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November 2022

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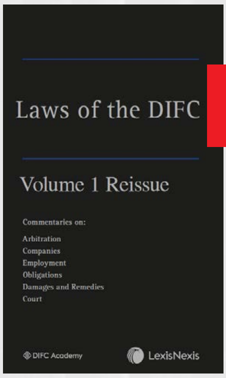

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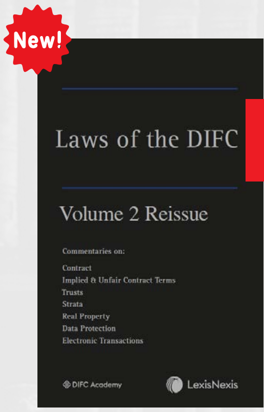
Updated analysis and commentaries on Arbitration, Companies, Employment, Damages & Remedies, Obligations and Court Laws.



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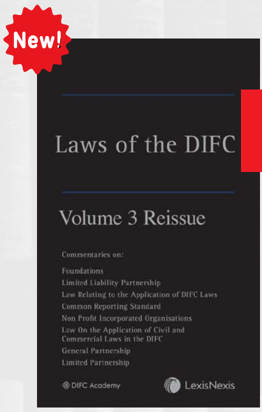

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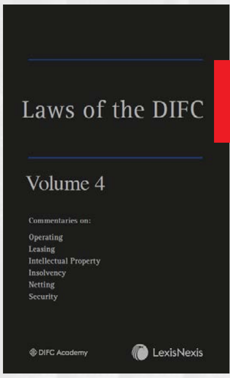

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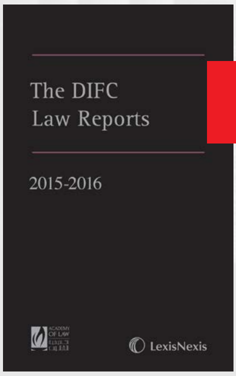

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Contains selected cases for their legal importance. Summaries written by an All England Law Report trained Reporter.

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FUTURE PLANNING

In the past, the fact GCC states had younger than average national populations (compared to many other states) and a significant proportion of their work force were expatriates (who tended to stay for relatively short periods before returning home), may have been why end of service gratuities seemed more important than pensions provision to both policy makers and employees, particularly in the private sector. However, in recent years that view has been changing. Possibly this is because of the numbers of end of service gratuity disputes that end up in the courts or as the authorities have decided to support longer, more sustainable residence for higher skilled expat employees with residency changes like the Golden Visa scheme (which we cover in our new Immigration Focus Column), other longer term concerns like pensions provision become more important. In 2020 the DIFC made changes to its Employment Law which required Employers there to enrol employees in what is called the DIFC Employee Workplace Saving Scheme (DEWS). Employers are required to make contributions into this scheme and employees can make voluntary contributions, to help them make provision for their retirement. More recently in the wider UAE, the Golden Pension Scheme which is being run by the National Bonds Investment Company hase been launched. This will also enable private sector employees to build up their retirement pot with a combination of earned gratuities and their own voluntary savings. However, as can be seen from a legislative change brought in by Qatar Law No. 1/2022 (which is due to come into force in January 2023 and we cover in this issue), GCC policy makers are not only interested in making reforms on rules governing expats' pension regimes, they are equally keen to enable nationals working in the private rather than the public sector to have access to better pensions provision. As we explain in this issue, changes to pensions scheme rules can also lead to the need for changes in areas including employment contracts and policies, so employers need to keep a close eye on changes in this area across the jurisdictions.

Claire Melvin - Editor

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WHEN I'M SIXTY FOUR

On 3 January 2023, Qatar Law No. 1/2022 will introduce changes to the pension rights of all working Qatari nationals - particularly those in the private sector. Emma Higham, Employment and Immigration Partner at Clyde & Co, explains their current understanding of the impact this will have on employers and employees.

"The new Qatar Security Law Qatar Law No. 1/2022 will take effect on 3 January 2023," states Emma Higham. "With few exceptions this law will effect all working Qatari nationals in Qatar, although the impact on employers and employees in the private sector is likely to be much wider, as most public sector workers previously enjoyed these pensions benefits under the former Retirement and Pension Law, Qatar Law No. 24/2002."

Emma Higham
Partner
Clyde & Co,

WHO IS IMPACTED?

Under Qatar Law No. 1/2022 all Qatari nationals, whether they work in the public or private sector will become subject to mandatory enrolment in the newly established pension scheme if they are at least 18 years old, and their employment is regular and permanent for a period of more than one year," Emma Higham adds.

"We will have to wait for the issuance of the implementing regulations in order to determine the detail of the changes which Qatar law No.1/2022 will have in relation to the pension's rights of Qatari nationals. In the meantime, this article takes a high level look at some of the provisions of the law itself."

OVERVIEW

"One of the law's major changes is that the minimum age of retirement in Qatar will now increase from 40 years old to 50 years old," Emma Higham continues. "In addition, the minimum period of service required to qualify for a pension under this scheme has increased from 15 to 25 years. Those who complete 30 years of service or more, are eligible to receive additional benefits."

"The new pension scheme has also increased total contributions to 21% of an employee's monthly salary from the 15% contribution which was previously required under Qatar Law No. 24/2002," Emma Higham explains. "In this respect, the employer must contribute an amount equal to 14% of the total amount attributed to the employee's monthly salary including

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housing allowances for an eligible employee, and the employee is then subject to a further 7% salary deduction which is added to the contribution."

"Qatar Law No. 1/2022 states that contributions are calculated based on the employee's contributory wage (this is their basic salary plus the social and housing allowance) but these amounts are capped at 100,000 Riyals (except for those who are already effectively enrolled with an amount exceeding 100,000 Riyals," Emma Higham continues. "This maximum level applies to all eligible employees whether they are working in the private or public sector. For employees who work in the public sector there is also a minimum monthly contribution of 15,000 Riyals for an eligible employee but at present no minimum monthly amount has been set for private sector employees."

"There have also been changes to the way in which a pensions entitlement is calculated," Emma Higham continues. "Under Qatar Law No. 24/2002, pensions entitlement was calculated by multiplying 5% of the employee's last earned salary by their total years of service but under Qatar Law No. 1/2022, this 5% figure is now reduced to 3% of the employee's last earned salary."

QATAR LAW NO. 1/2022

Article 14

The Employer from the Private Sector shall submit to the Authority, in the month of January of each year, the data of the Contribution Calculation Salary for its employees for this month and their monthly contributions, and provide the Authority with any changes in their number or salaries...

(Source: Lexis Middle East HR)

ALLOWANCES

"Unlike under Qatar Law No. 24/2002, the provisions of Qatar Law No. 1/2022 state that any housing allowance the employee receives counts towards their pension contribution as does any social allowances," Emma Higham states. "However, in this case the housing allowance should not exceed 6,000 Riyals. In addition, in cases where an employee is provided with accommodation rather than receiving a housing

RELEVANT NEWS

New Security Law

On 3 July 2022 Qatar Law No. 1/2022 (the Social Security Law) was published in the Offical Gazette. With the exception of certain provisions the social security Law will come into effect six months after its publication date. With this law coming into effect the previous Qatar Law regulating social security and pensions (Qatar Law No. 24/2002) has been repealed.

allowance, the housing allowance element of the pension contribution is calculated as if the employee has received the housing allowance in cash."

"Employers will remain liable to compensate any eligible participants for their housing allowance entitlement for the first 15 years of the employee's service on termination of their employment if this termination has been caused by either the employee's death or their disability in addition to the payments on retirement," Emma Higham states.

PRIOR SERVICE

"It is worth noting that newly enrolled scheme participants can also only carry over a maximum five years of their service prior to the effective date of the Qatar Law No. 1/2022 if those previous years of service are compliant with the new pension scheme conditions," Emma Higham adds.

END OF SERVICE GRATUITIES AND ADDITIONAL PENSIONS

"One of the main questions being asked by employers and employees in Qatar at the moment is whether Qatar Law No. 1/2022 will have an impact on the end of service gratuities which employees may have been entitled to before this law was issued," states Emma Higham. "End-of-service gratuity is not specifically addressed under Qatar Law No. 1/2022 and so unless it is addressed in the implementing Regulations and/or there is a subsequent change to the Qatari Labour Law (Qatar Law No. 14/2004) or the Human Resources Law (Qatar Law No. 15/2016) employees should still be eligible to one or the other. For example, under Qatar Law No. 14/2004, employees may not be eligible to receive any end-of-service gratuity payment if they are eligible to receive pension or retirement scheme entitlements under a plan and the value of the entitlement payments exceed their value of the end-of-service gratuity entitlements. It should also be noted that under Qatar Law No. 1/2022 eligible participants are not entitled to benefit from more than one pension or retirement scheme and if more than one scheme applies to them; the employee will be entitled to the scheme which is of the higher value."

