

LEXIS MIDDLE EAST HR ALERT

ليكسيس الشرق الأوسط لشؤون الموظفين

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January 2023

TRENDSETTER MARC ELLIS

RECRUITMENT

Meet me in the Metaverse

PROFILE LEGAL

Maisa Maarouf of BSA Ahmad Bin Hezeem & Associates

POLICY POINTER

Probation policies

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



FOOLISH TO FAKE IT

Enforcement and penalties faced by those failing to comply
with Emiratisation requirements



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A NATIONAL FOCUS

One of the key difference in workforce demographics in the GCC to those in other jurisdictions is the high proportion of expatriate employees. In Kuwait, for example, expats make up 70% of the population and the government there has recently stated their intention over a four year period is to change this, which will lead to dozens of new laws being issued. However, it is not just in Kuwait change is happening. The increased nationalisation of the workforce is a government priority across the GCC, although the approaches being taken to tackle this issued do differ. In Saudi, for example, the focus has been on increasing numbers of Saudi nationals working in specific industries and sectors. While in the UAE, authorities are taking a broader approach which has seen blanket minimum percentage levels for the Emiratisation of the workforce being put in place there, which are being increased over the next few years. The authorities have realised too that setting targets and limits alone is not the answer. Steps also have to be taken to support employers and employees with the training of nationals and salary support that enables less qualified individuals to gain vital experience. As a result, workforce nationalisation is an area where both a carrot and stick approach is being taken by the authorities. However, in recent months, there have been stories in the newspapers of employers who rather than looking at what they need to do and the support they can get from the authorities to achieve these targets in a positive way, have attempted to cut corners. There have been some employers tempted to recruit nationals into 'fake roles' to manipulate ratios and others who have attempted to falsely benefit from nationalisation support schemes. In this issue we look at just how dangerous that can be - how active the authorities' monitoring is and how severe the penalties are. In a world where sustainable recruitment is a key priority for most employers, understanding these rules, how they operate now and are likely to change in the future, as well as how the authorities can assist with recruitment challenges has never been more important.

Claire Melvin - Editor

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FOOLISH TO FAKE IT



With new more comprehensive Emiratisation regulations in force from January 2023 there have been press reports of some employers trying to circumvent these rules. Dr Laura Voda and Maquelin Pereira of Fichte & Co explain just how damaging that can be.

“The UAE Government policy to support Emiratisation or increased participation of UAE nationals in the private sector workforce has been around for several years now,” states Dr Laura Voda. “Other GCC states including Saudi, Oman, Kuwait and Bahrain have similar policies too, although in most cases their nationalisation provisions are stricter than in the UAE. However, what is now starting in the UAE is the move from an introductory phase in which only specific sectors such as banking and insurance were covered to a new phase in which Emiratisation requirements apply to all employers registered with the Ministry of Human Resources and Emiratisation (MOHRE), but not to those in the freezones.”

“As part of this, one of the significant developments has been the establishment of the Nafis programme which is specifically aimed at creating job opportunities for Emirati



Maquelin Pereira,
Fichte & Co



Dr Laura Voda
Of Counsel,
Fichte & Co

nationals, including by providing salary support, pension and other benefits.”

NEW REQUIREMENTS

“Ministerial Decision No. 279/2022 which is effective from January 2023, requires entities employing more than 50 skilled workers to Emiratis 2% of their skilled workforce annually until they have reached a target of 10% in 2026,” states Maquelin Pereira. “With these deadlines in mind, employers in the private sector must fulfil their Emiratisation obligations to safeguard themselves from MOHRE fines.”

REQUIREMENTS IN OTHER GCC COUNTRIES

“In contrast, in Saudi Arabia, the approach has been to have different Saudisation categories for specific industries and minimum salary rates for Saudis working in those sectors,” states Dr Laura Voda. “There are also severe penalties



for non-compliance including work permit and immigration service suspension.”

