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Procedure for Giving Prior Notice Before Resignation*

A. Background

This procedure was issued by authority of section 6 of the Entry into Israel Law, 1952 (hereinafter: the Law) to set the conditions for the validity of foreign worker visas and permits of residence, which apply to foreign workers employed in the caregiving sector.

The terms of this procedure take into consideration the unique characteristics of the caregiving sector for the purpose of preventing harm to handicapped or elderly invalids, as a result of the sudden resignation a foreign caregiver in circumstances in which they are left helpless and without necessary care, and to prevent exploitation of the worker's visa and permit of residence, all while considering the principles expressed in section 3a of the Law and those outlined in HCJ ruling 4542/02 – Worker's Hotline and HCJ ruling 1834/09 – Yehuda Doron.

B. Objectives of the Procedure:

To stipulate that the validity of a visa or permit of residence granted to a foreign caregiver will require the worker to give the employer prior notice before terminating employment, as will be explained in detail below. In addition, a foreign caregiver who fails to give prior notice as aforementioned shall be liable to a procedure in which the cancelation of the worker's visa and permit of residence and deportation of the worker from Israel will be considered. **It should be clear that this procedure has no bearings on the employer-employee working relationship and in particular, the terms defined by the procedure shall not subtract from or add to the provisions of the Prior Notice for Dismissal and Resignation Law, 2001 or the Annual Leave Law, 1951. Nevertheless, it should be clear that prior notice in accordance with this procedure may be considered prior notice in accordance with the Prior Notice Law.**

It is further clarified that this procedure does not subtract from the general authority of the Population and Immigration Authority (hereinafter: the Authority) to cancel, refuse or restrict a visa and permit of residence in cases such as one in which it has been proven that the foreign worker has abandoned a invalid under serious circumstances.

In addition, this procedure does not subtract from the legal and procedural dominion of the Authority regarding detention and/or removal a foreign worker and/or regarding the authority to demand that guarantee deposits be made.



***This procedure is set as a temporary procedure as per the Supreme Court Decision in HCJ 1834/09 of 25/6/12.**

In addition, it should be clear that this procedure does not prevent law enforcement authorities from acting according to any law, including Israel's Penal Law, 1977.

C. Terms and Requirements


1. Prior Notice Period

A foreign worker who has been granted a visas and residence permit allowing work in the caregiving field, who desires to resign from his employment caring for an invalid, shall give, subject to the provisions of section C (3), prior notice in writing before resigning (hereinafter: Prior Notice), as follows

- a. Beginning from the seventh day of the worker's employment with an invalid, until three months have elapsed from the time that employment with the same invalid commenced – (the trial period) – prior notice of a minimum of one week shall be required.
- b. During the fourth month of the employment period with an invalid, until end of the sixth month of employment with the same invalid – a minimum of 14 days prior notice shall be required.
- c. During the seventh month of the employment period with an invalid, until end of a complete year of employment with the same invalid – a minimum of 21 days prior notice shall be required.
- d. An employment period exceeding one year shall require prior notice of a minimum of one month.

2. Submitting Prior Notice

- a. Prior notice shall be submitted in writing and shall include the date that the notice was given and the date on which the resignation comes into effect.
- b. The worker shall deliver the prior notice letter to the private recruitment agency at which he or she is registered and to the invalid. If the invalid is incapable of handling the worker's terms of employment as a result of a

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physical or mental deficiency, the worker shall submit prior notice to the acting employer or to a representative appointed on behalf of the invalid.

- c. In addition to the aforementioned obligation, foreign workers may submit a copy of the prior notice letter to the Employers and Foreign-Workers Service Administration at the Population and Immigration Authority (hereinafter: Service Administration) to email address: hodaa-siud@piba.gov.il and/or fax number [02-6469642](tel:02-6469642).
- d. A prior notice form, available in several languages, appears in **Appendix A** of this document. The worker is not required to make use of this form. It is presented only as an example.

3. Special Circumstances


Foreign workers shall not be required to give prior notice in case of special circumstances whose existence precludes a work requirement during the prior notice period set out in this procedure.

D. The Process for Dealing with Prior Notice

1. The Process for Dealing with Prior Notice by A Private Recruitment Agency

- a. A private agency that has received prior notice shall:
 1. Immediately notify the invalid or the acting employer/representative on behalf of the invalid in case the invalid is unable to take responsibility for employment due to a physical or mental deficiency.
 2. Immediately begin to assist the invalid in finding a replacement foreign worker who suits the invalid's needs.
 3. File the prior notice in the invalid's file.
2. When necessary and when unusual or special circumstances require such, the agency and the invalid may submit a request in accordance with section 12h of the Private Agency Procedure for Bringing, Recruitment and Care of Foreign Caregivers.



