



النهضة العربية للديمقراطية والتنمية
Arab Renaissance for Democracy & Development

Legal Paper
Legal Aid Unit

New Procedures

Home Based Businesses Professional Practice License
For Syrian Community in Jordan

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Introduction

This paper addresses the new instructions issued in 2017, which allows the practice of certain home-based professions, and their impact on Syrian women refugees' economic participation and empowerment, the paper also discusses the summary of the development of these instructions, and how it affects Syrian refugees. It also clarifies the conditions of registration of such works and procedures, and the relevant challenges, in addition to discussing the general challenges and recommendations related thereto.

Through its programs and services, ARDD seeks to establish a democratic society in which everyone enjoys social, economic and political justice regardless of their situation and background, including Syrian refugees.

ARDD focuses its attention on the labor sector, especially with regard to the economic participation of refugee women, and therefore aims through its services, whether legal or other to promote women's economic participation and support and strive to remove all challenges affecting the participation of refugee women in the labor market, and their economic participation as a whole.

As part of its endeavors, ARDD conducts studies and research, holds legal awareness workshops, legal counseling, support and advocate to improve women's economic participation and create a safe environment free of gender discrimination. ARDD also present opinion paper on all initiatives and decisions that it considers affect women's economic participation, whether positive or negative.

Problem statement

Refugees' waves that came to Jordan over the past years, most recently the Syrian refugee crisis, has posed a significant challenge in balancing rights and obligations in the context of international and national laws. The limited resources and economic challenges facing Jordan as a whole and host communities, have also negatively impacted refugees on Jordanian territory. With little funding from the international community for refugees in Jordan or conditional and project-based funding, refugees are the most vulnerable to these challenges.

These economic challenges, and the lack of direct funding opportunities, are driving many refugees to seek employment and to face worsening economic condi-

tions and high unemployment rates over the years. This has adversely affected women's economic participation and added another reason to those that prevent women's employment such as full-time home and children, societal perception, wage discrimination, among other reasons.

Upholding the right of refugee women to economic empowerment

ARDD believes that the issuance of the law in 2017 allowing certain professions to be practiced from home, according to the instructions clarifying this decision, is important in alleviating the challenges facing women's work and contributing to the improvement of women's economic participation, enabling her to balance between her profession and her duties toward her family, which have long been considered one of the biggest challenges that prevent women from doing different jobs.

ARDD also asserts that women play an important role in times of crisis and war in particular, where women in general and refugee women in particular have proven their ability to succeed in practicing home-based professions which helped them achieve financial returns that contribute, at least, to the family's income and at times be the main source of income for the family.

Regulating this type of profession and issuing new instructions for licensing for home-based professions for Syrians with the aim of formalizing it can be seen as an opportunity to open doors for women to make a better income and pave the way for them to improve the opportunities to increase income and allow new markets and prospects all of which can supports their work from home.

New home-based work instructions in Jordan

The new regulations outline the procedures and conditions for granting a license, including the applicant's owning an individual institution and / or being a partner in a company duly registered at the Companies Control Department, whose purposes include professions that are permitted to be practiced from home, as well as many conditions related to the nature of Profession, home space, house owner approval and other conditions.

ARDD believes that such licenses are an important opportunity to increase the participation of women in the labor market and the economy as a whole, and Syrian refugee women in particular, the following is a summary of the development of these instructions, and how they became concerned with Syrians and Syrian women in particular, This paper also describes the conditions and procedures for registration, the resulting challenges, as well as general challenges and recommendations.

Summary of the development of the instructions for granting a license to practice a home-based profession, the registration procedures and their challenges

Firstly: In 2017, Home based professions practice license regulations have been issued, under which it was allowed to practice some professions based at ones homes . Relevant regulations determined conditions and terms of granting such license; including but not limited to, the applicant's ownership of individual company and/or partnership status in a company, which is duly registered at companies control department. Also, the company's objectives include to practice home based businesses, in addition to many conditions relating to profession nature, house area, approval of house owner etc.