“Oman also has strict policies which include certain jobs being reserved for Omanis and expatriates being banned from working in some sectors,” Dr Laura Voda adds. “Qatar, Kuwait and Bahrain also have similar policies on the nationalisation of the workforce in the private sector.”

CONTRAVENTIONS

“Unfortunately, there have been some reports in the press of employers in the UAE who have been caught making illegal attempts to circumvent the regulations,” Pereira adds. “One such practice has been the so called ‘Fake or Sham Emiratisation’. In these cases, employers have attempted to register UAE nationals in fake or dummy positions in order to fraudulently achieve the targets.”

“There have also been other cases reported in which employers have terminated the contracts of Emirati employees and then re-employed them in the same establishment to manipulate data and benefit from

RELATED LEGISLATION

Article 3 of Ministerial Decision No. 279/2022

“The establishments which do not abide by the Emiratisation Ratios determined in Article 2 above shall pay a monthly contribution of not less than 6000 AED for every national who is not appointed according to aforementioned Cabinet Decision No. 19/5w/2022, provided that such contributions are collected starting from the first of January 2023 and shall be increased by 1000 AED on annual basis.”

(Source: Lexis Middle East Law)

schemes such as salary subsidies offered by the Nafis programme,” Pereira continues. “The Ministry has also uncovered cases of employers offering Emirati workers a lower salary than other employees as they would be entitled to a top-up of their salary as part of Nafis. Taking such action would be viewed as a violation of Article 4 of Federal Decree-Law No. 33/2021, which prohibits employee discrimination.”

“In addition, there have been cases of what is called mock resettlement where an Emirati employee is

RELEVANT NEWS

UAE: New Long-Term National Strategy Programme ‘We the UAE 2031’- 30 November 2022

The UAE government has launched a national programme called ‘We The UAE 2031’. The programme aims to shape the country’s future for the next 10 years and has a focus on social, economic, investment and development aspects. It is expected that this programme will have an impact on the country’s approach towards areas including immigration, investment, and employment.

offered a fake job merely to obtain the benefits of the Nafis programme,” Dr Laura Voda continues. “In these cases, action has been taken against both the employer and the employee.”

MINISTRY POWERS

“Those tempted to take such action should note that MOHRE has introduced a strong legal framework within the last year to tackle such abuses,” states Pereira. “This includes Ministerial Decision No. 279/2022 On the Mechanisms of Monitoring the Emiratisation Ratios in the Private Sector, and Contributions Imposed on the Establishments Not Abiding by Said Ratios, which details monthly contributions employers which fail to meet the required levels must pay the authorities. In addition, Cabinet Decision No. 95/2022 covers violations and administrative penalties

related to the Emirati Cadres Competitive Council’s (an organisation established and governed by Federal Decree Law No. 27/2021 whose initiatives include the Nafis programme) initiatives and programmes. There is also Ministerial Decision No. 5/2022 which specifically provides for controls and conditions for benefiting from the Emirati Cadres Competitive Council’s initiatives and programmes.”

MOHRE’S APPROACH

“In the last year, not only have Emiratisation requirements been enhanced but so have the penalties for non-compliance,” states Dr Laura Voda. “It can already be seen that MOHRE intends not to show leniency to those who violate the new Emiratisation requirements. The authorities look into employees’ employment contracts and compare the benefits offered to foreign workers with those offered to national workers. They are also investigating the work been carried out by Emirati staff, to make sure it is not a fictitious role where no real work is being assigned to the employee.”

“The Ministry is taking a proactive role and does not wait for complaints to be made,” Pereira adds. “Based on information in the records, the Ministry may make enquiries into potential violations. In 2022, they carried out a large number of inspections, and they are now intensifying their inspection tours in order to monitor any fraud or manipulation of employee data. MOHRE’s investigatory powers include powers to carry out investigations, enter premises, summon employers and obtain access to information and data.”

“Ministerial Decree No. 48/2022 On the Organisation of Labour Inspections details the procedures which govern labour inspections,” Dr Laura Voda states. “MOHRE monitors the Labour Market using

various methods, including digital means, which means they can take an active approach in enforcing labour legislation.”

