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Caroline Ann Millman of Swiss International Scientific School

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Employing freelancers

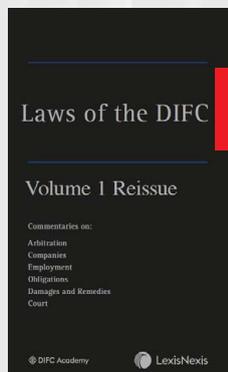
ROUND-UP OF LEGAL AND BUSINESS DEVELOPMENTS IMPACTING HR IN THE MIDDLE EAST



# SAFE AND SOUND

A new Health and Safety platform in Saudi Arabia

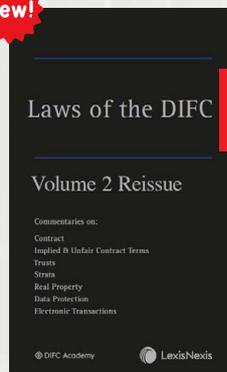
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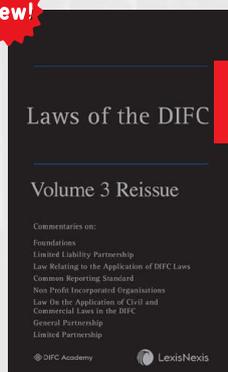
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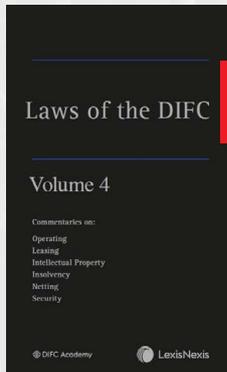
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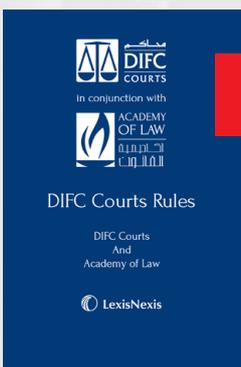
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# ON THE SAFE SIDE

There are still some companies out there who mistakenly believe that health and safety law is not something you need to be overly concerned with in the Middle East. Not only are they sadly mistaken about that but there are even some particular risk areas like the annual midday working ban during the summer months, we have already seen being introduced for example this month in June in the UAE and Saudi, and which came in at the end of May in Qatar and Oman, that remind us of the unique health risks the extreme temperatures here can bring to employees.

Over in Qatar the coming of the World Cup shone a light on this area. There may not be a single health and safety law there but there is an extensive set of rules and regulations on the subject and a national health and safety policy was issued in 2020 to protect workers. In Oman, Regulations Governing Occupational Health and Safety Measures in Establishments subject to the Labour Law there (found in Oman Ministerial Decision No. 286/2008) were amended just last year.

Meanwhile in the UAE a new law (Ministerial Decision No. 44/2022) was issued in February 2022 on Occupational Health and Safety and Labour Accommodation, while two months later Cabinet Decision No. 33/2022 came along which covers work injuries and occupational diseases and includes tables containing compensation assessments for permanent total and permanent partial disability, as well as information on types of work which bring risks of particular occupational diseases.

In this issue however, we have turned our attention to Saudi Arabia, where a National Council for Occupational Safety and Health is being established and steps have been taken to make it easier for employers to report illnesses and injuries.

As is the case in Qatar, there is a large amount of different legislation covering this area so we have decided to take a look at where you will find some of the key provisions.

Claire Melvin - Editor

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# SAFE AND SOUND

Saudi Arabia continues to prioritise and improve health and safety practices and initiatives. **Sara Khoja** of Clyde & Co looks at the legislative framework which has developed in recent years to manage and reduce health and safety risks in Saudi workplaces.

“Over the years, Saudi Arabia has had its fair share of tragic health and safety incidents - the most fatal of which was at the holy site of Mecca in 2015,” states Sara Khoja. “While these incidents have not been employer and employee specific, they have highlighted the importance of implementing high health and safety standards and to some extent have played a key role in driving the positive changes which have been seen over the years in Saudi Arabia in improving health and safety regulations, measures and procedures in the workplace. For example, in 2015, following the tragic event at Mecca, the Ministry of Human Resources and Social Development undertook 142,600 site inspections and recorded a total of 35,250 health and safety labour law violations, 2,321 of which involved workers working outdoors in the sun. Fines were imposed on violating employers and 12,256 entities had their Ministry of Human Resources and Social Development’s electronic services suspended.”

“Developing a health and safety regulatory framework has been the focus for the Saudi Human Resources and Social Development Ministry for some time, with various resolutions being issued and initiatives implemented to strengthen the position and reduce incidents over the last few years,” Khoja

explains. “The latest of these is the announcement of a new unified Health and Safety platform to help regulate occupational health and safety standards in Saudi, the aim of which is to substantially cut the costs to businesses of employee illnesses and injuries, by streamlining the process for workplace health and safety violation and accident reporting,” Khoja continues.

“The idea is that by streamlining the process for reporting incidents more reports will be made to the Ministry of Human Resources and Social Development and there will be an increase in critical investigations being undertaken by the Ministry. This will ultimately lead to better health and safety measures and practices being undertaken in Saudi, which in turn will have a positive effect on workforce morale and productivity. However, it is not the only measure the Ministry has taken.”



**Sara Khoja**  
Partner  
Clyde & Co

## THE BASIC FRAMEWORK

“Saudi Arabia Ministerial Decision No. 161238/1439 which was issued by the Ministry of Human Resources and Social Development came into force on 1 July 2018. This aimed to give employers a practical framework with which to manage health and safety issues in the workplace,” Khoja explains. “It applies to employers with 50 or more employees, and categorises employers, according to their industry activity, into low, medium and high risk environments. As part of this framework, employers have to put certain measures in place. This



© Getty images/Stockphoto

includes ensuring they have a written health and safety policy published in Arabic and the establishment's commonly spoken language," Khoja adds.

"This policy should specify the employer's expectations of employees and its priorities, and identify general processes, the employer and individual employee's liabilities, as well as specifying the various roles of key employees in implementing the policy. Reporting duties relating to occupational accidents and diseases should also be specified."

"Employers also have to provide sufficient resources to discharge their health and safety obligations, including, the necessary HR, finance and technology, infrastructure and equipment. They must also provide health and safety training," Khoja states. "In addition, they must carry out periodic audits and reviews of health and safety compliance and health and safety risk assessments to eliminate and manage risks."

"They should also consult with employees on identifying and assessing workplace risks, maintain health and safety records and have a system in place to measure compliance and investigate breaches."

### HEALTH AND SAFETY OFFICERS

"Further changes were brought in in 2020, when Saudi Arabia Ministerial Decision No. 76509/1441 was issued," Khoja adds.