It is noticed that the referred to conditions include provision stating that the license is granted to Natural Person, via individual company registration certificate or company registration certificate, as stated within article 6/b of such regulations.

As for Non-Jordanian person, such provision forms a big challenge, especially that companies control department regulations do not allow non-Jordanians to own an individual company, unless as an investor therein and within specific categories, scopes and objectives, which differ from the fields allowed to be practiced at home. On the other hand, if a Syrian refugee wishes to register limited and/or a joint company, s/he should have a Jordanian partner who owns 50% of the company's capital. This makes obtaining a license impossible for Syrian refugees. Thus, such provision is considered a barrier to obtaining such a license and practicing certain home-based professions, taking into consideration most Syrian refugee, asylum seekers, non-registered individuals are practicing home based professions; such as production kitchens, sewing, manual crafts and other simple professions. Thus, presenting a deterrent preventing them from applying for the license, due to the fact that it is difficult to locate Jordanian partner who owns 50% of the capital, in limited responsibility or joint company.

Secondly: By the end of 2018, and for the purpose of carrying out indicator No. (15), relating to Syrian home based trading business within the indications of concern as to USA cash grant to support the budget of 2018, the prime ministry issued a decision to allow Syrians to own companies to practice home-based professions. The forgoing was adopted to facilitate and encourage obtaining the required license in a legal manner. At the same time, the respective decision defined eligible home-based professions ; **including preparing food, manual crafts and sewing, and allowed the practice of thereof** through registration of self-owned projects at 100%, without the need for Jordanian partner, inside and outside the camps, in addition previous conditions required issuing a license to practice home-based professions.

For the purpose of implementing the resolution, the Companies Control Department has defined the procedures and the types of companies that are allowed to be registered to the Syrians as a limited liability company, a joint venture company or individual establishments only.

Following, we stipulate required procedures and challenges of each companies type that are allowed to be registered:

• **Registration procedures of joint and limited responsibility companies Joint registration procedures, between joint and limited responsibility companies.**

- Applying to register the company through incorporation registration's form and filling the basic data; i.e. partners name, capital, type and goals. These goals should be among those included in the prime Ministry decision; productive kitchens, sewing, manual crafts. This procedure is used for the registration of both types.
- Partners must be present for the purpose of signing the Minutes of Incorporation before the assigned employee/or lawyer who will attest the partners signatures.
- A suitable company name should be chosen
- For non-Jordanians, security clearance is required from the Ministry of Interior for the purpose of registering the company. Therefore, the Companies Control Department sends the registration application with all its attachments to the Ministry of Interior for an opinion on this application. This procedure takes approximately fifteen working days.
- Documents required from Syrians for the registration of both company types and individual establishments is a valid passport.

Procedures relating to limited Responsibility Company

- Name should be suitable and is derived from the company objectives and adding limited company phrase.
- In respect of limited responsibility company, and after submitting the incorporation contract, initial approval is issued provided to deposit half of the capital amount by partners in bank account and present written certificate from the bank confirming such issue. Then the final decision of the approval on company registration shall be issued.
- Determining the capital of the company; not less than one thousand JODs, unless other legislation requires it to be increased and the share of each partner should be stated.

- Specifying if the company is managed via manager or board of directors. Board of directors' members should be determined, to be not less than two members and maximum of 7 members. The manager or the board members may be selected from the partners or other parties.
- An auditor should be chosen and assigned to audit the company financial statements each year, name, and profession practice license number of auditors should be reported to the department employee.
- The limited responsibility company may be owned and registered with only one partner.
- After registration is completed a general assembly meeting minutes should be issued. Authorized signatories must be determined and this should be repeated each year. Moreover, annual balance sheets should be deposited at companies control department.

Fees due on limited company's registration.

- (3) per thousand of the value of the capital of stamp fees.
- (2) per thousand of the capital value of registration fees provided that the fees
- (15) JD publication fees.
- (10) JD for certificate of issuance once depositing the incorporation contract and statute, representing form's accredited fees for the contract and statute.

Minimum limit of fees is 350.00 JD

- In the limited responsibility company, minimum number of partners should be two and the law allows one partner as well.