“In this context, they are no longer targeting specific industries as Emiratisation requirements now apply to all sectors. In the last few months, and even before the new Emiratisation rules came into force, there have been several cases where the Ministry has taken action. In one case, MOHRE referred a private company to the Public Prosecution after it was discovered they had been deducting money from financial support given to support Emirati trainees. The Ministry also took action against an employer who had hired 43 Emirati nationals from their own family in a fictitious manner in order to try to circumvent the Emiratisation rate rules and benefit from Nafis.”

PENALTIES

“From January 2023, a fine of 6,000 AED per month per UAE national who has not been employed in line with the law, has been levied on those who have failed to reach the required Emiratisation rates,” Pereira states. “This fine increases annually by 1,000 AED per month, until 2026. A failure to pay these fines can also lead to a suspension of new work permits. Failure to meet Emiratisation targets also leads to employers being classified under one of three categories created by MOHRE and fees payable for work permits depend on such categorisation.”

“If an establishment falsifies Emiratisation percentages or provides inaccurate documents to either evade Emiratisation or falsely obtain Nafis benefits there is also a minimum administrative fine of 20,000 AED and a maximum 100,000 AED fine per employee imposed on the establishment,” Dr Laura Voda adds. “Beneficiaries in such cases, also face termination of support and will have to refund all the amounts they have unjustly received.”

“If there have been multiple violations, multiple penalties are imposed and if it is proven that an employer acted fraudulently and intentionally, they may be referred to the Public Prosecution who could take legal action against either or both the employer and the beneficiary.”

“In addition, beneficiaries who fail to attend training programmes, do not report for work after being issued a work permit or cease to regularly attend work can also see their support terminated and face a one-year ban from the Nafis programme,” Dr Laura Voda explains.

ENSURING COMPLIANCE

“The best way for employers with more than 50 skilled workers to ensure compliance with these new Emiratisation requirements is to register on the Nafis portal,” states Pereira.

“This is not mandatory, but it will make it easier for them to hire Emirati employees. Employers who are close to the 50 skilled worker mark should also be aware as their obligations change.”

Meet me in the Metaverse

UAE Technology Recruitment specialist Marc Ellis who have set up an exact replica of their office in the Metaverse, tell us about their experiences.

WHO IS THERE?

The Metaverse is not just for specialist IT recruiters and employers. It has over 400 million active users and interest in it is coming from a whole range of industries. For example, the manufacturing, construction and the real-estate industry are using metaverse features to provide a real-life view of their services with product prototypes, architectural structures, and properties. The aviation industry has also used the platform to train staff for real life situations. The technologies that are part of the Metaverse can help make the recruitment process more efficient for a whole range of sectors.

RECRUITMENT

We have found that candidates are very excited and intrigued by the Metaverse. We created an exact replica of our office there which allows candidates to visit us from anywhere in the world. We have also created a unique Metaverse user experience as, on arriving, candidates can have the chance to meet our staff, learn more about us as a company, apply for active jobs and have the opportunity to tell us why we should hire them. We see transparency as key for trust and we like that fact that in the Metaverse, despite a candidate's distance they can see our office space and understand our culture before making an important career decision.

The employers we work with appreciate the way we are now able to find a larger talent pool. It tends to be a diverse talent pool as the Metaverse has users who may not be readily available on traditional job platforms. However, business in the Metaverse is still relatively new, so our employers are also keen to understand more about how it works. We have inspired many of our key employers to start having their services in the Metaverse too and they have been excited about collaborating with us on that space.

In 2020, we saw a shift towards the digital world in which remote working is now more in demand. The Metaverse allows you to fully implement it without losing out on what employers fear could be the drawbacks. Recruiting in the Metaverse is quite different than in the real world. Putting on a VR headset takes you to a completely different world from the comfort of your home which is the difference anyone using this approach will physically feel. Recruiting in

the Metaverse allows candidates to experience the office and culture and the employer to fully assess the candidate's speaking skills, knowledge and even body language virtually, which is amazing. However, from a recruiter's point of view, learning how to source candidates in the metaverse is a new skill you have to learn and develop.