EARLY TERMINATION OF SERVICE

"In terms of the entitlement position for those whose service is terminated early, it should be noted that pensions entitlement is calculated based on a percentage of salary, and if some is not working and has not completed the required number of working years they will not be entitled to a pension," Emma Higham adds. "Article 24 of Qatar Law No. 1/2022 states that death or termination caused by disability determined by a medical committee are the only reasons a pension would be paid if an employee has not completed the required number of working years."

"Where payments are made early because of death or disability amounts are adjusted to reflect a period of 30 years, or the contributory period which ever is longer if the death or disability was caused by a work related injury," Emma Higham continues. "However, if the death or disability that led to termination was caused by another reason a period of 25 years or the actual contributory period which ever is higher will instead be used in the calculation."

"Qatar Law No. 1/2022 also has provisions on the transfer of pension payment rights to beneficiaries in the event of the insured person or pensioner's death," Emma Higham states. " In such cases non-Qatari children of Qatari retirees, non-Qatari widows, non-Qatari parents, and non-Qatari siblings can be beneficiaries as well as Qatari nationals, and if a female employee resigns to care for a child with special needs she may keep her pension with no reductions, provided she has an active service period of at least 20 years."

"Payments are also made if the employee has reached the retirement age, as defined as the age in the relevant career regulations, of no less than 60 years, on resignation, on dismissal because of a disciplinary decision, based on a final judgment rendered against the employee in a crime involving breach of honour or honesty, or because of a termination of service if they their contributory period is at least 25 years including a period of actual service of 20 years and the individual is at least 50 years of age," Higham continues.

"However, it is also possible for employees to purchase additional years' service, subject to certain conditions if they do not meet the required minimum service term."

PENALTIES

"Qatar Law No. 1/2022 includes provisions on imprisonment of up to six months and fines to employers of up to 30,000 Riyals if employers fail to make contributions and require employees to bear the value of all or any contributions, in violation of the Law."

NEXT STEPS

"On or before 3 January 2023 and/or once the implementing regulations have been issued, all employers in Qatar who are employing Qatari nationals will need to determine, amongst other things, whether or not they will need to register with the General Retirement and Insurance Authority for the first time and/or look at any pension scheme they already have in place and check if it provides Qatari employees benefits which are greater than the 21% provided under Qatar Law No. 1/2022," Emma Higham advises. "Other matters to consider will include amendments to employment documentation, internal communication with employees and agreement on action during any transition period."

TREND SETTER
GATELEY UK LLP (DMCC BRANCH)- LEGAL

Gateley

Quiet Quitting

Thenji Moyo and Naba Noor of law firm Gateley UK LLP (DMCC Branch) talk about the quiet quitting trend in the UAE and positive ways to tackle it.

WHAT IS QUIET QUITTING?

In August, the UAE's Khaleej Times ran a story asking whether a global trend known as 'quiet quitting' was also being seen in the UAE. In recent years, it is a phenomenon which has reportedly been on the rise. Quiet quitting occurs where an employee decides that they will undertake the bare minimum in order to carry out their duties. This 'no more, no less' attitude can have a significant negative impact on the efficiency and productivity of companies and has forced a number of organisations to make changes to their overall work and cultural environment in order to tackle it.

Organisations have reported a variety of common signs that this trend might be occurring in their workplace including, presenteeism, lack of engagement, withholding ideas, chronic disengagement, poor performance and isolation.

The UAE is a fast-paced business hub with endless opportunities for growth and development. This can lead to employees being expected to work longer hours, go beyond contractual duties and present competitive ideas from quite an early stage in their employment. Over an extended period this can potentially lead to burn out which is the most common factor in quiet quitting and can be extremely difficult to fix as employees slowly lose their ability and enthusiasm to perform well. This trend has been reported to have been more prevalent among Generation Z and Millennials who are concerned about the risk of burnout.

Therefore, we have found particularly with juniors it is important they feel valued, properly managed, and have a stable work-life balance if they are to reach their full potential.

QUIET FIRING

A related trend which can itself lead to quiet quitting and is also increasing is 'quiet firing'. This is where an employer purposefully creates an unhealthy work environment in ways including but not limited to disregarding an employee's input and ideas, providing a lack of promotion opportunities, a lack of training or limited feedback from managers, and creating isolation which leads in the end to an unworkable environment, where an employee feels they are being forced to resign (and/or then decides to resort to quiet quitting).

THE LEGAL POSITION AND TRENDS

Article 16(8) of Federal Decree Law No. 33/2021 (the UAE Labour Law) states that it is a worker's obligation to work continuously and diligently to develop their functional and professional skills, and raise the level of performance they provide to the Employer. Federal Decree Law No. 33/2021 further provides legal recourse on unlawful termination for employees who have filed a serious complaint against their employer. However in practice we find that most quiet quitters have not filed a complaint prior to leaving employment. In addition, despite seeing an increase in the quiet quitting trend in both the UAE and GCC we are yet to see quiet quitting leading to a rise in labour claims. However, it is also important for employers to recognise changes brought in Federal Decree-Law No. 33/2021 now protect employees from harassment and we may see employees becoming increasingly aware of their fundamental entitlement to work in a safe working environment which could lead to changes in this respect. It is in the employer's best interests to protect employee's mental wellbeing and general wellness. This can be tackled by re-evaluating the approach to training juniors and providing sufficient opportunities for them to develop skills and rise through the ranks. Post pandemic hybrid and flexible working are the new normal and managers need to develop an effective, accountable way of managing employees. Weekly meetings and quarterly performance reviews are good ways to regulate employee performance, without the risk of micromanagement. In the UAE we are also noticing an increase in corporate wellbeing initiatives and training senior management on supporting mental health, maintaining open lines of communication for social and business matters and how best to showcase how employees' contributions are affecting the growth of the team and business, in order keep employees motivated. However, if senior management have failed with attempts to engage with an employee, performance improvement plans can also be a useful way to discover reasons behind a lack of motivation and associated signs of quiet quitting.

NEWS ROUND-UP

COVERING RECENT KEY DEVELOPMENTS – REGION-WIDE

UAE

MEDICAL FITNESS FOR RESIDENCY

The UAE Cabinet has relaxed certain conditions on medical fitness requirements for residency, including residency for work. According to the new rules, foreign nationals who test positive for HIV may now be eligible for residency in the UAE subject to approval by the Minister of Health and Prevention or another relevant authority in the country. Previously, these individuals would automatically be denied residency. Those testing positive for Hepatitis B or C (the test is mandatory for applicants in specific professions) may still qualify for a residence permit if they change the purpose of their residency to a category that does not require testing for Hepatitis. Previously, they would have had 14 days to update their esidency category but now they will have up to 30 days. All other provisions on medical fitness for residency purposes remain unchanged, including the possibility of obtaining a one-year conditional residency for individuals who test positive for Pulmonary Tuberculosis

FREEZONE RESIDENCY

Applicants for a UAE employment residency permit in the freezones will no longer be eligible for a permit with a three year validity. Instead the maximum validity they will be able to apply for will be two years. Similarly, dependent family members of foreign nationals employed by companies in free zones will also now be issued with a residence permit that has a maximum validity of two years. This rule change has come in with immediate effect.

NATIONAL BONDS TO HELP EMPLOYEES

The UAE's National Bonds investment company has announced a new 'Golden Pension' scheme will allow private sector employees to contribute as little as 100 AED a month in addition to the earned gratuity provided by their employer to increase their available retirement pot. The scheme allows employees to earn profits on the amount they save. Expats whose employers have signed up to the National Bond Scheme will also be able to sign up for the Scheme. Sukuks (savings bonds) will be issued under the employees' accounts with National Bonds based on the allocation provided by the company of the contributed funds. The sukuk may only be redeemend at the company's request.

CONTRACT TERMS

The Ministry of Human Resources and Emiratisation (MoHRE) has announced amendments to Federal Decree-Law No. 33/2021 law on the Regulation of Employment Relationships. As a result of these amendments, employment contracts must cover a defined term, which can be renewed subject to an agreement by both parties to the contractual relationship. However, the law does not set a cap on that period. A MOHRE spokesperson stated the UAE Government was continuing to develop regulations and laws that would align development demands of the country for the next 50 years. This amendment would lift the current two and three-year cap on fixed-term employment contracts in the private sector.