"This set out minimum requirements for employers to appoint dedicated Saudi Health and Safety Officers

### RELATED LEGISLATION

#### Article 2 of Saudi Arabia Cabinet Decision No. 376/1443

A National Council for Occupational Safety and Health will be established and it will organisationally report to the Minister. Its headquarters will be in Riyadh City.

(Source: Lexis Middle East HR)

in the workforce who must be Saudi nationals. This Ministerial Decision has had the dual purpose of improving health and safety practices in the workplace by ensuring companies who do not have health and safety officers get one, but also supporting Saudisation policies. It has meant employers have someone to supervise, advise and implement health and safety precautions according to the laws and regulations and who ensure employers were not violating them. Employees also know their employer has a health and safety officer in place, which ensures a safe working environment for them and leads to a reduction in injuries."

"Saudi Arabia Ministerial Decision No. 76509/1441 also categorises entities into two groups," Khoja adds. "In Group A are employers who are required to have higher health and safety requirements based on their economic activity. This group includes companies in the construction industry, petrochemicals and industrial factories. These employers have to appoint

RELATED STORY

**Saudi: Electronic Platform for Managing Crisis and Emergencies in Industrial Sector Launched 5-1-2022**

Saudi Arabia's Minister of Industry and Mineral Resources, has launched an electronic platform which will be used for crisis and emergency management in industry and the mining sector. The platform will document best practices for managing records of risks, crises and accidents in these sectors. It aims to lead on identification and prevention of risks and leadership in crisis and emergency management by working on managing, coordinating, passing, exchanging and analysing communications and information, and enhancing the ability to respond to crises, in order to preserve lives and property.

one health and safety officer for every 50 employees they employ, up to an equivalent number of 2% of their total workforce," Khoja explains.

"While employers in the other Group B have to appoint one health and safety officer for every 100 employees they employ, and health and safety officers must make up 1% of their total workforce."

**PENALTIES**

"If an employer fails to comply with health and safety obligations, the Ministry of Human Resources and Social Development has the power to fine them," Khoja adds. "For example, those who do not comply with the health and safety regulations are fined 25,000 Riyals. While those who do not post health and safety rules in their workplace are fined 5,000 Riyals."

**LABOUR LAW REQUIREMENTS**

"The Saudi Labour Law, Saudi Arabia Cabinet Decision No. 219/1426 also includes specific health and safety procedures employers must adhere to," states Khoja. "For example, employers must provide a healthy work environment for their employees which is devoid of any causes of occupational diseases,

accidents or injuries."

"Article 121-123, 125, 126 and 133 of Saudi Arabia Cabinet Decision No. 219/1426 set out the obligations of employers in this respect. For example, Article 121 of Saudi Arabia Cabinet Decision No. 219/1426 requires employers to maintain their firm in a clean and hygienic condition. They also have to provide lighting, supply potable and washing water, and comply with other rules, measures, and occupational protection and health, and safety standards in line with the specifications in relevant Ministerial Decisions," Khoja explains. "While under Article 122 of Saudi Arabia Cabinet Decision No. 219/1426, employers must take the necessary precautions to protect employees against hazards, occupational diseases and machinery in use, as well as ensuring work safety and protection. Instructions on work and workers' safety must also be posted in a visible place in the workplace in Arabic and, when necessary, in any other language the workers understand. While another key point is that employers cannot charge employees or deduct from their wages any amounts for the provision of protection. Under Article 123 of Saudi Arabia Cabinet Decision No. 219/1426 employers also have a duty to inform employees, before they begin work, of the hazards of the job and the employer must require them to use

prescribed protective equipment and appropriate personal protective gear, which employers must supply to workers and train them to use," Khoja adds. "While Article 125 of Saudi Arabia Cabinet Decision No. 219/1426, requires employers to take the necessary precautions to protect against fire and provide the technical means to tackle it, including safety exits which must be maintained in working condition at all times. Detailed instructions on fire prevention devices must also be posted in a visible location in the workplace."

"In addition, Article 126 of Saudi Arabia Cabinet Decision No. 219/1426 states employers are responsible for emergencies and accidents which may affect persons, other than their workers, who enter the workplace by virtue of their official duties or with the approval of the employer or their agents, if these emergencies and accidents are caused by negligence in taking the technical precautions required by the nature of their work, and they must compensate them for damage and harm they may sustain in accordance with the general laws. Article 133 of Saudi Arabia Cabinet Decision No. 219/1426, adds that if a worker sustains a work injury or an occupational disease, the employer must treat them and assume, directly or indirectly, all necessary expenses, including hospital fees, medical examinations and tests, radiology, prosthetic devices and transportation costs to treatment centres."

"However, employees also have health and safety responsibilities," Khoja states. "For example, under Article 124 of Saudi Arabia Cabinet Decision No. 219/1426, employees must use and preserve the personal protective equipment designated for each process and adhere to instructions laid down to protect them against injuries and diseases. They must also ensure they do not take any action or omission which may lead to a failure to implement the instructions, or misuse or impairment of the devices provided to protect the workplace and the health and safety of fellow workers."

"Despite the ongoing steps being taken by the Ministry to encourage employers to adopt better health and safety practices, many employers continue to fail to meet the minimum requirements and obligations," Khoja states.

"There are companies using outdated dangerous tools and equipment, or equipment which is no longer reliable and could cause harm. While others work in old buildings which do not comply with the minimum health and safety requirements, and some do not even replace expired fire extinguishers. There are also those who fail to purchase new safety equipment or challenge employees from smoking where it is dangerous to do so. Some companies fail to properly train employees or provide suitable signs in visible places. While the Ministry is clearly driving change within its health and safety regulatory framework, employers need to play their part too and do more to drive change within their organisations when it comes to adopting positive health and safety practices."

## Taxing times

Pooja Bhatt ACA, Recruitment Consultant at Alchemy Search, looks at why tax professionals are suddenly in demand in the Middle East.

Before 2018 only a few of the GCC countries had a local tax regime and as a result little need for specialist tax professionals here. However, since then there have been significant changes which have also brought with them changes to the job market.

In 2016, all six GCC countries (the UAE, Qatar, Saudi, Oman, Kuwait and Bahrain) signed a common agreement to introduce VAT - and it is now in place in all GCC states except Qatar and Kuwait (which is currently taking steps to introduce it). In addition, at the start of this year the UAE announced plans to implement Corporation Tax on financial years starting from 1 June 2023. At present, a large number of companies in this region do not have the sort of core tax function you generally find in companies in more mature markets such as the US and Europe.