TRAINING AND DEVELOPMENTS

We also offer training on the Metaverse. This allows us to invite people from all over the world and immerse them in one room where they can collaborate. Traditionally the training our firm offered was very interactive, but the traditional remote way of training made it slightly more difficult to interact with people. However, with the Metaverse, participants are finding it easier to enjoy sessions and take the most away from them.

Since we set up on the Metaverse our team has been prioritising the technology that allows candidates to experience the work they will do via the Metaverse. For example, if we were hiring a 'recruitment consultant,' they will be able to experience what it is like to be a recruitment consultant at Marc Ellis, and we can give them real life tasks to do. This gives them an opportunity to practice, experience the culture and see if they will enjoy it. The employer can assess their skill set and understand what development they might need in order to succeed in the role. As a recruitment agency we understand the advantages we have in getting candidates connected to employers and so we are also looking into hosting open-days on the Metaverse. These days will be interactive with plenty of opportunity for visitors to talk to people in the office, share ideas and ask questions.

However, the real world will always be involved in different parts of the interaction. With recruitment in the Metaverse, the end goal is to have the person that was interviewed on the Metaverse working physically for the employer. While with Metaverse training the entire session can be created and conducted online and there may be no need at all for any physical presence. The only real-world element will be getting the relevant certification based on the course, for which the participants can receive either a soft copy or a physical copy.

NEWS ROUND-UP

COVERING RECENT KEY DEVELOPMENTS – REGION-WIDE

UAE

SAFE WORKPLACES



The UAE Ministry of Human Resources and Emiratization (MOHRE) has published guidelines on the requirements for ensuring a safe workplace. Risks covered include ensuring there is safe storage and preventing objects from falling. It is stated the halls of buildings should not be used as temporary storage areas to store raw or manufactured materials, equipment or rubbish. Companies are also expected to provide enough space around and between machinery to allow workers to move freely and perform their duties. In addition, precautions must be taken to protect workers from falling or from falling objects. Companies are also required to backfill any standing water which is near workplaces or facilities. It is also stated that all premises, tools and any other means used within workplaces must be fire-resistant and conform to necessary specifications and technical requirements. There is also a requirement to ensure facilities, entrances, exits and emergency exit locations are clearly marked and provided based on the number of employees in the premises. In addition, workplace flooring should be an even and a flat surface without holes or obstructions. It should be suitable for the nature of the work being carried out in order to ensure safety.

NAFIS REGISTRATION



The UAE General Pension and Social Security Authority has confirmed that in order to benefit from the Nafis programme (which means to compete in Arabic) that provides salary and pension subsidies for qualifying Emirati employees, the first step for employees in the private sector is to ensure they are registered with the Authority. In order to be recognised by the programme an employee must have UAE citizenship and be no younger than 18 years old but no older than 60. In addition, they must be medically fit and have this confirmed by a medical report

from an approved health provider. For further details on the programme go to <https://nafis.gov.ae/>

LEAVE REQUESTS FOR ENTREPRENEURIAL WORK



A guide has been issued by the Human Resources Federal Authority setting out mechanisms that must be followed when assessing and accepting requests submitted by the employees who wish to take sabbatical leave in order to start their own business.

This programme which began on 2 January 2023 allows UAE citizens working in the government sector to take a year-long sabbatical on half pay.

Ministries and authorities considering these requests must verify that the project which the employee is planning to work on falls under one of the approved categories which include trade, industry, services, or licensed projects.

The guide sets out 14 standards for projects for which an employee can take time off in order to work on. These including that the project must be licensed by the competent authority, the employee must have a main role in its management or supervision, and the project must be a current one.

CONTRACT VALIDATION



The UAE Ministry of Human Resources and Emiratization (MOHRE) has launched a new electronic system which will enable employment contracts to be completed electronically without the need for human intervention. The new system uses image processing and verification techniques which it is hoped will reduce processing times from two days to a few hours and reduce the risk of errors.