QATAR

WORLD CUP WORKING

Qatar has ordered most government employees to work from home during the World Cup. In addition, schools there will have reduced hours for two weeks before the tournament and then shut down as the country prepares for a large influx of visitors. Schools will be shut for the entire period of the the World Cup which starts on 20 November 2022 and ends on 18 December 2022. They will not reopen until at least 22 December 2022. The Government has also said that 80% of its workforce would be working from home between 1 November 2022 and 19 December 2022.

OMAN

RESIDENCY STICKERS

The Royal Oman Police has discontinued the use of the residence permit sticker included in passports, which foreign nationals receive as proof of their residence status in Oman. Instead, foreign nationals will receive a digital copy of their residence permit and a Residence Identity Card which will provide proof of their residency.

SAUDI ARABIA

ABSENCE

The Saudi Human Resources and Social Development Ministry has updated their controls and procedures on employee absence in the private sector. Saudi private sector employers must now submit a request if they wish to terminate an employee's employment with them as a result of that employee's absence. In such cases the employee's status becomes 'not working' and the employer no longer has to pay them. The employee can then ask to transfer to another employer within 60 days or ask to leave the country permanently.

SECURITY GUARDS

The Saudi Minister of Human Resources and Social Development has approved changes to the Regulations on security guards' working conditions. Security guards will now be prevented from working for five continuous hours without a break for rest, prayer, and food. In addition, this break must be not less than half an hour. Provision of uniforms to security guards will also be mandatory. The regulations also include occupational health and safety requirements to prevent guard's exposure to sun and heat stress. Companies employing security guards will have to comply with the new regulations within 180 days of the publication of the decision and will face fines for non-compliance.

TRAINING VISAS

Saudi Arabia's Cabinet has approved the introduction of short-term and long-term educational visas. The short-term visas will be available to students, researchers and visiting trainees, for studying languages, for training, participation in short programmes and student exchange programmes. The new long-term visa will be available to students, researchers and experts,and for academic study and research visits. These visa holders will not need to have a sponsor.

BAHRAIN

EXPAT LABOUR

Following the cancellation of Bahrain's flexible permit system, the Bahraini Labour Minister has announced a new system is currently being prepared. The authorities are currently creating a new database which will be used to register and provide information on expat laburers there. The new system will link work permits to vocational and occupational standards, in order improve workplace health and safety. New labour registration centres and an online registration portal will also be set up. There will also be guaranteed Labour Market Regulatory Authority representation offered for any disputes between employees and employers. In addition, it has been stated that inspections to identify employers .engaged in illegal activity will be increased.

EXPAT STATUS

Bahrain's Labour Market Regulatory Authority (LMRA) has called on all expats in Bahrain to have their legal status verified. MRA has stated Bahrain has developed legal tools and structures to guarantee labour rights. Expat workers have been reminded to ensure they are complying with all laws and regulations but in particular those related to residency. The Authority has stressed that expatriate workers must have an official work permit, which has been obtained from an employer in Bahrain before they enter the country. They cannot work in Bahrain on a visit visa and those who do will face fines and deportation. Eexpatriate workers also have to have have completed all the necessary legal procedures for a work permit within one month of entering the country for the first time. These include providing LMRA with biometric data. They must also be either working at the place detailed on their work permit or at another branch of their employer's business that is engaged in the same activity.

TURKEY

BUSINESS CREDIT CARDS

The Third Civil Chamber of the Bursa Regional Court of Appeal in Turkey has considered a re-instatement case where an employee's employment was terminated after their employer discovered they had had used their business credit card for costly personal purchases. The employee claimed he had been on sick leave and his father had used the credit card by mistake. However, the employer, stated this was not the first time he had used the card for personal purchases. The local court dismissed the employee's reinstatement case, stating that using a business credit card for costly personal purchases more than once was an abuse of the employer's trust and the employer could not be expected to continue working with the employee, so termination was based on just cause.

The Third Civil Chamber of the Bursa Regional Court of Appeal then upheld the local court's decision and stated the employee's behaviour was a breach of the principle of loyalty.

IN BRIEF

UAE: Federal Decree Law No. 9/2022 On Domestic Workers which includes a new requirement for licensed recruiters to provide insurance to employers for two years comes into force on 15 December 2022...

Saudi Arabia: The Ministry of Human Resources and Social Development is to announce 11 new Saudisation Decisions by the end of 2022 on professional roles in the management, procurement, drug and the food sectors...

UAE: The General Pension and Social Security Authority has confirmed those with 20 years' service will not be able to chose between a pension and end of service gratuity as length of service determines the type of entitlement...

Qatar: The Ministry of Commerce and Industry has announced an extension in working hours in commercial complexes until at least 2am from 15 October 2022 until the end of the World Cup in December ...

Qatar: Qatar and South Korea have signed a bilateral agreement facilitating visa-free entry for nationals of each country...

Oman: The Health Ministry has changed the processes for medical examinations of expatriates applying or renewing residence permits so from 1 November examination fees will be covered by the permit applcation fee..

Kuwait: Egyptian nationals will be charged nine Dinars from 20 October 2022 for any type of entry visa...

Kuwait: The Public Authority for Youth has launched an online portal which over 100 employers are already using to enable new graduates to sign up for jobs...

Bahrain: After tracking down an unlicensed recruitment agency which had been posting fake joh adverts on social media and referring them to the Public Prosecution, the Labour Market Regulatory Authority (LMRA) has stressed they are continuing their investigations into these types of offences...

Turkey: Foreigners will no longer be able to live in the Istanbul districts of Küçükçekmece, Başakşehir, Başcılar, Avcılar, Bahçelievler, Sultangazi, Esenler and Zeytinburnu following an announcement by the Interiror Minister...

Jordan: The Social Security Corporation has stressed that the social health insurance being proposed there in a draft law has been designed to support private sector employees and retired citizens who do not have health insurance...

IMMIGRATION FOCUS

RECENT GCC IMMIGRATION AND VISA CHANGES

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UAE

GOLDEN VISAS

In a bid to open up accessibility to the Golden visa scheme, the UAE authorities have widened the eligibility requirements so they cover highly skilled professionals including those working in education and law but in these cases, applicants need to have a degree and monthly minimum income of AED 30,000. Entrepreneurs who own a business in the UAE with an annual revenue of AED 1 million or more; individuals who own a property in the UAE worth more than AED 2 million; and high performing students in UAE secondary schools and graduates with high academic performance at UAE universities (or one of the best 100 universities worldwide) are also eligible for a Golden Visa. Since the Golden Visa scheme was first launched authorities have issued a number of clarifications and changes. For example, it is possible to spend extended periods of time outside of the UAE without impacting eligibility for a Golden visa or the visa's validity. This differs from standard resident visas, where status is nullified after spending more than six months outside of the country. Another difference with Golden Visas is that individual holders can sponsor their family members, including their spouse and children (regardless of the dependent's age) and even if the Golden Visa holder dies, their dependents can retain their Golden Visa dependent status. Golden visas are also renewable for a further 10 years on application.

GREEN RESIDENCY VISAS

The Green Residency Visa has been introduced in the UAE and will allow freelancers, highly skilled employees (professionals), entrepreneurs and investors to obtain UAE residency without needing a sponsor, for five years. Green Visa holders can also sponsor their first-degree relatives. Children can be sponsored by a Green Residence visa holder up until the age of 25 (rather than the age of 18) and there is no age limit for sponsoring unmarried daughters under this scheme. However, it should be noted that family members' residency is always equal in validity to the primary visa holder's residency duration. This scheme was meant to be rolled out on 3 October 2022, but we are awaiting further details and its full implementation.

JOB EXPLORATION VISA

From 3 October 2022, a new type of visa has allowed job seekers to enter or remain in the UAE without needing a sponsoring employer. It allows individuals to come to the UAE to look for work or investment and business opportunities without a sponsoring host. Fresh graduates applying for this visa must be from one of the best 500 universities in the world, and have a minimum educational level of a Bachelor's degree or equivalent. The visa offers longer grace periods for residents with expired visas, and those who have lost their jobs now have the option to remain in the UAE to look for work for six months after the cancellation or expiry of their residence permit. More details will need to follow, and we are closely monitoring the full roll out of this category of visa.

EMIRATISATION

The Nafis programme which is an interactive platform to allow businesses to connect with the local workforce in the UAE has been relaunched.

The system also helps to monitor Emiratisation requirements. Companies are now categorised into three tiers based on their current Emiratisation levels.