### UPCOMING CHANGES

However, we expect that over the coming months, more and more CEOs and Executive Committees will start thinking about hiring their own internal tax specialists, rather than simply having tax matters handled by their general finance team. This is not just a result of local tax requirements but also because of the new tax compliance and reporting requirements companies are facing after Middle East countries including the UAE, Oman, Bahrain, Saudi Arabia and Turkey joined over 130 countries in their commitment to increase transparency and support international tax reform by agreeing to a Global Minimum Tax rate. This regime (known as Pillar 1 and 2) aims to create a fairer tax landscape, and mainly targets large multinationals by enforcing a global minimum corporate tax rate of 15%, rather than allowing companies to invest or shift profits to countries which are either lower or no tax jurisdictions. With this will come large, complex tax compliance responsibilities, and finance teams will be unable to keep up on their own on top of their day to day responsibilities. As a result, with all of this change and an increased risk of penalties and fines for non-compliance, it is not surprising we are now seeing more tax roles being advertised in the GCC market.

After all it is cheaper to pay for a monthly headcount than to risk potential penalties which could end up costing the company thousands or millions of Dollars.

### NEW TYPES OF ROLES

Recently, we have been seeing a number of companies in the Middle East creating new roles for in-house tax professionals. These have tended to be focused on International Tax and Transfer Pricing work. This is because of the large number global multinational companies which operate in the Middle East who see experience in International Tax and Transfer Pricing as being strategic value add roles, as these individuals will be able to guide senior management in business decisions, especially when it comes to expanding into new territories and markets.

### SALARIES

When it comes to tax roles in the Middle East, salary bands are not as defined for tax as they are for finance professionals in the region, as these roles have not existed previously. This is the case, particularly for Heads of Tax roles, where salaries are varying significantly from industry to industry, and depending on the size and complexity of the business. However, as a general guide, based on recent In-house roles in the market, a Tax Manager can expect to receive between 25,000 and 35,000 AED a month while a Senior Tax Manager can expect 35,000 and 45,000 AED a month. Meanwhile, Tax Directors can expect to receive between 50,000 and 60,000 AED a month and a Head of Tax can expect to receive 60,000 AED or more a month.

### RESPONDING TO THIS TREND?

The first step for HR Professionals thinking about the implications of these changes in the Middle East, is to discuss the potential need to hire an inhouse tax specialist with their CFOs. It will be better to act now and before it is too late. The demand for talent in this area has already started to sharply increase with the various tax changes that are on the horizon, and the pool of candidates in the region is limited, particularly in terms of those who have both practice and industry experience. As a result, we are also seeing more companies looking for candidates internationally and providing relocation expenses in order to get individuals with the right skillset. Obviously, this comes at a price and can also mean it takes longer to onboard a new team member.



**Pooja Bhatt**  
Consultant  
Alchemy Search

# NEWS ROUND-UP

COVERING RECENT KEY DEVELOPMENTS – REGION-WIDE

UAE

## EMIRATISATION CHANGES

 The UAE Cabinet has adopted a new approach to increase Emiratisation rates in the private sector. These will be increased by a minimum of 2% annually in skilled occupations in companies with over 50 employees, with the aim of reaching 10% by 2026. However, all private sector companies which support the hiring and training of Emiratis will be eligible for financial benefits, including an 80% reduction in Ministry of Human Resources and Emiratisation (MOHRE) service fees. From January 2023, it is expected that every private sector business that fails to comply with the 2% rule will be fined 6,000 AED per month for every unfilled Emirati citizen vacancy. Activities involving the employment of UAE and GCC citizens will be exempt from these fees.

## SOCIAL SECURITY SUBSCRIPTIONS

 The UAE's General Pension and Social Security Authority has said subscriptions which are paid monthly to the Authority by employers are calculated on the basis of the subscribed salary. Insurance rights which include a pension or end of service payment are based on the subscription salary average. It is important to differentiate between gross salary (or amounts paid to employees at the end of the month by their employer) and the subscription salary which in the public sector consists of several components including basic salary and allowances up to 300,000 AED. While in the private sector, subscription salary includes everything mentioned in the employment contract up to 50,000 AED.

## LEAVE FOR PART-TIMERS

 The Human Resources and Emiratisation Ministry (MOHRE) has confirmed part-time employees are entitled to annual leave based on their actual number of working hours. Leave levels will be based on the total number of

working hours, once calculated as full working days divided by the number of working days a year multiplied by the number of annual leave days prescribed by law. The minimum leave will be five working days a year. When calculating leave part of a day is considered to be a full day.

DIFC

## ELECTRONIC RESIDENCE VISAS

 From 13 June 2022, the DIFC has been issuing residence permits electronically instead of physically endorsing foreign nationals' passports with a residence stamp. Similar changes have been seen in the mainland UAE. As a result, the DIFC will no longer collect employees' passports, except where an employment visa change is needed because a foreign national has obtained dual nationality from a second country and wants their residence visa issued under their new nationality. Applicants will be able to access a copy of their residence permit from the DIFC portal and dependent residence visas can be downloaded from the UAE ICP mobile app once processing is complete. At present it is not known when other Dubai freezones might follow suit.

SHARJAH

## LABOUR STANDARDS DEVELOPMENT AUTHORITY

 Sharjah's Ruler has issued Sharjah Law No. 1/2022 restructuring the Labour Standards Development Authority there. Under the Law, the Authority will have its own legal personality. It will also be responsible for developing work standards and implementation procedures to ensure a distinct and attractive working environment for employers and employees in the Emirate. It will also promote awareness of and ensure compliance with labour legislation and standards. The Authority will also be responsible for monitoring and assessing the application of labour law and standards in Sharjah and its impact on the labour market there.

SAUDI ARABIA

## WAGE PROTECTION PROGRAMME CHANGE

 Saudi Arabia's Human Resources and Social Development Ministry have changed their wage protection programme from 15 May 2022. The changes include an increase in the percentage of commitment to wage protection for establishments with 30 to 99 employees, from 80% to 90%. While, applicable percentages for establishments with over 100 employees, have increased from 90% to 95%.

QATAR

## COMPULSORY HEALTH INSURANCE CLARIFICATION

 Qatar's Government Communication Office has issued a compulsory health insurance clarification on the position of non-Qatari workers in the public and private sectors. It has been stated employers and recruiters will have to pay insurance premium to cover basic services of their employees or recruits. They may also request additional services at an additional cost. Former employees must be removed from the insurance policy and employers and recruiters must follow specific procedures to notify the insurance company of the termination of the employment or recruitment contract. However, where an employee or recruit fails to transfer their sponsorship to a new employer on the termination of their employment, insurance coverage can be extended until the policy or the legally permitted residence period expires, whichever comes first. An employer or recruiters' health insurance obligations begin from the date of the employee or recruit's entry into the country or from the date a worker's sponsorship transfers to them. From this point they must contract with one of the registered insurance companies to cover all employees and recruits and must annually renew these policies within the prescribed deadlines. They are also obliged to provide the contracted insurance company with all necessary information to register all the beneficiaries.

