is the main category for the employment of foreign workers in Israel within fields not among the sectors above. This permit is intended for employees with a high level of expertise or who possess essential and unique knowledge that employees in Israel do not possess. Within the application for such a permit, the employer is required to present proof of the employee's expertise, including academic degrees, special qualifications, *etc.*

A criterion for the employment of a foreign worker under this category is that the wage paid to the worker is over a threshold that is equal to at least double the average wage in Israel (approx. NIS 19,000).

This permit is generally granted on an annual basis and should be renewed annually.

**Foreign experts arriving in Israel for a short period of up to 90 days** - This category is suitable for workers arriving in Israel to carry out temporary and time-sensitive tasks, such as installing a system, installing replacement parts, repairs, *etc.* With a permit for such a short period, the requirement to pay double the national average wage is waived, and therefore it is also suitable for workers that are paid a lower salary.

The permit is granted for 90 consecutive days, and, where the worker leaves Israel during the period of the permit, it is necessary to apply for a new permit.

**Foreign experts arriving in Israel for a cumulative period of 45 days in a calendar year** - unlike the 90-day permit granted for a continuous period, this permit is granted for a cumulative period of 45 days a year that does not have to be continuous. The process for issuing this permit is an expedited procedure compared to the other categories, whereby the worker is, theoretically, allowed to enter Israel within one week from the date of applying. This category is relevant only to workers from countries whose citizens are exempt from the requirement of needing an entry permit to Israel pursuant the Entry into Israel (Visa Exemptions) Order, such as the United States, Canada, countries within the European Union, Japan, Hong Kong, Russia, South Korea amongst others. Chinese workers are not eligible for this permit.

**Manager, senior representative or employee in a position of trust within a foreign company or an international company** - This permit is relevant solely to the most senior employees in an organization; who direct the organization's strategy, who can supervise and control and have the authority to hire and fire employees. It is possible to employ up to 2 employees in Israel under such a permit.

The advantage of this permit is that the employer may be exempt from paying an annual foreign worker fee, which is NIS 9,620 per year. However, the Authority is very strict in granting such a permit, and it is necessary to convince them that the employee is indeed part of the organization's most senior managerial echelons.

**Employees of Hi-tech and Cyber Companies** - This permit is relevant to companies recognized as a “*technologically advanced company*” by the Israel Innovation Authority and are interested in employing workers from countries whose citizens are exempt from an entry permit to Israel under the Israel (Visa Exemptions) Order. The employee’s salary must be equal to at least double the average salary in the Israeli market (approximately NIS 19,000). This process is an expedited procedure (theoretically, the permit is supposed to be issued within a week) and the scope of the documents that are required to be presented within the framework of the process is limited. In contrast to other permits, this permit allows the expert's spouse to apply for a general work visa in Israel that allows them to work in any field of work.

**Other sectors that can apply for a foreign workers’ permit** - Senior staff of an airline or a foreign shipping company, lecturers or researchers at an institution of higher learning, medical practitioners or hospital experts, workers in the diamond industry, photographers and foreign journalists and artists.

### **Description of the steps in the process of issuing a permit to employ a foreign expert**

The procedure for obtaining a work permit for a foreign expert is, as stated above, complex. The following description describes the general framework of the process, but there are certain differences in the process depending on which permit has been applied for, and there are expedited procedures in place concerning some permits. In any case, we recommend that an Attorney from our office assist with the process.

**First Step – An Application by the employer for a permit to employ a foreign worker:** This application is submitted by the employer to the Permits Unit within the Authority. The application should specify the specific requirement to employ the foreign expert in Israel and include resumes and references attesting to the employee’s expertise. In addition, this application must be accompanied by various documents, as required by the Authority, including duly signed affidavits, an auditor's confirmation that the company is active and is not subject to a “*Going Concern Warning*”, and copies of the relevant Forms 102 that are required to have been filed by the employer at the National Insurance Institute within the three months prior to the application (relevant only to Israel-based employers).

The submission of the application involves the payment of a fee of approximately NIS 1,200 (as at the date of writing).

The approval process for this application takes between one and two months.

**Second Step - Application for issuing an entry visa for the foreign expert:** The employer should submit this application at one of the Authority's offices. The application involves completing and signing various forms and paying fees in the amount of approximately NIS 9,800 (As at the date of writing; it also is noted that the amount is for a permit for an entire year, and in the event that a permit is issued for a shorter period, the amount of the fee shall be reduced *pro rata*).