Those in mainland UAE must increase their current Emiratisation rates by 2% at the end of 2022, and continue to do so annually, reaching a 10% Emiratisation target by 2026. Currently an Emiratisation threshold of 2% applies to commercial entities, and 5% for insurance companies (with over 50 employees).

SAUDI ARABIA

E-VISA

The Saudi Ministry of Tourism has announced a new regulation that enables individuals with a valid resident permit in one of the other GCC countries (Qatar, Kuwait, Bahrain, Oman or UAE) to apply for a multiple entry e-visa, if their GCC country residence is still valid for at least six months. A passport that is valid for at least six months is also required. These e-visas can be applied for via a specially designated online portal and there is no need to visit a local Saudi Embassy in the applicant's country of residence to make applications. They are valid for one year and allow visitors to stay up to 90 days in Saudi, primarily for tourism purposes. However, only applicants with a job title that is included in the approved occupation list are eligible for this type of visa.

VISAS ON ARRIVAL

Holders of a valid residence, tourist or business visa issued by the UK, USA or one of the Schengen countries can now apply for a Visa on Arrival (VOA), and immediately obtain this on entry into Saudi Arabia. However, applicants should also have entered the country that issued the relevant visa at least once prior to travelling to Saudi in order to be eligible.

QATAR

WORLD CUP CHANGES

As a result of the World Cup (which is being held from 20 November to 18 December 2022) Qatari authorities have announced that entry of all visitors through air, land and marine borders will be suspended from 1 November until 23 December 2022. Only World Cup 'Haya' ticket holders will be allowed to enter Qatar during this time. Qatari citizens, Qatari residents, foreign nationals with an entry work permit, and any individuals entering the country on humanitarian grounds will be exempt from this ruling (subject to approval by the relevant authorities). In addition, processing times for work and family permits in Qatar, are expected to be slower than normal during this period, and could increase from a few days to some weeks. Qatari immigration authorities have also announced limitations on the issuing of different types of work, family and multiple entry visas. Currently they are rejecting family visa requests (for visit and residency purposes) for job types including all types of technicians, supervisors, general supervisors and the petrochemical sector. Other job types could also be affected at any given time, without prior notice. The resumption of the normal service for these job types is expected after the World Cup.

OMAN

VISA FREE ENTRY FOR GCC RESIDENTS

Oman has recently announced new visa free entry into the Sultanate for GCC residents with a valid GCC residency of at least three months. In addition, there is no longer a need to apply for an e-visa via the designated government portal prior to travelling to Oman. While it has already been possible in the past for GCC nationals with certain (mostly higher) job titles to qualify for a visa on arrival, this restriction has now been lifted. From now on all commercial professions should qualify for visa free entry into Oman, as long as there is valid GCC residency in place. A GCC resident of a certain nation is permitted to enter Oman from anywhere, so there is no need to travel/fly out from the relevant country of residency. However, it is unclear at the moment whether there will be fees for the visa on arrival.

KUWAIT

TIME ABROAD

Normally the maximum length of stay for expatriates outside Kuwait without impacting validity of a current residency permit is six months. However, the Kuwaiti Cabinet has previously granted and has now confirmed special permission for students, those on dependant visas, and work permit holders to stay abroad for over six months, without risking cancellation of their residence status.

The only exception to this is domestic workers, who if they intend to stay abroad for over six months must have a special agreement signed by their sponsor or their residence permit will be cancelled. Expats also do not need to worry about having less than six months' validity on their residency when they are out of the country, as residency can be renewed online at the Ministry of Interior's website by the sponsoring company.

LAW CHANGES

NEW AND PROPOSED MENA LAWS

EMPLOYEE SHARE SCHEMES AND REMUNERATION

Saudi Arabia Cabinet Decision No. 678/1443 (the new Saudi Companies Law) which comes into effect in January 2023 brings with it changes on employee share schemes and directors' remuneration as Richard Bell and Faisal Alassiri of Clyde & Co explain.

Employee share schemes, or stock option plans are a form of employee benefit scheme which gives employees the right (but not the obligation) to purchase an agreed number of shares in the company they work for at a pre-determined (or exercise) price. These schemes can be used to incentivise key employees, and help with retention and recruitment. Employee stock option plans are provided across the GCC although the rules and regulations that apply to them vary from state to state. Typically, they are provided for on a 'shadow basis' so the benefit to the employee is tied to the value of the business (either the listed share price or a formula for valuation if the company is unlisted) and employees typically receive cash payments linked to certain value matrices , or on expiry of a retention period.

Prior to Saudi Cabinet Decision No. 678/1443 coming into effect the ability of Saudi listed and non-listed companies to operate one of these scheme was restricted because of the concept of pre-emption rights and the law only recognised one type of share. The new Saudi Companies Law introduces the concept of 'redeemable shares' and states that, 'shares, which the company may issue, shall be categorised into ordinary shares, preferred shares, and redeemable shares', (see Article 108 of Saudi Cabinet Decision No. 678/1443). No specific definition of 'redeemable shares' is given. but Article 111(2) of Saudi Cabinet Decision No. 678/1443 states the company's Articles of Association may provide for a '... request [for] redemption of shares ...' as long as this does not impose a complete prohibition on the trading of shares.

The regulations for unlisted joint stock companies in Article 3(2)(c) of Saudi Cabinet Decision No. 678/1443 also state a company can allocate shares to their employees as part of an 'employee stock programme'.

This is a welcome change. However, Saudi employers interested in rolling out such a scheme there will need to wait for the implementing regulations to the Companies Law (which will provide additional detail on the areas covered in the law) are published before they can move forward with any plans to implement their own employee share schemes.

In addition, this is not the only change in Saudi Cabinet Decision No. 678/1443 which could have an impact on benefits, recruitment and remuneration. Under the previous Saudi company legislation a joint-stock company could only be managed by a board of directors of not less than three and not more than 11 members. Under Article 67 of Saudi Cabinet Decision No. 678/1443, although the mimimum of three directors is still required on the board, there is no longer a maximum number who can have this status in a Saudi joint stock company.

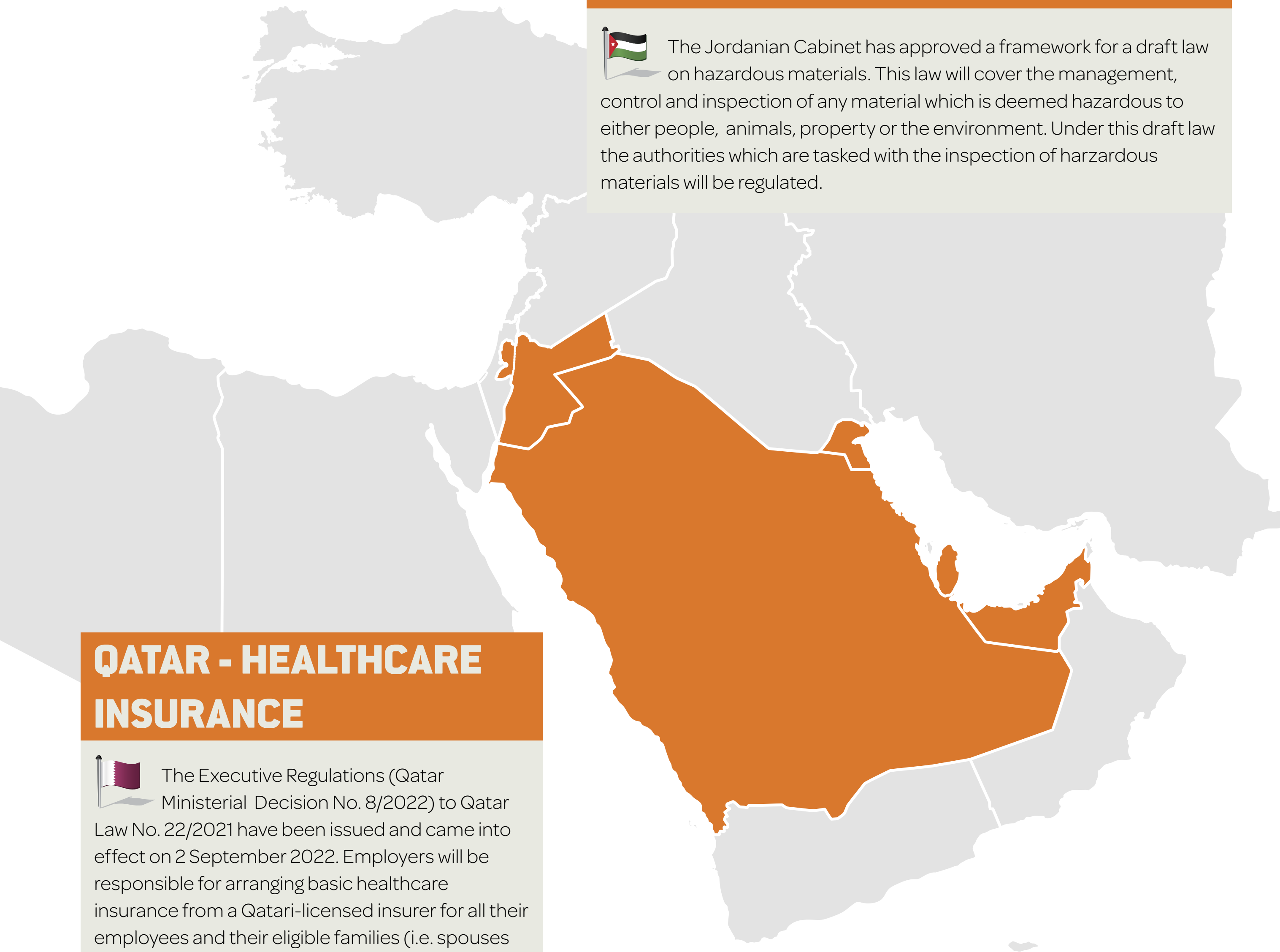
In addition, Article 67 of Saudi Cabinet Decision No. 678/1443 has also brought in new provisions on the directors' remuneration. It states directors'