## CONTRACT CHECKS

 The Qatari Labour Ministry has upgraded its employment contract authentication e-service. The service allows contracts to be checked automatically within minutes once a contract authentication request has been completed. This contract auditing system can be used for all types of employment contract. However, employment contracts for specialist professions where professional certificates also need to be audited are not covered by it.

## REPATRIATION CLARIFICATION

 The Qatari Interior Ministry has issued a clarification of an old tweet on an employer's obligation to pay employee repatriation expenses. The tweet related to the position under Qatar Law No. 4/2009 which was repealed by Article 19 and 49 of Qatar Law No. 21/2015. Under Article 19 of Qatar Law No. 21/2015 recruiters have to pay the expenses for deporting an expatriate to their home country in certain circumstances specified in the law. Although, if there was evidence the individual was working for another organisation in violation of the law, the recruiter would not have to pay these expenses. However, if the organisation is unknown the expatriate would have to pay the costs. If they were unable to pay the costs and lacked the necessary funds in the country to pay, the recruiter would be required to pay. In addition, anyone who employs an expatriate who has not been recruited in violation of the law will be required to pay the cost of repatriation.

### OMAN

## FASTER EMPLOYMENT DISPUTES

 Oman's Council of Administrative Affairs for the Judiciary has launched two initiatives designed to speed labour disputes there. As part of the first initiative a number of judges will be assigned to settle labour disputes at the Labour department. While under the second evening labour departments will be set up in the Muscat Governate.

## NATIONAL DECENT WORK PROGRAMME

 Oman has signed a decent work programme agreement with the International Labour Organisation. As a result a new national decent work programme will be established there for the period 2023-2025. The programme will focus on employment, training skills, entrepreneurship, social protection, international standards and work management.

### MOROCCO

## MINIMUM WAGE INCREASED

 The Moroccan Government has signed a collective agreement with the Employer's Union and other major unions to increase the minimum wage which applies to employees in both the private and public sector. Under the agreement the minimum wage will be increased by 10% over a two year period in the industry, trade and services sectors. However, the agreement does not include workers in the agricultural sector. Previously, the minimum wage in Morocco was set at 2,638 Dirhams.

### TURKEY

## CITIZENSHIP CHANGES

 The Turkish government have announced from 13 June 2022, a foreign national will have to buy property worth at least \$400,000 in order to be eligible for Turkish citizenship. The money should be deposited in a Turkish bank and the property should not be sold for three years. Foreign nationals who meet this requirements and their spouses and any children under 18 will automatically receive a Turkish passport. Previously the limit was set at \$250,000. In addition, foreign business people who provide employment opportunities for 50 people in Turkey or deposit \$500,000 in a Turkish bank without withdrawing it for three years will also be able to obtain Turkish citizenship. This option will also be available to a foreign national who joins a private pension scheme with at least \$500,000 in it (or the equivalent in another foreign currency) and remains in that scheme for three years.

## IN BRIEF

**UAE:** The Human Resources and Emiratisation Ministry has confirmed Federal Decree-Law No. 33/2021 and its Implementing Regulations (Cabinet Decision No. 1/2022) allows employers to add a non-compete clause to employment contracts but the place, time, and nature of the work in the clause is restricted...

**Kuwait:** The Supreme Consultative Committee for Labour Affairs has announced they have decided to amend Kuwait Ministerial Decision No. 156/2022 which covers the rules and procedures for granting work permits....

**Saudi Arabia:** Saudi Arabia's Human Resources and Social Development Ministry is believed to be considering amending the Saudi Labour Law to introduce a two-day weekend for private sector employees....

**Saudi Arabia:** Saudi Arabia's Civil Defence General Directorate has started requiring engineering offices which specialise in fire protection work to have an engineering license from the Saudi Authority of Engineers ....

**Kuwait:** A decision has been issued by Kuwaiti Public Authority of Manpower. stating they are delaying part of their Kuwaitisation policy to enable further studies on the proposed Kuwaitisation rates and the needs of the wider labour market ..

**Kuwait:** The Public Authority for Manpower has announced the launch of a Tayseer platform to recruit illegal residents or Bidoons rather than expatriate employees in the private sector and offer a mechanism for them to participate in the labour market...

**Jordan:** The Jordanian Ministry of Labour has announced an agreement has been reached with major companies in the fuel sector and the Syndicate of fuel owners to give priority to employing Jordanians in petrol stations...

**Qatar:** The Labour Ministry has stated employers should be using devices to measure wind speeds on construction sites and should stop cranes operating when wind speeds exceed permissible limits....

**Saudi Arabia:** The Dispute Settlement Committee for Domestic Workers has stated penalties will be imposed on anyone who allows a domestic worker to be recruited for commercial work....

**Egypt:** Amendments to the Egyptian Income Tax Law referred to Parliament include an increase in the personal tax exemption limit from 9,000 to 15,000 Egyptian Pounds...

**GCC:** GCC citizens will have access to Britain's Electronic Travel Authorisation system when it launches in 2023...

# LAW CHANGES

## NEW AND PROPOSED MENA LAWS

### CORPORATE WHISTLEBLOWING

The Dubai Financial Services Authority (DFSA) has recently introduced a regulatory regime to promote and improve whistleblowing protection for individuals in DFSA regulated establishments. **Thenji Moyo** from Gateley LLP (Dubai) considers the impact from a HR perspective.

Under the DFSA Whistleblowing Regime which was introduced in April this year, a whistleblower is an individual who reports or reveals information about an activity due to a 'reasonable suspicion'. The individual can be an employee, officer or agent of the regulated entity which has or might have contravened DFSA Regulations or committed a financial crime, including money laundering or fraud. The Regime affects all entities based in the DIFC as well as entities regulated by the DFSA. Individuals regulated by the DFSA have an obligation to report any breaches of the DFSA regulations to the DFSA authorities. Historically, we have seen employees being reluctant to come forward and blow the whistle for fear of retaliation. Retaliation can be in various forms including unfair dismissal, victimisation, loss of promotion, bullying and harassment. In the Middle East, the concept of the protection of whistleblowers did not evolve until quite recently. The introduction of the new Regime introduces protection for employees and members of an establishment against any and all forms of Retaliation. Although this type of protection already existed in other DIFC and DFSA statutes, for example the DIFC Operating Law DIFC Law No. 7/2018 and the DIFC Regulatory Law, DIFC Law No. 1/2004, the Regime is set to improve these protections. The UAE offers protection to individuals who blow the whistle through various pieces of legislation, onshore, in the DIFC and the ADGM freezone. The Financial Crime Law (Dubai Law No. 4/2016) introduced some level of protection to individuals who made protected disclosures against retaliation such as facing ill treatment at work and discrimination. While the



### UAE - MOHRE FEES



Cabinet Decision No. 18/2022 On the Classification of Private Sector Establishments who are subject to the Law Regulating Labour relations has been issued. As a result companies will be classified under one of three categories. The companies will then have to pay MOHRE service and transfer fees based on the category they are put in. Fees for category one entities will not exceed 250 AED for two years. Fees of those in the second category will not exceed 1200 AED for two years. While those in the third category will receive no fee discounts and will have to pay 3450 AED for two years. No fees will be payable for MOHRE services involving GCC and UAE national employees.