SHARJAH

HEALTH INSURANCE



The Ruler of Sharjah has ordered the third phase of the Emirate's

health insurance scheme to be rolled out. In this phase the scheme will be applied to the parents of Emirati government employees and the Sharjah police. In addition, as part of the phase Emirati citizens of 55 years old and over will receive free treatment at the University Hospital of Sharjah.

ABU DHABI

PENSION SERVICE



The Abu Dhabi Pension Fund has announced an extension to the instalment period for the cost of adding previous years' service to the fund. Those registered with the fund will be able to benefit from a period of ten rather than five years. The decision applies to all those currently paying to add years of service in instalments to the Fund.

SAUDI ARABIA

CONTENT IN JOB ADVERTS



The Saudi Human Resources and Social Development Ministry has announced it will be issuing new regulations on the content of job advertisements. Under these requirements employers advertising a vacancy will have to give details of the minimum wage, benefits and working hours in the advertisement. Employers will also have to provide a clear job description for the role which sets out the job title, duties, and any required qualifications, skills, and years of experience. In addition, applicants will need to be notified of the outcome of any tests they are required to undertake as part of the recruitment process.

DOMESTIC WORKERS



Saudi Arabia's Passport Public Directorate has provided an explanation of how electronic transfer of domestic workers between one employer, and another operates. Saudi nationals who are registered on the Absher platform can now transfer a

domestic worker to a new employer within seven days using the electronic system. However, in order to do this no traffic violations can be registered against either the new employer or the employee. In addition, the worker who is being transferred cannot have any absenteeism detailed on their record. It has also been confirmed that a domestic worker can only be transferred to a new employer up to four times.


QATAR

DELIVERY DRIVERS

 Qatar's Traffic General Directorate has issued new safety regulations for those making motorcycle deliveries. The rules define how items being delivered by motorcycles must be fixed in order to prevent them falling. There are also specific requirements on helmets, lights on vehicles and the dimensions of boxes on motorcycles. Authorities in Kuwait have also made amendments to the Ministerial Decision which covers the operation of companies providing logistical services, delivering consumer orders and transporting goods.


BAHRAIN

HUMAN TRAFFICKING

 An individual who ran a private business in Bahrain has been referred by the Head of Human Trafficking Prosecution to the Criminal Court for trial in January 2023 after they were suspected of being involved in human trafficking and forced labour. A claim was filed against the man by victims who stated he had brought them to Bahrain in order to work in his business and had forced them to work long hours without appropriate time off or rest. It was also stated he had withheld wages from the employees.

OMAN

ACCREDITATION IN ENGINEERING

 The Oman Ministry of Labour has advised those operating in the construction sector there to make sure they have made the necessary

accreditation applications for those working in engineering roles.

KUWAIT

STUDY LEAVE RULING

 Kuwait's Constitutional Court has dismissed a claim by a student who was requesting that a degree he had obtained from a university in Jordan while working as a public servant in Kuwait be accepted. His request was rejected as he had not applied for study leave prior to taking the course. Public servants in Kuwait are required by law to obtain prior consent from the authorities before taking study leave.

JORDAN

LABOUR COMPLAINTS

 Jordan's Labour Ministry has finalised work on the new Himaya (or protection) platform which will be used for recording labour-related complaints and will allow labour associations, embassies, and civil society organisations to submit e-complaints on behalf of workers, especially in cases of suspected human trafficking. Workers will also be able to use the platform themselves to submit complaints. The platform is expected to launch in 2023 and will be available in 10 languages which will include Arabic and English, Bengali, Hindi, Chinese, Indonesian, Nepali, Sri Lankan and Filipino.

IRAQ

PAN ARAB PENSIONS

 The Central banks of Jordan, Iraq, and Egypt have launched a joint service which will enable retired people living in different Arab countries to be paid their pensions. The initial phase of the scheme will enable Iraqi pensioners who live in Jordan or Egypt to receive their pension payments in the local currency more efficiently merely by opening a bank account with participating banks. The plan is to expand this scheme to cover other Arab nations.