Procedures related to Joint companies

- Joint company is consisted of 2-20 natural persons
- Partner in such company acquires trader status and is considered practicing trade business in the name of the company
- The name of joint company is consisted of all partners name or each title or one or more of them or his family name provided to be added to its name/s & Partner/s as the case may be, or what indicates meaning of this phrase. The company address shall match with its existing entity

Fees due on registering the joint company

- (25) JD registration fees
- (3) per thousand of the value of the capital of stamp fees.
- (10) JD for registration fees
- (10) JD certificate of issuance

- **Procedures for registering individual establishments:**

This type of registration is of the easiest and least complicated registration procedures in terms of requirements including fees and procedures before and after registration. They don't require many conditions like other types shown above through which the person can obtain commercial registration in accordance with the requirements of issuing license to practice profession from home.

We consider that the decision to allow Syrian refugees to register individual establishments as an important step in facilitating the procedures for obtaining a license to practice professions from home. The requirements to register individual establishments are as follow:

- Attend in person to the Ministry of Industry and Trade and fill the ad-hoc form.
- Individual establishments do not require partner.
- Individual establishments do not require a capital deposit but the capital must be defined.
- Individual establishments do not require submission of annual budgets and minutes of meeting.
- Individual establishments require defining the purposes upon the registration.
- Individual establishments are linked to the personality of their founder.
- A valid passport is the only required identification document for the purposes of registration procedures.
- After submitting the application, the procedures require the approval of the Ministry of Interior.

- **Fees:**

The fee is only 35 dinars paid at the Ministry of Industry and Trade.

Procedures to apply for license before municipality/s

After completing the company registration procedures and obtaining commercial record, the person of concern has to complete procedures to obtain a license from Amman Municipality or other municipal entities, based on the following procedures:

- a) The application for the license shall be submitted to the mayor on the assigned form for this purpose together with the required documents and data.
- b) The applicant must meet the conditions and requirements for licensing practicing professions similar to those approved by the municipality
- c) The applicant must make an undertaking to allow the municipality's staff to carry out the necessary procedures to inspect the house in accordance with the profession's licensing of similar occupations in commercially regulated areas for licensing renewal and verification of the complaint purposes.
- d) The license shall not be granted to the applicant unless it meets the following conditions:
 - 1- Residing in same house, which is required to be licensed for business and enclose confirmation of such residence
 - 2- Submit proof as either owner or lessee of the relevant house, or one of the owner or lessee family members. S/he has to present the owner's written approval to use the house to practice the respective profession, in case the house is leased.
 - 3- This is conditioned by not to carrying license to practice other professions.
 - 4- If the applicant is one of the companies stipulated in article 6/b of such regulations, the license place must be defined in any partner house provided to fulfill all conditions referred to in items (1,2,3) in this Para.

Conditions to accrediting the in-house professions

The relevant professions must meet the following:

- a. Using thereof does not require tools manufacturing operations, production or offering services that cause vibration, smoke, glow, dust, smell, electrical or magnetic effect. In general, does not affect negatively, the neighborhood.
- b. Not used for or produce hazardous materials; i.e. inflammables, explosives, radiating and poisonous materials.
- c. Do not affect public health or safety; i.e. producing, manufacturing, treating, filling, packing, supplying, carrying, distributing, presenting, selling, offering drug materials or medical supplies.
- d. Are not used, produced or requiring using equipment's or manufacturing process that consume services or the infrastructure of housing area, including water, electricity or sanitary in a way that exceeds familiar limits of consumption in housing areas.

Conditions to use part of the building to be allocated for home-based business purposes.