### SAUDI ARABIA - TWO JOBS



Saudi Arabia's Human Resources and Social Development Ministry has confirmed there is no provision in the Labour Law which prevents Saudi employees from holding two jobs except in cases when the contract states otherwise. However, the Ministry has said if a Saudi employee has been registered with the Social Insurance Organisation as working for two different establishments, the Saudisation quota will be registered for the first establishment with which the employee was registered with the Social Insurance Organisation and not both establishments.

Regime introduces enhanced protection to whistleblowers as it goes further in outlining the steps for employers to adhere and follow internal policies and take reasonable measures to protect confidentiality and conflict of interest. Previous legislation, like DIFC Law No. 7/2018 has sought to provide similar protection. However DIFC Law No. 7/2018 focused more on reporting obligations to the registrar rather than internal measures to facilitate protected disclosures. As DIFC case law concerning whistleblowing has shown, DIFC Law No. 7/2018 does not cover wider aspects of

internal disclosures. Therefore, it will be interesting to see whether the DFSA will impose more stringent requirements to the Regime when it is reviewed in mid-2023. The DIFC Courts have seen very limited case law arising from DIFC Law No. 7/2018 and fewer cases where precedents have been set by decision-makers. In *Shiraz Mahmood v Standard Chartered Bank (DIFC Branch)* [2021] DIFC CFI 044, DIFC Case No. 044/2021, the employee claimed their employment was terminated because of disclosures made during a Speak Up session on breaches of the DIFC Law

## OMAN - FLEXIBLE WORK



The Oman Labour Ministry has issued Oman Circular No. 5/2022 on flexible working in units in the State's administrative apparatus which apply the Civil Service Law and its Implementing Regulation, after the Sultan issued directives that flexible working should apply in these units. Employees must work seven consecutive hours a day. Working hours will be between 7.30am and 4.30pm, provided they are calculated from the time workers come to work until the time they leave. Units which provide direct services to the public will have to announce the working hours allocated to provide these services, and those total hours will not be less than seven hours a day.

## EGYPT - SECONDMENT



Egypt's Cabinet has approved a Decision to extend the terms of unpaid secondments and personal leave in order for an employee to work abroad. The Decision will apply to employees who are subject to the Civil Service Law and employees of the service and economic public authorities, public sector companies, the public business sector and employees of companies fully owned by the State or in which the State has a ruling share. It will also apply to employees in national journalistic establishments. These Employees will be able to take unpaid leave to work abroad if steps such as obtaining approval for the secondment or unpaid leave for a year or less have been taken. The period can also be renewed if the applicant submits an application 30 days before the end of their secondment or leave.

## KUWAIT - EXPAT EMPLOYEES



A Kuwaiti MP is calling for a change which would see a ban on expatriate employees there from changing employers before completing five years' service with the same employer. They have asked for the law to be changed to protect employers who have invested time and money training and recruiting expat employees. He has also suggested that expat employees who have completed at least one year of service and want to change jobs should be required to leave the country and only be able to return after five years. Under current Kuwaiti law most expat workers can change jobs after one year's service and if an employer refuses to allow them to transfer the court will force them to do so.

No. 7/2018. However, the employee was not successful in proving that the disclosures made during the Speak Up sessions amounted to a reasonable suspicion under DIFC Law No. 7/2018. In *Bassam Khalifa v S.W.I.F.T. (Dubai) Limited* [2020] DIFC CA 005, DIFC Case No. 005/2020, employees claimed to have made protected disclosures and suffered a detriment following the disclosure, before DIFC Law No. 7/2018 came into force and they were

not awarded any compensation as the law did not apply retrospectively. An effective internal whistleblowing policy should encourage employees to raise concerns internally to Human Resources without fear of Retaliation. HR professionals must take the lead on ensuring protection for the employees who blow the whistle by taking practical steps to safeguard their employment. In light of the new Regime and other whistleblowing initiatives in the UAE, HR

managers should take immediate steps to promote transparency and improve the internal speak up culture in their workplace and review and update internal policies and procedures and ensure policies to promote safe disclosure and reports are up to date. They should also ensure all employees are advised of the internal procedures, the confidentiality of the whistleblower is maintained and measures are in place to protect whistleblowers from Retaliation. In addition, they should ensure the entity fosters a transparent and protected environment for the employees.

# CASE FOCUS

**Case No** .... The Industrial Group Ltd v Abdelazim El Shikh El Fadil Hamid, DIFC 029/2018 on 6 April 2022

**Jurisdiction** .... DIFC

**Court** .... DIFC Court of First Instance

**Recommended by** .... Outer Temple Chambers

## WHAT HAPPENED?

Mr El Fadil Hamid was the finance director of The Industrial Group Ltd (TIG). Initially, he had a good relationship with the company's chairman whom the Court found dominated its affairs. As part of that relationship, Mr Hamid often paid the chairman's personal expenses from his own bank account, on the understanding that in due course he would be reimbursed for the payments by the company. In January 2018, Mr Hamid decided he wanted to retire but from then the parties' relationship deteriorated. He gave 90 days' notice of his resignation on 29 April 2018 but on 8 May, was summarily dismissed for alleged misconduct for arranging payment of the reimbursements to himself. Both parties began DIFC Court proceedings. The company claimed group funds had been dishonestly transferred to Mr Hamid's personal bank account. The company also made a complaint to the Dubai Police. The employee claimed he had been wrongly dismissed and was entitled to an end of service gratuity which TIG refused to pay as well as damages for abuse of process and malicious prosecution. The police complaint had resulted in the employee's passport being confiscated, and other severe adverse consequences for him. There was an extensive review of the relevant documents by a Dubai Court expert, who concluded the employee was entitled to the reimbursement payments which had been made to him. That aspect of the DIFC Court

proceedings was determined in the employee's favour before trial and the remaining issues were the employee's counterclaims against TIG for damages as a result of the difficulties he had faced.