IN BRIEF

Saudi Arabia: Employment contracts for both Saudis and expats are to be documented on the Qiwa platform which allows data to be synchronized with that held by the General Organisation for Social Insurance...

Bahrain: Workers' fees for labour registration will be able to be paid either via the Bahrain Financial Company or through the Benefit Pay application within the bill payment service...

UAE: Ministerial Decision No. 598/2022 on the Wage Protection System has been issued which details the various steps taken by the authorities where wages are not paid by particular deadlines...

Kuwait: The annual increase of the salary cap on work permits has been cancelled...

Bahrain: Flexible worker permits will be cancelled from 17 February 2023...

UAE: A mandatory unemployment insurance scheme commenced on 1 January 2023 in which for five AED a month is paid to receive up to 60% of an employee's subscription salary for three months after job loss

Saudi Arabia: The Human Resources and Social Development Ministry has announced it will take control of the announcements of job vacancies and governance of recruitment procedures in all establishments covered by the Labour Law...

Egypt: Following Egypt Decision No. 37/2022 the number of activities which require special security approval has been reduced from 85 to 35. These approvals are required for selling hazardous materials and storing petrol substances...

Sharjah: The policy under which jobseekers are registered on the Human Resources Database has been defined and includes proof of unemployment, the individual's age and that they are not receiving a pension...

Egypt: The General Authority for Financial Supervision has published guidelines for tests which must be passed by applicants for roles in companies operating non-banking financial activities...

Saudi Arabia: Saudisation of the Customer Services Sector has begun...

Abu Dhabi: The Abu Dhabi Judicial Department has begun a campaign to inform workers in labour camps of their rights...

Oman: An award called the Naifis Award for private sector employers who are particularly successful with Emiratisation work has been launched...

IMMIGRATION FOCUS

RECENT GCC IMMIGRATION AND VISA CHANGES

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SAUDI ARABIA

FEE INCREASES



The Saudi Cabinet has approved an increase in the costs of renewing exit and re-entry permits for residents who are outside the Kingdom.

As a result, costs of renewing exit and re-entry permits in these cases have doubled. There is now a 200 Riyal cost for a single trip visa with a two month maximum duration. In addition, a 100 Riyal charge is made for each additional month if the resident is inside the country, and 200 Riyals plus double the fee for each subsequent month if the resident is outside Saudi. The cost for a multi-entry permit is 500 Riyals for three months, plus 200 Riyals for each subsequent month if the resident is inside the Kingdom, but the rate is doubled for each additional month if the applicant is outside the Kingdom. A change to the residency law on the renewal of residency permits for domestic workers' and foreign employees' partners has also been approved by the Cabinet. As a result, the charge for a residency renewal outside the Kingdom is also now double the rate than if the application is made from within Saudi Arabia using the Ministry of Interior's electronic portal.

SKILLS VERIFICATION



A Skill Verification Programme (SVP) was rolled out in India by the Saudi Ministry of Human Resources and Social Development (MHRSD) at the end of December 2022. SVP is a continuation of MHRSD's initiatives to increase the professional competence of skilled workers working in the Saudi labour market, increase their productivity, raise the standard of professional services they offer and decrease numbers of unqualified people coming into the country. In order to guarantee the competency of skilled workers in the Saudi labour market, the Ministry launched the SVP

scheme in March 2021 in collaboration with the Ministry of Foreign Affairs and the Technical and Vocational Training Corporation (TVTC). In an effort to help the workforce develop their abilities in line with worldwide standards and to fulfil the demands of the regional labour market, MHRSD has set its sights on 23 specialisms.