Conditions to issuing a license to practice a home-based business

- a. The used area in the house allocated for profession practices or fixed professions in the license, shall not exceed 15% of total land area of the house or 25SQMs whichever is less. This is intended to use the allocated area to allow using allocated area for the work for housing purposes.
- b. The profession practice shall not extend to include partitioned building borders limits or closed of the house; i.e. terraces, uncovered balcony or yards or garage, or any uncovered part nearby the building even though it is covered and located within the house borders.
- c. Not to create or amend the outside building structure where the relevant house is located therein.
- d. Not to make amendments or change in the inside part of the house that may affect its housing nature
- e. Not to show any advertising signage on the building, where the relevant house is located therein, or on the auxiliary building including fences, poles, entrances, doors, balconies, architectural prominent parts or any shadow or car stopped before the area surrounding the house. It is allowed to use sign of 15CM area – 5 CM on the house door only, where the license number and objectives are indicated thereon.

Challenges

After studying the regulations and reviewing the application mechanism by companies' control department and auditing the profession practice licensing conditions, we were able to identify a group of challenges that might arise on the ground and prevent the Syrian community in particular and Jordanians in general from applying to obtain relevant license. Such challenges are as follows:

- The accreditation of two types of companies; limited and joint companies. Given the two types nature, registration requirements and further related procedures, could form challenge for the Syrian community to establish companies and obtaining license. For example, and in respect of limited responsibility companies, which require to appoint accounts auditor, once the company is registered, and preparing annual balance sheet, which shall increase the financial burdens and costs in case of registering home-based company, as a contrast to the business volume, income and practiced activities. Moreover preparing minutes of meetings and other legal requirements represent also further burden.
- In case of Joint company, in addition to the foregoing requirements, it is not allowed to register the company through a single person name, there should be at least two partners which works to increase such challenge and represents a difficult procedure. Moreover, the fees and other legal sequences; i.e. partners responsibility of paying the companies debts from their own money.
- Furthermore, the Syrian community may face financial challenge as well, in terms of cost of joint or limited responsibility company, which is estimated at 350.00 JODs and is subject to increase. Such amounts represent burden on the Syrian community .
- Therefore, approving the individual establishment is a very important step to encourage Syrian refugees to use this type of establishments for the purpose of obtaining a license to practice a profession from home due to the ease of procedures, requirements and fees compared to other types of companies. However, using a valid passport only as the single accepted identification will be an obstacle to Syrian because it is difficult to meet this requirement due to the circumstances of the Syrian refugees as many may not don't have such a document.

- We shall not forget the taxation obligations too. Such obligations have to be known by respective company owner to avoid being subject to accumulated outstanding tax and overhead; i.e. submitting tax declarations, invoices and maintaining organized accounts records as well as certain accounting standards. This shall work to increase difficulty of procedures and challenges in licensing the in-house business. This, of course, require to increase the outreach on taxation obligations and demanding experts, lawyers, auditors etc., which would lead, for sure, to increase the financial costs.
- On the other hand, obtaining the license also represent challenge which requires obtaining the houseowner's approval who is required to sign the lease contract and attest it in due manner. The houseowner has to be informed about such issue and has a right refuse which may set out extra-legal burden and fees on the owners and increase building tax due on the leased house which they might not approve of.

Recommendations

Through reviewing the aforesaid challenges and registration procedures, and to encourage the Syrian community and Jordanians in general to issue a license for home-based profession practice, we suggest the following recommendations:

- Conduct outreach campaign for Syrians and Jordanians raise their awareness of the procedures and regulations of home-based business. This shall contribute to refuting the incorrect roomers on such matter and protect them from exploitation.
- Making free legal services available for Syrians and Jordanians, who wish to proceed ahead with registration of home-based business.
- Providing enough financial aid to cover fees and expenses imposed on home-based business registration.
- Continue to offer suitable support home-based business ideas in a way that suit the reality that guarantees achieving income for individual and sustainability of such business. Through implementing studies on market needs and requirements, vocational training programs home-based business; i.e. preparing food, manual crafts & sewing for free.
- Granting facilitation and tax exemptions; income and/or sales tax to those who practice home-based business provided they obtain license issued in due manner and further enlightening the procedures and legal tax obligations of such projects.
- Cancelling the condition of house owner approval and being satisfied of the attested lease contract, house area and location in a way to guarantee not causing damage to the relevant house and/or neighborhood areas.
- Approving the service document for the Syrian community issued by the Ministry of Interior as a personal identification document instead of the passport document.



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