## WHAT WAS DECIDED?

In the DIFC the test for the lawfulness of a summary dismissal was covered in Article 59A of DIFC Law No. 4/2005 (the previous Employment Law) and is now found in the current Employment Law in Article 63(1) of DIFC Law No. 2/2019. The first stage of the test is whether 'the conduct of one party warrants termination' which replicates this part of the common law test for summary dismissal found in jurisdictions like England and Wales. The second is 'whether a reasonable employer would have terminated the employment on that ground' and is an objective test which is unrelated to the employer's beliefs or understanding. This differs from the applicable common law test (whether a reasonable employer could have terminated the employment on that ground). The DIFC Courts decided that although there was a technical breach of the company's authorisation policy (some of the payments made had not been specifically approved in writing by the Chairman), as there were physical documents which established his entitlements to payment in the possession of TIG from January 2018 the first stage of the test was not satisfied and even if it had been, the second stage of the test had not been met. A reasonable employer in the same position as TIG would not have proceeded in the same way. TIG had unfairly developed a hostile, unbalanced case against the employee and had deliberately excluded him from the review process of his claims in order not only to dismiss him summarily but also had his passport confiscated by pursuing a

criminal complaint against him that he was guilty of embezzlement which had ended up with his conviction for that crime. As a result, the summary termination was not lawful, and the employee was entitled to receive his end of service gratuity. In addition, as this had not been paid within the prescribed time, he was also entitled to a penalty payment which under the previous Employment Law DIFC Law No. 4/2005 by the time the case was determined was over 7.5 million AED. (The calculation method for these late penalty payments changed with the current DIFC Employment Law, DIFC Law No. 2/2019 due to concerns that amounts awarded under the previous law were too high. However, even under the current regime late penalty payments can be substantial.) Also considered was damages for TIG's alleged abuse of process and malicious prosecution of the employee. The torts of abuse of process and malicious prosecution torts are not the subject of comparable provisions in the DIFC Law of Obligations (DIFC Law No. 5/2005). Given the findings of fact, it seems likely that the elements of these causes of action were made out under English law. TIG argued DIFC Law No. 5/2005 operated as a code and as a result precluded these claims. While the employee argued that, as the DIFC Courts were courts of common law and there was no specific DIFC Law which precluded the actionability of these torts in the DIFC, they ought to be regarded as actionable there too. The Court concluded that these causes of action were not actionable in the DIFC because the waterfall provision in Article 8(2) of DIFC Law No. 3/2004 (the DIFC Law on the Application of Civil and Commercial Laws in the DIFC which covers what law applies where an area is not covered under DIFC law) meant that it was the DIFC law which applied as the jurisdiction most closely connected to the facts and people involved. The absence of recognition of either tort in DIFC Law No. 5/2005 was therefore fatal to this aspect of the employee's case. However, if this case was to arise in the Abu Dhabi Global Market (ADGM), whose Courts apply the law of England and Wales more generally, the result would be different. The discussion of the issue in the reasons for judgment suggested that in the Court's view this aspect of the case was not as fully argued as it might have been. In particular, DIFC Laws like the Law of Contract (DIFC Law No. 6/2004) have generally not been regarded as codes, but as setting out the general rules in respect of which clarity has frequently been obtained by reference to the laws of England and Wales. The very existence of the DIFC Courts and their inherent right to control abuse of process may provide a basis for an argument that such conduct was actionable and subject to formal disciplinary processes. This decision may be appealed and if it is, this aspect may be more fully explored.

**WHY'S IT SIGNIFICANT?**

This case highlights two significant aspects of DIFC law - the need for employers, if considering summary termination of employment, to carefully review

their proposed action not only based on their own assessment of the position, but also from the likely standpoint of objective third parties. This includes proceeding fairly and also being seen to do so, as this is the standard applied by the Court in these matters. The second point is that DIFC Law No. 5/2005 does not automatically provide for a tort known to the common law, unless this decision is varied on appeal.

**Case No .... TCC 11988/2018 on 10 March 2022**

**Jurisdiction .... Turkey**

**Court .... Turkey Constitutional Court**

**Recommended by .... Esin Attorney Partnership**

The municipality where an employee worked switched to a fingerprint system for shift tracking. The employee claimed fingerprint recording for shift tracking violated their right to private life and filed a lawsuit with the administrative court to have the fingerprint system cancelled.

The Court considered the issue within the context of processing personal data within the scope of the right to respect for private life. They decided the system was unlawful as there was no legal basis for this type of shift tracking.

However, the Court of Appeal decided the shift tracking system was not a violation of the law, as public personnel had to work during their shifts and administrative bodies had to supervise these shifts.

The employee then appealed to the Constitutional Court which considered the application within the scope of the right to request protection of personal data under Article 20 of the Turkish Constitution.

They pointed out that the State has positive obligations to prevent the unlawful intervention of third parties with citizen's fundamental rights and freedoms. They said restrictions on rights and freedoms must have a lawful basis, rely on legitimate causes under the Constitution and comply with the needs of a democratic society and the principle of proportionality, according to Article 13 of the Turkish Constitution. The Court referred to Turkey Law No. 6698/2016 on the Protection of Personal Data (LPPD) and stated in this case, fingerprint data (i.e. sensitive personal data) of an individual could be processed based on the explicit consent of the individual or in cases expressly stipulated in the laws, without seeking explicit consent. They must do so in line with Article 13 of the Turkish Constitution. The employee had not given their explicit consent for processing of this data. The Court then considered if there was legislation stating fingerprint data could be processed for shift tracking purposes but there was not.

**WHY'S IT SIGNIFICANT?**

The judgment is significant as it highlights biometric data processing must be done with the data subject's explicit consent or the processing must be clearly specified in legislation.

# HR PROFILE

## HEAD OF HR – EDUCATION



### A Class Act

Caroline Ann Millman at Swiss International Scientific School in Dubai talks about the impact of legal change and the pandemic on their work.

#### ABOUT YOU

I am responsible for all aspects of HR across the school along with the Principal, Executive Committee and Senior Leadership Team. This includes developing, implementing and reviewing HR policies and procedures as well as taking into account any changes in employment law and best practice. It is my responsibility to ensure the school is legally compliant in all its HR processes. This includes safe recruitment of staff, supporting and advising on all HR matters, including disciplinary procedures, capability assessments, grievance procedures and restructuring.

I am also the professional point of contact for senior leaders when it comes to providing advice and guidance on HR matters and I have the authority to resolve simple and complex matters in line with relevant policies and procedures.

#### ABOUT YOUR BUSINESS

The Swiss International Scientific School is a leading international day and boarding school in Dubai. We are a fully accredited International Baccalaureate Continuum World School.

We were founded in 2015 and currently have over 1,500 students of more than 90 different nationalities. We have a state of the art, eco-friendly campus next to Dubai Creek, and offer a personalised international curriculum as well as a wide range of sporting and after school activities to students.