The Ministry began the first phase of SVP for five professions in Pakistan in September 2022. Twelve testing facilities were set up there as part of the scheme to test Pakistani skilled workers before they could apply for a work visa for Saudi. As part of the next phase before an Indian worker can apply for a Saudi work visa, they must also pass written and practical tests for qualified workers. The programme includes practical and theoretical assessments in the workers' specialist area in order to ensure skilled workers in Saudi Arabia have the necessary skills to perform the work they have been hired to do. The scheme's trial phase in India will be run in New Delhi and Mumbai. Five occupations, including plumbing, electrical work, welding, refrigeration and air conditioning work, and car electrical work, will be covered in this first phase of skill testing. Over time other professions will be added to this programme. A number of recognised worldwide examination centres are involved in the second track of SVP, which attempts to assess professional labour needs and evaluate the skills of employees currently in Saudi Arabia.

POLICE CLEARANCE CERTIFICATES



Indian nationals who apply for a Saudi work entry visa through the Saudi Consulate in Mumbai or New Delhi will no longer have to present a Police Clearance Certificate (PCC).

Previously, in order to certify an applicant did not have a criminal past, these certificates were needed for this type of visa. PCCs were initially introduced as part of the entrance visa for employment application. The Saudi Government has now chosen to waive this requirement in order to enhance strategic relations with India.



UAE

RESIDENCE PERMIT ENDORSEMENTS

 The General Directorate of Residency and Foreigners Affairs (GDRFA) in Dubai has, in line with its latest directives, confirmed that with effect from 12 December 2022, the Emirates ID will replace the Residence Permit sticker endorsement in passports for applications processed in the Emirate of Dubai.

From this date, all information on the immigration status of an individual in Dubai such as their residency and employment will be indicated in that individual's Emirates ID card or record. The UAE has Implemented a new generation of Emirates ID cards which have already started to be issued to foreign nationals residing in the country. These new ID cards include all the information which was previously found on Residence Permit stickers placed in an individual's passport. Going forward, the digitally issued e-Residence Permit sticker will contain information such as the sponsor's details, the issue and expiry date of their Residence Permit, as well as the individual's residency file number. Once an UAE electronic Residence Permit has been issued, the applicant will be able to download a copy of their e-Residence Permit via their ICP/GDRFA smart application and travel with their Emirates ID (instead of needing the Residence Permit endorsement. In addition, from now on the issue of renewed Residence Permits and Emirates IDs will be considered to be one single application, which will reduce the number of applications needed for the full renewal process. The process of collecting passports for Residence Permit endorsement has also now ceased. Applicants will now be able to travel outside of the UAE once their e-Residence Permit has been granted.

The ICP and GDRFA have already been working with the aviation sector to enable holders of valid e-Residence Permits who are outside of the UAE to enter the UAE by verifying their identity through a passport reader available at airline platforms. However, it is possible that UAE residents could initially be questioned and still asked to show a Residence Permit sticker on their passports as this will be at the discretion of immigration officers at the port of departure. Therefore, it is recommend that where possible,

residents undertake travel outside the UAE upon approval of their Emirates ID status, as reflected on the ICP platforms.

WE THE UAE 2031 VISION

 The UAE Government has launched the 'We the UAE 2031' vision, an initiative which is in line with the UAE Vision 2021 and is based on four pillars - Forward Society, Forward Economy, Forward Diplomacy and Forward Ecosystem. With Forward Society the vision is to place the UAE on the global map amongst the top 10 countries in the Human Development Index and have UAE cities listed as the World's best cities. Key sectors to be developed as a result will include healthcare and education. Forward Economy reflects the UAE's belief in the importance of human capital as the main driver of its development. Here the aim is to increase the country's GDP, its non-oil exports and boost the tourism sector.

Meanwhile, part of Forward Diplomacy will involve establishing the UAE as an innovation hub in sustainability, science and technology. While under Forward Ecosystem the aim will be to develop agile business models to boost government performance and provide the best government services in the world. The plan is to reinforce digital infrastructure and implement food and water security programmes.

The overall aim includes doubling the Gross Domestic Product (GDP), generating 800 billion AED in non-oil exports, raising the value of foreign trade and contributing to a strengthening of the tourism sector. The goal is to rank in the top 10 countries in the Human Development Index, Global Food security index, healthcare quality, and attraction of top global talent.