This process takes between one and two weeks.

**Third Step - Issuance of a one-time entry visa at the Israeli consulate abroad:** After the application for the work permit has been approved; the Authority will send the relevant consulate in the country of origin of the expert permission to issue a one-time visa for the expert.

It should be noted that consulates in certain countries additionally require, at their discretion, the employee to present various certificates and documents such as a certificate of good standing, a vaccination book, *etc.* It is recommended to check with the relevant consulate ahead of time, in order to ascertain what documents are required for issuing the visa, so to avoid unnecessary delays in issuing it.

The one-time visa is granted for one month; during which the employee is required to enter Israel.

**Fourth Step – Arrival in Israel and issuance of a multiple entry visa:** The foreign expert should enter Israel with the visa issued to him at the consulate. Upon entry into Israel, the working visa period will be extended by the period granted concerning the foreign worker's work permit.

A separate application for a multiple entry visa must be submitted to the offices of the Authority for the foreign worker to enter and leave Israel without any restrictions for the duration of the permit. The application involves completing and signing various forms and paying a fee of approximately NIS 175 (as at the date of writing).

**Total time required to complete the process:** about three months.

**Total fees to be paid for a work permit for one employee for one year:** approximately NIS 10,000.

### **Working conditions of foreign experts in Israel**

Foreign experts are covered by all labor laws in Israel, including legislation concerning minimum wage, annual leave, sickness, pension *et al.*

The employer also owes the foreign expert the following additional duties:

- Obtaining a work permit to employ the expert for the duration of their employment.
- To provide the foreign expert with medical insurance for the duration of his employment in Israel. There are specific insurance policies for foreign workers in Israel, which include all the compulsory coverage as required by law.
- To provide the foreign expert with a suitable place of residence for the duration of his employment in Israel.

- To provide the worker with a written employment agreement. Even if the expert's salary is not paid in Israel and he has the benefit of an employment agreement outside Israel, it is recommended to stipulate the terms of his employment in Israel in a separate employment agreement.

The employer must keep records of such documentation, to prove that the duties set forth above have been fulfilled, in case the enforcement authorities conduct an investigation.

### **Frequently Asked Questions about the B/1 Work Permit for experts in Israel**

**Does every business visit to Israel require the issuance of a work permit?** In the current economic and globalized climate, foreign representatives often come to Israel for various business purposes such as consulting, negotiations, business meetings, lectures, training *et al.* In such cases, the question arises as to whether such representatives are "*foreign experts*" who are required go through the long and complex procedure of obtaining a work permit, or are business travelers authorized to carry out their activities in Israel in accordance with a regular tourist visa (classified as a B/2 visa). This is a complex question, and answers often fall in a "*gray area.*" According to the Authority's regulations, a work permit is required when the expert arrives "*to carry out a temporary and time-sensitive task that requires special expertise or skill, such as repairs of equipment supplied by the company employing the foreign expert.*" The regulations state that in the case of foreign nationals who wish to arrive in Israel for a short period to search for investments, participate in negotiations, take business meetings, *etc.*, there is no requirement to apply for the issuance of a work permit. In light of this uncertainty, we recommend that you consult with us on a case-by-case basis.

**Can a business entity without a branch or presence in Israel apply for permission to employ a foreign expert in Israel?** Yes. In this case, the employer must attach a notarized power of attorney to the application that has been apostilled or authenticated by an Israeli consulate abroad; authorizing a representative in Israel to handle the application.

**What would happen if a foreign worker was caught in Israel without a work permit?** The employment of a foreign worker in Israel without a valid work permit constitutes a criminal offense which may lead to the imposition of fines and other criminal sanctions on the employer and its management, as well as on the employee. The Population & Immigration Authority conducts a strict enforcement regime, which has been grown in scope in recent years and equally applies to large and international organizations operating in Israel. Therefore, it is recommended not to risk enforcement action and apply for a work permit in any event.