#### IMPACT OF LEGAL CHANGES

With the recent changes in UAE Labour Law (Federal Decree-Law No. 33/2021) and Data Protection Law (Federal Decree-Law No. 45/2021) we are currently completing a full review of all of our contracts and policies. Many of the changes in the new UAE Labour Law have been put in place to protect employees and better regulate the employer/employee relationship which is welcome.

However, these changes have led to many internal questions and queries which have required a careful explanation so all stakeholders fully understand both the changes and their impact and consequences. One of the main changes for us (and many other employers) has been the abolition of unlimited contracts, which have had to be changed to fixed term contracts. In this area in particular, we have had to take time to inform



staff of the changes and how they may affect them in terms of the employee/employer relationship.

#### HR IN EDUCATION

We must comply with both UAE Federal Education Ministry and Dubai Knowledge and Human Development requirements when hiring a teacher.

These include ensuring candidates have the right educational requirements and professional teaching qualifications. Teachers are also normally hired on an initial two-year fixed term contract which coincides with the academic year with an option to renew on an annual basis which is different from other industries. As we are also a Boarding School our staffing and recruitment needs are slightly different to other schools in the region as we also need experienced boarding staff.

Dubai can be a very transient city where people often stay and work for a fixed period. As a result, retention of teachers beyond the end of a fixed term contract can be an issue for schools here compared to in other jurisdictions. It means HR professionals working in UAE schools need to really focus on retention initiatives and strategies.

#### POST PANDEMIC CHANGES

As is the case for most employers the pandemic has significantly impacted the way we work. Many companies are now implementing remote working arrangements and focusing on wellness initiatives to protect employees' safety and well-being. While we cannot implement remote working for our teachers as students are in school 100% of the time, we are looking at ways in which we can be more flexible.

Since the pandemic, wellness has also been a major

## PRACTITIONER PERSPECTIVE



**Eshaan Bora**  
Junior Legal Associate  
Fotis International Law  
Firm

**Eshaan Bora** of Fotis International Law Firm examines key considerations for HR professionals recruiting in the education sector in the UAE.

### MINIMUM QUALIFICATIONS

After the Ministry of Education and the Department of Education and Knowledge in Abu Dhabi approved the unification of public education in Abu Dhabi, management of public schools in Abu Dhabi came under the supervision of the Education Ministry. This meant they then followed the same system as the rest of the UAE. The Ministry of Education specifies the minimum qualifications required to be appointed as a public or a private school teacher in the UAE. A class teacher, should have a recognised Bachelor's Degree in Education (B Ed) or a post graduate certificate/diploma in education or a Master's Degree in Education (M Ed). While specialist subject teachers must as a minimum have a recognised Bachelor's decree relevant to the subject they intend to teach. In addition, a teacher must also have a recognised qualification at the level of a higher diploma or above as specified by the Ministry, a valid residence visa, a school contract, a UAE police clearance certificate, and a letter from the school confirming they are of good standing. If the teacher has not resided in the UAE for the last five years, they have to provide a police clearance certificate from the country they were residing in for the last five years. They also have to undertake a set of mandatory professional development courses.

### ENGLISH TEACHERS

The position is different for teachers teaching English language as a subject who must have an IELTS Band Score of at least 7 (IELTS good user) or (CELTA, DELTA, TESOL) equivalent. An IELTS band score of at least 6 (IELTS proficient user) or equivalent is required from a teacher who uses English as a medium of teaching. A teacher who teaches a language other than English must show proof of linguistic ability as required by authorities and curriculum.

### SUPPLY TEACHERS

Supply teachers can be recruited and must be fully qualified and

experienced. Once again they must have a relevant Bachelor's degree in their subject area or a Bachelor of Education with a suitable professional teaching certificate such as a PGCE, QTS, or certification and should have a minimum of two years' teaching experience.

### CHILD PROTECTION

In order to safeguard children against harm and to have their welfare fostered in a safe and inclusive environment, the Ministry of Education and Dubai's Knowledge and Human Development (KHDA) Authority teachers' licensing system is an initiative which guarantees the development of teaching standards. It requires teachers to upload their skills, qualifications, identification documents and police clearance report. There is no specific vetting process in the UAE for the appointment of teachers. However, teachers must obtain the police clearance certificate before working in schools as a certificate of good standing. The Ministry of Education along with KHDA is discussing developing a committee for vetting teachers to be appointed across the UAE. In the near future as awareness of child safety increases, new laws and regulations in this area are expected to be introduced.

### SUPPORT STAFF

Support staff such as nurses, security guards, IT professionals and librarians working in schools also have to go through the verification process for background checks. This is done by recruitment companies and the authorities in order to safeguard the interests of children.

The authorities ask schools to be more diligent when appointing staff to ensure the suitability of the employees, so for example there should be closer scrutiny of potential misconduct and the employers in education should look into employment records more deeply to uncover potential issues. Parents can volunteer in schools but in the UAE there are no specific rules or regulations in this area.

This article was co-written by **Tanzeela Rauf**, Junior Legal Associate at Fotis International Law Firm.



priority for our school, both for students and teachers. Staff initiatives have included the formation of a staff wellness committee. We have also introduced a 'Be good to yourself' day which allows staff to take a day off when they need it.

Other initiatives have included the introduction of a secret buddy for staff and we also now offer staff led yoga sessions once a week for staff. We are keen to ensure our staff have a voice and that we can address any concerns they may have, so have increased pulse staff surveys.

As a result of the pandemic retention has also become a particular issue. For example, we have seen more teachers wanting to move closer to their home countries which has had a major impact on recruitment this year.

However, what has helped has been our 'Notice of intention' process in October through which we find out which teachers are thinking of leaving in July which allows us to strategically plan for it. In addition, our USP - that we are the only bilingual French/English and German/English school does help with recruitment.

# MOVES AND CHANGES

A ROUND-UP OF BUSINESS NEWS, APPOINTMENTS AND PROMOTIONS

## RINGING IN THE CHANGES



**Rana Al Majed** has been appointed as Zain Bahrain's Director of Human Resources. Rana joined Zain Bahrain in 2003 as a sales agent, before moving to the Human Resources department there. There she was responsible for conducting job analysis and helping to select the right people as part of the company's Talent Management Unit. As well as 19 years' industry experience, she has a Master's degree from DePaul University and Executive Coach Level 7 certification from ILM institute. She has also undertaken the Oxford Business School Executive Leadership Programme.

## ZOOM, ZOOM, ZOOM

**Matthew Saxon** has been appointed as Zoom Communications' Chief People Officer with immediate effect



Saxon has taken over from Lynne Oldham, and will report to Zoom's Chief Operating Officer, Aparna Bawa. He will be based in the US. Previously he was at Meta, where he was Vice President of People Operations and led the company's global People Operations organisation. While prior to that, he was Senior Vice President Compensation, HR Operations and Shared Services, at the US-based health insurance provider Humana.