KUWAIT - TRANSPORT

Kuwait Decision No. 13/2022 which was issued on 6 October 2022 has brought in changes to Kuwait Decision No. 17/2012. This decision covers bonuses given to Kuwaiti employees who work in specific jobs in some government entities and use their own means of transport while working.

SAUDI ARABIA - DISABILITY

The Saudi Arabian Cabinet has approved a draft law which introduces 33 articles that aim to improve the living standards of disabled people there. As a result the 7.4% of the Saudi population who are disabled have been given equal rights on areas including accessibility, accommodation and freedom from discrimination.



JORDAN - HAZARDOUS MATERIAL

The Jordanian Cabinet has approved a framework for a draft law on hazardous materials. This law will cover the management, control and inspection of any material which is deemed hazardous to either people, animals, property or the environment. Under this draft law the authorities which are tasked with the inspection of harzardous materials will be regulated.

QATAR - HEALTHCARE INSURANCE

The Executive Regulations (Qatar Ministerial Decision No. 8/2022) to Qatar Law No. 22/2021 have been issued and came into effect on 2 September 2022. Employers will be responsible for arranging basic healthcare insurance from a Qatari-licensed insurer for all their employees and their eligible families (i.e. spouses and up to three children under 18) and for paying the premiums for the cover. An employee's residence permit will not be renewed unless the employer has basic healthcare cover for their employee.

remuneration can take the form of a specified amount of money (i.e a salary), an allowance for attendance at meetings, benefits in kind, and can be made up of a percentage of the company's net profits, as well as being any combination of these four elements.

It is important to note that Article 76 of Saudi Cabinet Decision No. 678/1443 also states that the company's bylaws shall indicate the method of remuneration for the directors and that the actual amount of that remuneration should be fixed by the company's shareholders at a general assembly.

UAE - UNEMPLOYMENT

Federal Decree-Law No. 13/2022 On Unemployment Insurance has been issued. As a result an Unemployment Insurance Scheme will apply to all employees in the private and public sector including UAE nationals, except investors; domestic workers; those doing contractual working or temporary workers; those under 18; or the retired who receive a pension but have joined a new employer. The aim of the scheme is to provide the insured with income for a period of time during any unemployment. Employees will be eligible to receive compensation on becoming unemployed, if they have been insured for 12 consecutive months under the scheme. The amount will be up to 60% of the employee's basic salary or a maximum of AED 20,000 per month. Payments will not be made if an employee has been dismissed for a disciplinary reason under the labour law or there has been fraud or deceit involved in the insurance claim. At present it is expected the Scheme will begin in 2023 and more specific details on it , including how the payment of premiums will work are also expected.

CASE FOCUS

Case No .... DIFC Case No. 022/2022 Expresso Telecom Group Ltd V Tarig H.A.G Rahamtalla on 2 September 2022
Jurisdiction .... DIFC
Court .... DIFC Court of Appeal
Recommended by .... Ayesha Karim, Senior Legal Consultant, Mezzle

WHAT IS IT ABOUT?

The Appellant was Expresso Telecom Group Ltd, a corporation registered in the DIFC. The Respondent was employed by them in Dubai under an employment agreement dated 1 February 2013. The employer terminated the employee's employment for cause on 28 April 2020 and did not pay their statutory benefits which included an end of service gratuity and holiday pay because the employee also owed the employer money including for an unpaid loan and for air fares that were for personal travel. The employee filed a case in the DIFC Court of Court of First Instance for these unpaid entitlements on termination and for penalty payments because those payments had not been made within the deadline in Article 19 of DIFC Law No. 2/2019 (the DIFC Employment Law). The employer stated they did not need to pay these amounts and the penalty because they had a counter claim against the employee for the money owed to them that exceeded the employee's entitlements. They also stated the penalty should be waived because there was a dispute pending in the Court on the amounts due to the Employer. However, the DIFC Court of First Instance stated the employer was liable to pay these statutory benefits on termination and a penalty because of their failure to pay the amounts within the deadline. The Employer appealed the Court of First Instance's decision to the DIFC Court of Appeal. The key question was the proper construction of Article 19 of DIFC Law No. 2/2019 and the application of its penalty provisions where there were admitted entitlements and an employer had a counterclaim against an employee that exceeded them.

WHAT WAS DECIDED?

The Appeal Court stated Article 19 of DIFC Law No. 2/2019 requires an employer to pay to an Employee, within 14 days of the termination date all remuneration, any applicable gratuity, and payments for accrued vacation leave. Article 19(2) of DIFC Law No. 2/2019 imposes a penalty on the employer equal to an employee's daily wage for each day the Employer is in arrears of its payment obligations under Article 19(1) of DIFC Law No. 2/2019. However, Article 19 (4) of DIFC Law No. 2/2019 allows the Court to waive the penalty under Article 19(2) of DIFC Law No. 2/2019 for any period during which a dispute is pending in the Court on any amount due to the Employee under Article 19(1) of DIFC Law No. 2/2019; or if the Employee's unreasonable conduct has been the material cause of the employee's failure to receive the amount due from the employer. The Court decided that since the employer had admitted the amounts for both the gratuity and accrued holiday pay, there was no dispute under Article 19(1) of DIFC Law No. 2/2019 on these points. It was not relevant that there was a counter claim against the employee for amounts which covered other areas. Therefore, the waiver under Article 19 (4)(a) of DIFC Law No. 2/2019 did not apply to the employee's failure to pay as the counterclaim related to matters that were outside the scope of the employment contract, and were not based on the Employees unreasonable conduct. The Court decided that the Employer could have stopped the penalty from running by paying the admitted amounts under Article 19(1) of DIFC Law No. 2/2019. They had not done so, and the penalty had continued to accrue during the period of this litigation as a result. It had been within the employer's power to either extinguish or reduce this penalty.

There had also been different heads (or elements) of the amount due. The Court denied the employee's claim for a specific penalty payment under each head of payment that was outstanding. The Court ruled that penalty payment was calculated as a consolidated amount based on the total amount due, not as separate amounts on each head or element due.

WHY IS THIS IMPORTANT?

Article 19 of DIFC Law No. 2/2019 brought in changes to the previous DIFC employment law position after some employers had been forced to pay very large penalties for outstanding amounts on termination because litigation before the court had taken a long time to be decided and this penalty is calculated on a daily basis.

This case makes it clear that pending litigation with an employee will not automatically lead to the Article 19 penalty clock stopping. If there are counterclaims against the employee it is important to check if they are covered by Article 19 or not - not all will be. As these penalties can become large, if in doubt it is safest to pay the employee Article 19 amounts in line with the deadline.

Case No .... DIFC Case No 259/2022 Lact v Loutiv, 15 September 2022
Jurisdiction ....DIFC
Court .... DIFC Small Claims Tribunal
Recommended by .... MN Law

WHAT IS IT ABOUT?

An employee of a DIFC company resigned from their position and later filed a claim before the DIFC Small Claims Tribunal claiming payment in lieu of untaken annual leave of AED 16,615.20 and the penalty payment of AED 95,814.32 under Article 19 of DIFC Law No. 2/2019 because a payment due to them on termination of their employment had not been made within the required deadline.