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3. The Process for Dealing with Prior Notice by the Authority:

- a. When a Service Administration representative receives a copy of a prior notice letter via email or fax as aforementioned in section C 2©, the representative shall forward the notice to the private agency with which the worker and invalid are registered within no more than three work days as well as update the information in the Authority's computerized system.
- b. When a private agency receives a copy of a prior notice letter from an Authority representative, it shall act in accordance with section D 1a above.

E. Filing Complaints

An invalid, a representative on the invalid's behalf or a private agency wishing to file a complaint against a foreign worker who has violated this procedure by not submitting prior notice, shall contact the Service Administration at hodaa-siud@piba.gov.il and/or fax number **02-6469642**, noting all of the relevant details and including all documentation related to the complaint.

The complaint must be made in writing and shall include identifying information about the foreign worker, the invalid and the person filing the report, as well as contact information, a description of the reported incident and any other information that may be relevant to the complaint.

F. The Authority's procedure for handling complaints

1. A Service Administration representative shall forward the complaint to the Enforcement Administration and notify the person who filed the complaint and/or the private agency that the complaint has been received and is begin processed by the Enforcement Administration.
2. An Enforcement Administration representative shall investigate the complaint with the relevant parties, including the invalid or a representative on behalf of the invalid, and summon the foreign worker to a present his claims as soon as possible. The representative's investigation shall also consider special circumstances that may apply in accordance with section C3 of this procedure and verify if a copy of the prior notice letter had been forwarded to the private agency by the Authority, in accordance with section D 2a above. After the





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worker is given the opportunity to voice any arguments on this issue, a clearly explained ruling shall be made as defined in section G of this procedure.

3. The private agencies shall cooperate with the Authority supervisors on all issues related to this subject, including providing any information or documentation in their possession related to prior notice, all in accordance with section 11b of the Private Agency Procedure.
4. If the Enforcement Administration representative's investigation into a complaint uncovers a violation of the Penal Law, 1977 against the worker or against the invalid, he shall as the representative of the Service Administration to forward the complaint to the Israel Police.

G. Consequences of Resignation without Prior Notice

1. If the Director of the Foreign Workers' Enforcement Administration or the Director of (Planning and Organization) at the Foreign Workers' Enforcement Administration or the Director of the Foreigners Investigation Unit discovers, after investigating the complaint and hearing the foreign worker's claims as described in section F above, that a worker left an invalid without prior notice before resigning in accordance with sections C1 and C3 of this procedure, after considering all of the circumstances involved in this incident, the representative shall have the authority to cancel the foreign worker's visa and permit of residence and/or reject applications to extend the worker's visa and permit of residence.
2. Before making a decision as explained above, the representative shall consider the following: the degree of deviation from the instructions defined by this procedure; the invalid's circumstances; the history of the foreign worker's employment and residence in Israel; the invalid's history of foreign worker employment; circumstances unique to the foreign worker; the length of the foreign worker's employment period with the employer, etc.
3. Detailed notification of the decision made in accordance with this procedure shall be presented to the foreign worker either orally or in writing, in a language that the worker understands. The worker shall be asked to sign that he understood the decision. If the worker failed to appear for the investigation, hearing and/or to receive the decision, the the decision shall be given in absentia.



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4. If a worker's visa and permit of residence were canceled, the worker shall depart Israel within the timeframe set by the representative's ruling. Workers who fail to depart as instructed shall be subject to detention and deportation and the representative may require the worker to leave a deposit to guarantee his departure as aforementioned.

H. Notification of Foreign Workers

Private agencies shall be instructed to send a copy of this procedure, translated into applicable languages, to all foreign caregivers registered with them within 30 days of the procedure's publication and when a foreign worker registers with a new employer.

Population and Immigration Authority officials will present a translated copy of this procedure to foreign caregivers when they arrive in Israel and when they apply for work permit extensions.

I. Effectiveness

This procedure shall come into effect 60 days after it is published.


J. The Law and its Sections

Entry into Israel Law, 1952

K. Appendices

Appendix A – An example of a prior notice.



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Appendix A

Employment Resignation Notice – Example

To :

The Employer: _____ and

The Private Recruitment Agency: _____

Date: _____ ---

I, (name) _____, Passport Number: _____, hereby announce my intention of resigning from my position of providing care for the employer: _____. My resignation will enter into force on the date of _____ after completing the prior notice period as required by the Prior Notice before Resignation Procedure.

Signed:

Name: _____

Passport No.: _____

Signature: _____

Note: This form may also be sent to the Population and Immigration Authority, by email to hodaa-siud@puba.gov.il or to fax number 02-6469642. There is no obligation to send this form to the Authority. Sending the form to the Authority does not replace the obligation to give written notice to the employer and the Recruitment Agency and is up to the discretion of the worker.