In the past he also led the HR function for the Asia Pacific and Middle East region at Motorola Solutions and has had various HR leadership roles with the Campbell Soup Company in Australia.

## FROM WIN TO WIN

**Feryal Haddon** has been appointed Cluster Director of Human Resources at Hilton Dubai Palm Jumeirah.

This follows on from her recognition as HR & Training Person of the year at the Hotelier Middle East Awards in 2020.

**Feryal** won this award for her introduction of a 12-week maternity leave scheme for team members and the introduction of 14 days paternity leave for male employees.

In her new role, she is responsible for HR areas including talent acquisition, employee engagement and relations, training and development, rewards and recognition, and performance management.

She has also been ranked second in the Women in Hospitality Power List.

## BREAKING BREAD

**Juliette Lim** has been appointed as Group Head of HR at BreadTalk Group, the Singaporean bakery brand which has franchises across Asia, Europe and the Middle East.



**Juliette** will lead the HR, training and administration functions globally and will report to Cheng William, Group Chief Operating Officer.

She has more than 20 years' experience and has previously led the overall talent strategy at Wharf Hotels Management and led talent management and organisational culture transformation for more than 50 hotels in Starwood Hotels & Resorts Asia Pacific.

## IN THE KNOW

**Swati Topno** has been appointed as Director of Human Resources at the global Ed Tech company upGrad KnowledgeHut. **Swati** will focus on implementing the company's people strategy, building capability for expansion, resourcing, talent development and creating positive cultural frameworks globally. Previously, she worked at Infinity Learn by Sri Chaitanya group of colleges as the Head of Human Resources. She has more than 15 years' experience in human resources. Her areas of specific expertise include employee engagement, recruitment, training and development planning and executing, vendor management, performance management, talent development initiatives as well as competency mapping and the HiPot framework.



## DI IS FOR DIVERSITY

**Elena Orsini** has joined ING as its Head of HR for the UK and Middle East. Elena will be based in London but will be responsible for 800 full-time employees across the two regions. She has nearly 25 years' experience of working in HR. Prior to joining ING, she was Head of HR at Kleinwort Hambros Private Bank, which is part of Société Générale Group, where she was responsible for the management and development of human capital across the UK, Jersey, Guernsey and Gibraltar. As well as developing, implementing and executing the UK HR strategy and processes for ING, she will be ensuring all initiatives comply with local legislation and regulations. She will also focus on diversity and inclusion, in particular promoting an inclusive culture in the bank.

## OTHER CHANGES

**Bionical Emas:** Andreia de Melo Cabral has been appointed as the first Chief People Officer of Bionical Emas.

**Simmons & Simmons:** Sonali Siriwardena has been appointed as Simmons & Simmons' first global head of ESG.

## SEND US YOUR NEWS

If you have news of an appointment or promotion within the legal or financial professions you would like to see reported in Lexis Middle East Law, please send details to: [daniel.emmett-gulliver@lexisnexis.co.uk](mailto:daniel.emmett-gulliver@lexisnexis.co.uk)





# DIFC and UAE Employment Law: A Comparative Guide

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## Can we use freelancers?



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**H**istorically, it has been difficult for expatriate freelancers to work in the UAE as individuals require a work permit to work legally here. The traditional model was that corporate entities secured residency visas and work permits for their employees. As employees, those individuals received the protections offered by the then UAE Labour Law, Federal Law No. 8/1980.

However, things have changed and UAE law now expressly allows workers to be freelance. In 2020, the Abu Dhabi Economic Development Department enabled non-UAE citizens to obtain a freelancer license, allowing a freelance worker to practice a specific list of economic activities in the Emirate. The main requirement for the freelancer license is that the applicant provides proof of expertise in the area they are seeking to be licensed in, such as a university degree, certificate of experience or other accreditation. This freelancer license entitles the individual to reside and work in Abu Dhabi but they cannot work onshore in other Emirates, without having UAE sponsorship and without leasing office space. These licensees can also sponsor their dependents, but not other employees. Alternatively, freelance workers can opt for a freelance permit from one of the UAE free zones

which offer this option. Although, as a general rule, freelance permits from a free zone will only entitle the individual to deliver services in that free zone or to entities which are outside the UAE and will not entitle the individual to work onshore in the UAE.

### THE NEW LABOUR LAW

However, further changes have come in with the new UAE Labour Law Federal Decree-Law No. 33/2021 and its Implementing Regulations (Cabinet Decision No. 1/2022) which made significant changes to the permitted working arrangements in the UAE in order to enhance the level of flexibility in the UAE labour market.

One of these key changes has been the introduction of a freelance work permit. Article 6 of Cabinet Decision No. 1/2022 describes the freelance permit as a permit, "issued to individuals wishing to engage in self-employment independently [...] without sponsorship from a specific employer in the State and without the requirement for a valid employment contract, whereby the natural person generates a direct income by providing his services for a specific period of time or for the performance of a task or the provision of a specific service, whether for individuals or for establishments, whereas this natural person is in no way a worker for those individuals or establishments". Article 8 of Cabinet Decision No. 1/2022 defines self-employment as a "system of independent and flexible work whereby the natural person generates a direct income, by providing his services for a specified period of time or for the performance of a task or the provision of a specific service, whether for individuals or for establishments, whereas this natural person is in no way a worker for those individuals or establishments".

As a freelance worker is self-

employed, there is no employment relationship between the individual and the recipient of their services.

This means freelance workers are not subject to the mandatory provisions of Federal Decree-Law No. 33/2021 which apply to employees, such as notice periods and end of service gratuity entitlements. Instead, contracting parties are free to agree the terms and conditions relating to the provision of, and remuneration for, these services through an independent contractor or consultancy agreement. However, as freelance workers are not employees, if a company uses the services of an Emirati freelancer this will not count towards their Emiratisation targets.

The UAE Cabinet is expected to issue further decisions specifying the procedures, controls and mechanism for registering freelancers with the Ministry of Human Resources and Emiratisation (MOHRE). As these registration processes and requirements have not yet been established, it is not currently possible to apply for a freelance work permit. However, it is expected the UAE freelance work permit will entitle permit holders to provide services throughout the UAE (but it might be necessary to obtain an additional permit to work in the UAE free zones as for example, a freelance worker seeking to provide services to an entity in the DIFC needs a DIFC Contractor Employee Card). A freelance work permit entitles the holder to apply for a Green visa, which is a residence visa which allows the holder to sponsor themselves for five years and sponsor family members. These changes are a significant shift in flexible working models in the UAE and should make the UAE a more attractive business destination and help improve competitiveness.

**Jennifer Paterson and Mohammad Rwashdeh also contributed to this article.**



Contributor  
Nazanin Aleyaseen  
Partner, K&L Gates



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