The employer denied the claim on the grounds that they had used all their annual leave entitlements and raised a counterclaim of AED 34,338.08 for unauthorised and unjustified sick leave and other absences.

Travel history reports from the Immigration Department were submitted as evidence that the employee had travelled outside the UAE on the excess days he had used as sick leave. However, in response, the employee submitted sick leave certificates justifying their absence from work and refuted the employer's counterclaim that those days of absence were unjustified.

WHAT WAS DECIDED?

Having reviewed the submissions on the employer's counterclaim, the DIFC Small Claims Tribunal was satisfied that the employee had indeed used their annual leave entitlement for both years before their resignation and that they had no outstanding holiday pay due. As a result, the Court dismissed the employee's claim for payment of holiday pay and, as a result the employee's claim for a penalty payment.

In terms of the employer's counterclaim, the Court concluded that it was, in fact, the employer's responsibility to monitor the employee's annual leave days, especially if an employer did not have an automated system for keeping track of an employee's annual leave days. In addition, the Court disregarded the employer's evidence in the form of emails and WhatsApp messages which it was said were insufficient for keeping formal track of annual leave days. In this respect the Court referred to Article 16 of DIFC Law No. 2/2019 which states that an employer is obliged to maintain, among other things, information on the dates of annual leave. The Court also clarified that it was the employee's duty to inform HR about planned annual leave. The Court found the employee had informed HR and that the employee had exceeded those leave days without any prior approval from the employer. The Court also noted that the employer's HR team had not rejected the employee's request for annual leave because he had an insufficient balance remaining. Based on this and the data presented showing the annual leave used from 2017 until 2021, the Court ruled for each extra annual leave day used by the employee in excess of their annual leave balance and without prior notification or approval, the employee must reimburse the employer for these days. The employee did not have to reimburse the employer for the leave they had notified them about, as it was the HR team's responsibility to reject those days. The Court ordered the employee to pay the employer AED 18,830.56 for the excess leave used by them from 2017 to 2021, without prior notification or approval. For the excess days the employee had claimed as sick leave, as they did not provide their employer a sick certificate the employee had to pay AED 4,984.56. This was calculated based on the employer's staff manual. The Court dismissed the employee's claim and ordered them to pay AED 23,815.12 for unauthorised sick leave and unauthorised excess holiday. The Court also ruled the employer should recover AED 476.30 as a portion of the fees for the claims they had succeeded with.

WHY IS THIS IMPORTANT?

This case shows how important it is for employers to keep proper records of annual and sick leave used by employees and to check leave balances when requests are made. It also highlights the importance of employee's getting proper prior approval for every asbsence from work and sick leave day (with a certificate for sick leave over three days).

In an Ever Changing World

Madelien du Plessis, HR and Finance Officer at RELX PLC in Dubai explains the approach she has taken to supporting an ever expanding team in a continually changing regulatory environment.

ABOUT YOU

I have been working in Dubai for the last 17 years. My career here began in the hospitality sector but then 10 years ago I joined a software engineering company called Netcera, where I had an office manager/HR role. Since then my interest and experience in HR has grown and developed. I have found myself grow into this role.

I have been in my current position as the HR and Finance Officer at RELX PLC in Dubai for the last seven years. I work in a team of two and my key responsibilities include arranging and renewing employment contracts and visas, onboarding new employees, payroll work and office support.

What I enjoy most about my job is the opportunity to interact with people, and that my work is never the same, which is something that has been particularly true this year when working in HR in the UAE, with all the labour and visa changes we have had to contend with.

ABOUT YOUR BUSINESS

RELX PLC is a multinational information and analytics company which is headquartered in London. It provides scientific, technical and medical information and analytics; legal information and analytics; decision-making tools; and organises exhibitions. It operates in 40 countries and has customers in over 180.

Our office in the Dubai Media City freezone where my work covers four RELX divisions - Elsevier which specialises in health and research science; Lexis Nexis the legal publishers; Lexis Nexis Risk which specialises in the banking, aviation and petrochemical sectors; and Lexis Nexis Nexus which is famous for its Newsdesk and compliance and marketing tools.

In both my roles with RELX and Netcera, I have been working for a freezone employer. In some respects this is easier than working for an onshore employer, as on the HR admin side, everything is online and you don't have to physically go to different agencies, for example when onboarding new joiners.

As I work for a large multinational business, a large part of my work involves liaison with the different HR teams overseas of those four seperate divisions. I am the person on the ground here and I need to make sure we stay compliant with UAE Labour Law. It is my job to ensure both the HR teams overseas and our staff here understand those changes and the implications they have for them. Our team at RELX is now ten times larger

than it was when I started. This meant that this year, I also had to work on moving to a new office, which was quite a challenge. I had to handle a whole host of facilities issues at the same time as dealing with all the changes to the new UAE Labour Law, Federal Decree-Law No. 33/2021 which also came in this year. I am proud of how we handle that.

LABOUR LAW CHANGES

There have been a lot of labour law changes this year with Federal Decree-Law No. 33/2021, a number of which as a mother myself I feel are particularly welcome. The changes we have seen on maternity leave, family leave (with its flexible options) and compassionate leave are all positive developments.

To fully understand these changes I did a lot of training which enabled me to effectively review and update our employment contracts. I also had to explain to the various HR stakeholders overseas where our current policies had to change to reflect the new UAE obligations. When you work for a large multinational as I do, it is all about how you best combine existing corporate policies and local legal requirements - and being able to explain changes like these to employees. I also think the legal changes on study leave entitlements, will be particularly welcome in the UAE where employees are often particularly keen on career development.

DEALING WITH LEGAL CHANGE

In the UAE this year change has been continual. For example, at the start of the year, we had to make

PRACTITIONER PERSPECTIVE

Raka Roy

Partner

Galadari Advocates & Legal Consultants

Raka Roy, a Partner at Galadari Advocates & Legal Consultants explains how leave entitlements have changed under the new UAE Labour Law.

The new UAE Labour Law, Federal Decree-Law No. 33/2021 and its Implementing Regulations found in Cabinet Decision No. 1/2022 specify the different types of leave employees in the UAE are now entitled to. A number of these types of leave were not included in the UAE's previous labour legislation (Federal Law No. 8/1980). These new types of leave include study leave, bereavement leave and paid maternity leave where a child is born with a disability. Federal Decree-Law No. 33/2021 also now provides part-time workers with a right to take leave.

The variety of these different types of leave provide employees with a certain amount of flexibility in dealing with their personal and family needs, and overall help to promote a better work-life balance.

As well as the new leave types, employees who are subject to Federal Decree-Law No. 33/2021 are now entitled to benefit from the following leave types - annual leave, maternity leave, sick leave, parental leave.

The first is annual leave - here employees are entitled to fully paid annual leave of 30 days after they have completed six months of service, and if they have service of between six months and one year, they are entitled to paid leave of two days every month. This annual leave entitlement must be use by the employee in the year of the leave entitlement but it is possible for them to carry over half of the remaining leave to the following year with the approval of their employer. Alternatively, employees can ask for a cash allowance in lieu of their untaken balance leave. Part-time employee's annual leave is calculated based on the actual working hours they have spent working with the employer. The total working hours for that year is converted into working days. The number of working days is divided by the number of working days in the year and multiplied by the legally prescribed leave.

Under Federal Decree-Law No. 33/2021 female employees are entitled to 60 days maternity leave. As a result of changes brought in by the new Labour Law a female employee would also be entitled to the same amount of maternity leave if they have had a stillborn child or if their child has been born but has then died, provided the birth happened after six months of pregnancy. The first 45 days of the maternity leave are fully paid, and the following 15 days are paid at half pay rates. This maternity leave can be taken from the last date of the month preceding the expected month of delivery.

In addition, a female employee may also be able to extend their maternity leave if they or their child fall ill and the illness results from pregnancy or childbirth and they are not able to work. In such cases they can stop working without pay for up to 45 continuous or intermittent days or if they give birth to a sick or disabled child whose condition requires a constant carer, they are entitled to fully paid leave of 30 days after the end of their maternity leave. They are also entitled to extend this leave by 30 days without pay.

Employees can take sick leave of up to 90 days a year, after they have completed their probation period. The first 15 days of this leave is fully paid, the following 30 days is paid at half pay and the remaining leave period is unpaid.