**Is the foreign expert's salary required to be paid in Israel?** No. Insofar as a foreign expert is being paid an "*experts' salary*" (equivalent to at least double the national average wage in Israel – around NIS 19,000), there is no obligation that wages be paid in Israel, but the salary paid must be at least equal to the "*experts' salary.*"

**I would like to employ a manager in Israel. Is he considered a foreign "expert"?** There is a special route for applying for a permit for a manager or senior representative of a foreign or international company, but this process is only relevant for employees within the organization's most senior managerial echelon. However, it is possible and acceptable to apply for permission to employ workers at a lower managerial level under the "*experts*" category, noting the employee's special training and experience, and presenting suitable resumes and references.

**Can a foreign expert obtain a work permit in Israel without the sponsorship of a specific employer?** No. For a foreign expert to obtain a work permit in Israel, he must be sponsored by an employer who wishes to employ him and has already received a specific work permit for such an expert.

**Is the work permit personal or is it possible to employ a number of employees according to the number of employees for whom the permit was granted?** The work permit is personal to each employee. In other words, it is not possible to replace one foreign worker with another under the same permit. If the employer wishes to replace the employee for whom the permit was granted to another employee, a separate application must be submitted for the new employee.

**Is there a restriction on the number of foreign workers that can be employed under the “experts” category?** A work permit for a manager or senior representative in a foreign or international company can be granted to up to two employees. A 90-day work permit can be obtained for up to 300 employees. There is no limit to the number of employees that can be employed as experts concerning the other categories. However, each application is subject to the discretion of the Authority, which examines, among other things, whether there is a real need to employ the experts in Israel. Employing a large number of employees under the “experts” category may raise questions at the Authority, and the employer will have to convince the Authority that there is a real need to employ them in Israel.

**Are Jewish foreign workers required to obtain a work permit?** The employee's religion is irrelevant, and any foreign worker who is not a citizen or *resident* of Israel is required to have a work permit. However, Jewish employees in the process of making “*Aliyah*” may be eligible to receive a work permit in Israel.

**Can the worker stay in Israel when applying for a work permit?** There is nothing to prevent the expert from staying in Israel at the initial stage of the process; at the point where the application for a work permit is submitted to the Permits Unit of the Authority (the first step in the process). However, from the point where the employer applies to the Authority for the issuance of an entry visa to the expert (the second step onwards), the employee must remain outside the borders of Israel.

**Can members of the family of the foreign experts accompany them for the duration of their employment in Israel?** Yes. The worker may apply for a visa for the entry of his spouse and children up to the age of 18. In such cases, it is required to present marriage and birth certificates that prove the family connection to the foreign worker. As a rule, family members will be issued a visa allowing them to stay in Israel and multiple entries and exits but does not allow them to work. Concerning permits for short periods (45 and 90 days), no entry visa will be granted to family members.

**For how long is work permit granted and can it be extended?** Except for special permits for a defined duration (permits for 45 days and 90 days respectively), a work permit will generally be issued for a period of one to two years that should be extended if necessary.

**How can a work permit to employ a foreign expert be extended and is it necessary to go through the entire tedious process from the beginning?** The procedure for extending a work permit requires submitting an application to the Permits Unit at the Authority, together with various documents and the payment of certain fees. The extension process does not require the expert to go to an Israeli consulate and takes a shorter period than obtaining a work *permit* for the first time - about one month.

**Is it possible to extend a work permit indefinitely or is there a maximum period during which a foreign expert can work in Israel?** The maximum period for employment of a foreign worker in Israel is 63 months from the date of the first grant of their work permit. Special and exceptional circumstances may be applied for the employment of the employee for a longer period. This application must be submitted at least six months before the expiration of the work permit.

**Can the foreign expert enter and leave Israel freely for the duration of the work permit?** As part of the process of issuing a work permit, the foreign worker is also issued a multiple entry visa that allows him to exit and enter the borders of Israel without any restriction. The work permit of any foreign worker who leaves Israel without valid multiple entries and exit visa will be canceled. Therefore, it is important to ensure that multiple entries visa has been issued and remain valid throughout his employment.

**Should the foreign expert pay income tax in Israel?** A foreign expert is liable for income tax in respect of income generated in Israel. Under certain conditions, a foreign expert is entitled to recognition of living expenses (housing, meals, and flights) for tax deduction purposes. The employer in Israel (as a basic rule) is subject to withholding tax. We recommend that you consult with us concerning the tax liability of any foreign expert employed in Israel on an individual basis.

Sincerely,

Fischer Behar Chen Well Orion & Co

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