An employer can also grant an employee unpaid sick leave during their probation period, based on a medical report which states that the leave has to be granted. However, if the sickness is because of the employee's misconduct, e.g as result of consumption of alcohol or drugs, or if they have breached any safety instructions or regulations in line with the law, they are not entitled to paid sick leave.

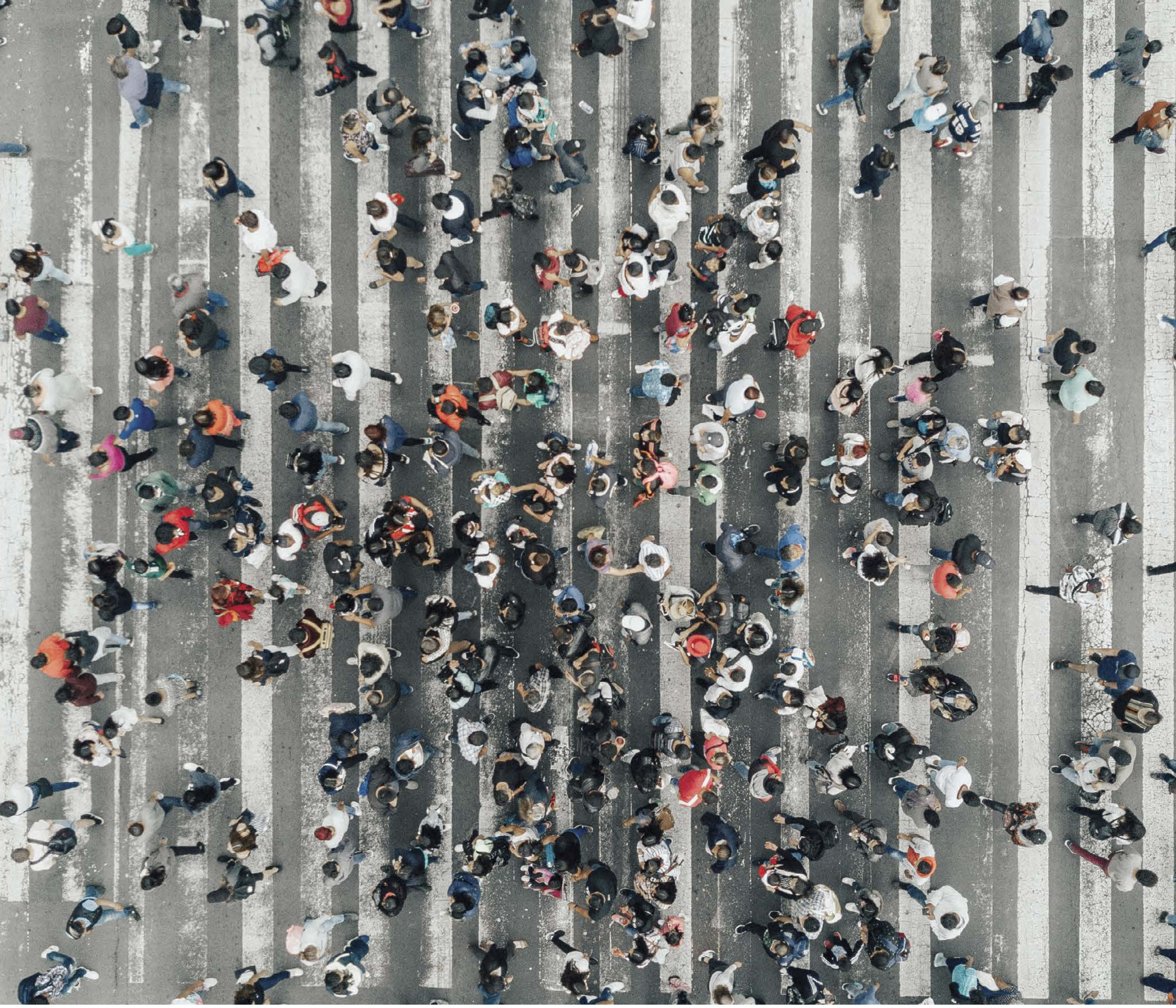
Employees are entitled to five days paid bereavement leave if their spouse has died and three days if a parent, child, sibling, grandparents or grandchildren have died.

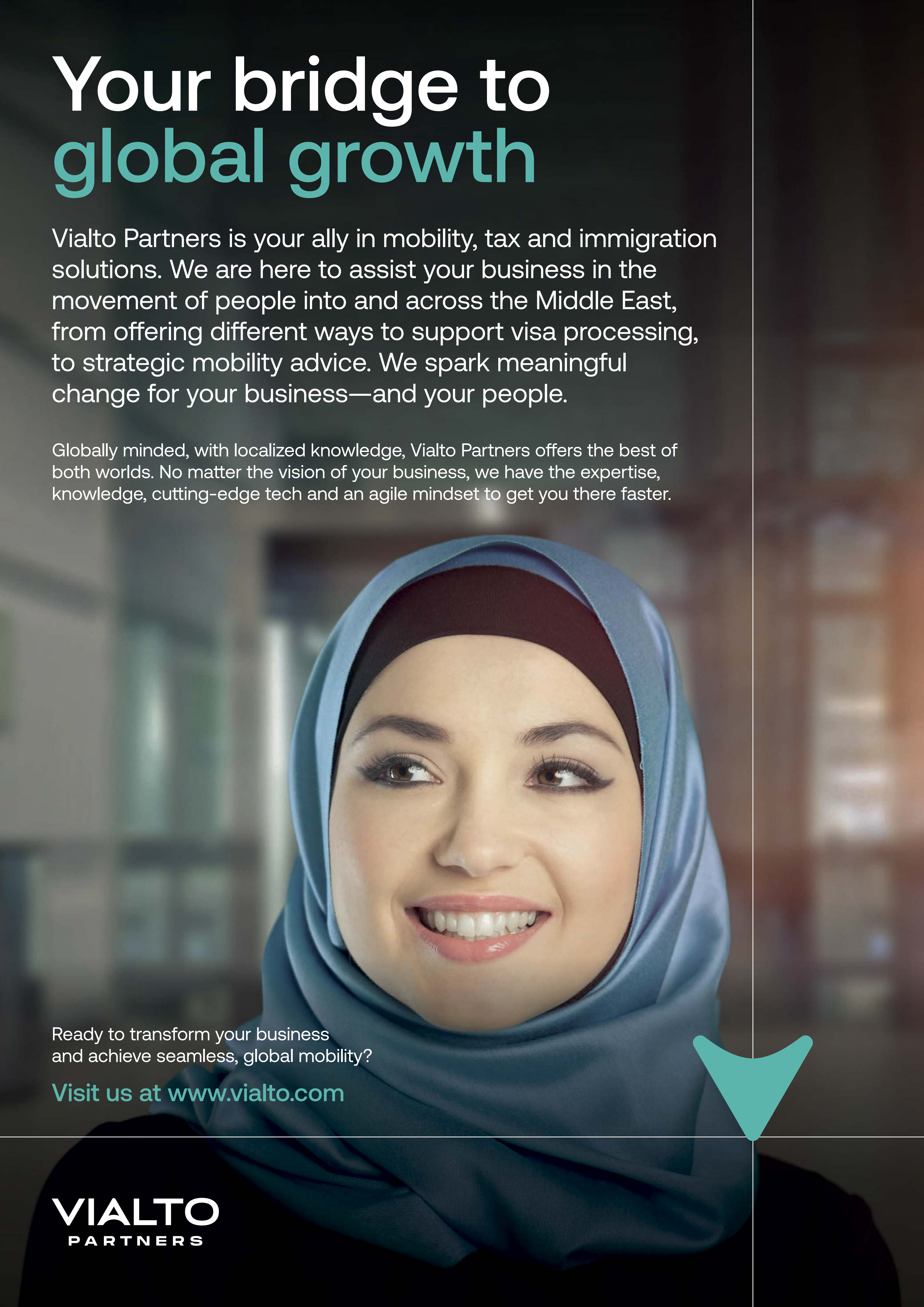
Employees are also entitled to paid parental leave of five days and may be able to take unpaid leave. However, unpaid leave is not calculated as part of an employee's service period or the period of participation in a retirement scheme.

Ten working days a year of study leave may be granted to allow employees to sit examinations at an education institution in the UAE they are regularly studying at. Finally, an employee who is a UAE national is entitled to paid sabbatical leave to serve in the national military and reserve force.

changes to employment contracts to reflect the new three year limit. Then in October this year a further visa change came in, which meant visas are now valid for two years. This required further employment law contract changes, for new joiners here. As our team has grown, I have also realised that when you have a large team of employees you need to be really well organised.

It is essential to keep track of the specific position of each individual and if you are working in a jurisdiction like ours, to update your documentation as soon as these various different legal changes come in. What I have found helps on both counts is having visibility of everything in one place. As a result, I have created my own dashboard, where I can see everything at a glance and which I immediately update as soon as any change happens. In addition, as deadlines are so important, I do something which is quite simple but effective, I use Outlook to set deadlines and reminders. This way you can make sure you take all the necessary actions when needed and that way dealing with all these different legal changes becomes much more manageable.

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MOVES AND CHANGES

A ROUND-UP OF BUSINESS NEWS, APPOINTMENTS AND PROMOTIONS

NEW MOVE FOR GLOBAL MOBILITY EXPERTS

Rekha Simpson has been appointed the new Director of the Immigration Team at the Global Mobility, Tax and Immigration practice, Vialto Partners. The firm which has operations across the globe, opened their Middle East office in October, and was formed following PwC's sale of its Tax and Immigration arm to a private equity firm in 2021. Rekha herself is a UK qualified lawyer, who has specialised in Immigration for over 13 years. Previously she worked in London, Singapore and Dubai, and has corporate Immigration experience which spans all these jurisdictions. She worked with PwC and her past experience has involved working closely with senior HR stakeholders in managing the end-to-end Immigration process, strategising international employee moves, as well as consulting and advising on projects from an Immigration compliance perspective. Throughout her carer she has liaised with Government officials and bodies, consulted on Immigration changes and complex client scenarios to ensure the best possible outcomes In her new role, Rekha will be responsible for a range of client projects in the UAE. Vialto's team of lawyers and specialists bring a wealth of corporate immigration experience to the market, and have a predominant focus on assisting companies across a range of industries solve the unique challenges that come with global mobility.

This team includes Ali Ibrahim who has also recently been appointed as the company's Immigration Lead for Saudi Arabia and Bahrain, and is a Senior Manager based in Vialto Partners' Riyadh office. Ibrahim has worked in Immigration and Mobility for over eight years, after having held a senior role in the hospitality industry. Previously he was Head of Business Services at a Saudi based consultancy, where he and his team supported the entry of nearly 1,000 companies into the Saudi market, before he moved to PwC Middle East's Immigration and Global Mobility practice (now Vialto Partners) last year. He oversees the stakeholder management of the various Government entities which his team deal with on a day-to-day basis. He also provides strategic advice to HR professionals and business owners on complex scenarios involved in the movement, hire and retention of expatriates. His work also involves helping companies to navigate changes in rules and regulations, assessing impact and providing practical solutions. As well as extensive Immigration experience, Ibrahim has in-depth knowledge of how companies should be set up and structured in Saudi Arabia, and the cross-border considerations involved in transferring of employees across the region.

MOVE TO THE META

Abu Dhabi based recruitment agency Marc Ellis, which specialises in the technology sector, has moved into the Metaverse. Going forward they will offer a Metaverse Training Academy which will allow users from anywhere in the world to join courses conducted in the Metaverse.

The agency will also interview candidates in the metaverse using virtual reality and metaverse-based office spaces. The company anticipates that going forward more users will shift to the digital space to apply for jobs in a more secure and interactive manner. The firm has developed an independent office space with the latest metaverse technology in their bid to move employment-based practices in the UAE into the digital space.

UP AND UP

Centara Hotels and Resorts has appointed Siriwan Wangthamrong as their Executive Vice President of HR overseeing more than 6,000 staff members across Asia and the Middle East. Siriwan has a degree in Business Management from Wright State University, Ohio, US and began her career at PepsiCo as General Manager at Taco Bell, before joining Bechtel International Thailand as HR Manager. She became HR Director of the APAC region for Alstom Transport and has also spent time as HR Director for companies such as Coca – Cola, Danone Dairy Thailand and Australia, and Zuellig Pharma. Centara Hotels and Resorts has 24 hotels and resorts in Qatar, Oman, Turkey, the Maldives, Vietnam, Bali, Sri Lanka, Laos, and China.

ON THE FAST TRACK

Just three years ago **Rushali Mahesh** was working as an intern, and it has been only two years since she graduated in hotel management. However, **Rushali** has already been promoted to the role of cluster manager at Radisson Hotel Group in Dubai where she has responsibility for training, welfare and accommodation. Rushali works within the Human Resources department at Park Inn by Radisson Dubai Motor City and Radisson Blu Hotel Dubai Media City. During her internship, she had the opportunity to work across a range of departments, however, it was the HR department she quickly found an affinity with and on graduation initially began working with Radisson as an HR coordinator.

OTHER CHANGES

Hilton: Marie-Louise Ek has been appointed as the Vice President - HR for the Middle East, Africa, and Turkey at Hilton. She has a bachelor's degree in human resources management from Lund University, Sweden and in the past has both lived and worked in the Middle East, Asia, and Europe. Prior to joining Hilton, Marie-Louise was Senior Director-HR at Pepsico where she had responsibilities for the Middle East, Africa, and South Asian regions.

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: *claire.melvin@lexisnexis.co.uk*

Equality Policies

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Federal Decree-Law No 33/2021 On the Regulation of Labour Relations which came into force at the start of this year, dramatically changed the way equality policies are drafted in the UAE as it introduced the concepts of discrimination, harassment and equal pay in the UAE (and employee protection in these areas). As a result, UAE. Employers now need to ensure their equality policies cover all types of discrimination, bullying, harassment, assault, and any verbal, physical, or psychological harm to an employee in the workplace in order to be compliant with UAE law. Federal Decree-Law No 33/2021 also emphasises the need to grant women the same wages as men if they perform the same work or other work of equal value, so this point should also form part of a company equality policy. Paternity leave was also introduced in the UAE by Federal Decree-Law No 33/2021, so is another area to now include in an equality policy.

NEW LAW DIFFERENCES

F ederal Decree-Law No 33/2021 has required a reassessment of equality in the workplace in the UAE and is a key focus point when drafting UAE equality policies. Article 4 of Federal Decree-Law No 33/2021 dealing with equality and non-discrimination, clearly delineates the prohibition of discrimination on the grounds of 'race, colour, sex, religion, national or social origin, or disability...' In contrast the previous UAE Labour Law (Federal Law No. 8/1980) provided for a relatively minimal amount of protection in promoting equality in the workplace. Although it did specifically protect against discrimination in the context of pregnancy and maternity leave.

EMIRATISATION

In the UAE, as well as in other GCC countries, there are specific requirements on recruiting nationals in particular proportions, so emiratization needs to be considered when drawing up an equality policy. It should be noted Employers following the law on emiratization is not considered to be discriminatory against employees who are non-UAE nationals as it is a policy that mandates employment of Emirati nationals in various public and private jobs in order to increase numbers of UAE nationals in the job market. Ministerial Decision No. 279/2022, recently introduced an obligation to recruit Emirati employees at 2% per year for companies with over 50 employees. A similar approach is taken in Saudi Arabia and Qatar also has 'Qatarisation' rules that state-owned private sector companies must ensure their overall workforce is made up of at least 60% Qatari nationals. Therefore, equality policies need to explain the concept of Emiratization or the equivalent policies in other GCC states to employees.

GENDER EQUALITY

The Saudi government has also recently introduced a number of laws which are designed to increase the number of female employees in the private sector and boost gender equality, for example by permitting women to work at night and work in hazardous industries which was not previously the case. Wage discrimination based on gender is also prohibited in Saudi, Bahrain and Qatar. The equality policy should make it clear that following the law on gender equality would not be discriminatory. The UAE and other GCC countries are moving towards bridging the gap on gender-pay disparity and companies need to ensure their equality policies are in line with these latest changes in this area in the particular countries they operate in, in order to be compliant.

DISABILITY

Resolution No. 48/2018 issued by the UAE government also mandates the public sector, and encourages the private sector to uphold equality, specifically with regard to people of determination (i.e. disabled people) by protecting their rights in the workplace and ensuring they are not discriminated against. There is a specific emphasis on maintaining a working environment which is conducive to the situations of people of determination and it is important to prevent terminations due to their disability. These points should be reflected in the policy.

TRAINING AND CULTURE

As well as having a policy, in-depth culture training should also be provided to all employees to ensure the changes introduced by Federal Decree-Law No 33/2021 have been communicated to both existing and incoming employees. Through these shifts in law and specific provisions on equality, the UAE has made this a priority issue. Therefore, the country wide emphasis on equality should also be reflective in workplace policies and practice. Saher Khan and Kiran Gokal also contributed to this article.

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