As a result, there will be Increased visit visas issued for visa nationals and additional visa on arrival schemes. In addition, the healthcare sector will be further developed and there will be a higher number of medical visit visas issued for medical treatment.

It is also expected that the eligibility criteria for the Golden Visas and Green Visas will be broadened in order to attract and retain the necessary global talent required in order to enable these aims.

Your bridge to global growth

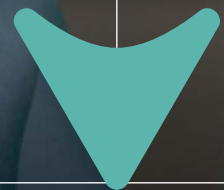
Vialto Partners is your ally in mobility, tax and immigration solutions. We are here to assist your business in the movement of people into and across the Middle East, from offering different ways to support visa processing, to strategic mobility advice. We spark meaningful change for your business—and your people.

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IMMIGRATION PROFILE

PARTNER

Embracing Change

Anir Chatterji, Partner at Vialto explains how crises such as the Russia-Ukraine war and changing immigration policies in the region have impacted his work.

ABOUT YOU?

I grew up in London and am dual-qualified as a Solicitor of England and Wales and US Attorney-at-Law, New York. I have over 14 years' experience in global mobility across different jurisdictions. I moved to Dubai in 2016 to manage PwC's immigration practice there. I was then appointed as a Partner and the Middle East Immigration Leader. During this time, I have led several global transitions and account implementations. I have established a diverse client base and have in-depth experience of working in the technology, automotive and oil and gas industries. I have always enjoyed the fast pace and changing nature of immigration and being able to devise solutions for clients and help companies navigate changes in law and policy. It is great when our team provides a practical and compliant solution, so clients can meet their hiring needs, and fulfil a project. I have found my past experience of working in-house for a global bank and leading IT professional services firm has given me insight and perspective on the challenges HR face and enabled me to appreciate how effective mobility solutions can help deliver on business goals and workforce management needs. This experience helps me look at immigration policy through a client lens and offer practical solutions which are compliant but also managed in line with promoting business objectives.

YOUR FIRM

I now lead Vialto's EMEA immigration practice. We are a newly formed global mobility practice with offices around the world. We were formed at the end of 2022 after the US private equity firm, Clayton Dubillier and Rice acquired PwC's global mobility and immigration practice. In my new role, I lead a team of brilliant lawyers and immigration professionals in Europe, the Middle East and Africa. I work closely with my senior leadership teams in building client relationships, ensuring excellent service delivery and bringing strategic direction to the Vialto business and our clients. When clients work with us, they have access to a global team who are 100% focused on mobility. The team has deep relationships with local authorities and unrivalled expertise in mobility issues - including immigration, tax, payroll, dynamic work and technology. Although my work primarily focuses on the Middle

East and wider EMEA region, I work very closely with colleagues around the world not just in our clients' key locations but anywhere where our clients have people, across the globe.

SUCCESSES

I am particularly proud of our work on a number of crisis management projects, including work following the Russia-Ukraine war. We handled individual assignees and their families with sensitivity throughout the immigration process, in both temporary and permanent transfers to the UAE. We provided a seamless end-to-end Immigration service and overcame many obstacles, while still ensuring constant care. Having a human touch is vital in any case, but in particular when dealing with sensitive situations like these.

DEALING WITH CHANGE

One of the biggest changes has been to the Golden Visa and other self-sponsored routes in the UAE in the last quarter of 2022. This is a continually evolving area so each case must be considered on its own merits. For example, we are still waiting for the roll out of the Green Visa scheme and although there have been some indications of the qualifying criteria, individuals cannot yet apply, so we have to manage clients' expectations and offer interim solutions. At the end of 2022, we also saw a relaxation in the rules in Saudi Arabia on expatriate employee transfers from one employer to another. Historically, employees in Saudi Arabia had to get consent from their current employer before applying to transfer to another company. This is no longer the case. Employees are free to transfer to another employer after completing the first year of their contract. If they have not completed their first year, they can transfer without the current employer's consent subject to specific requirements, i.e. if the current employer has not paid their salary for the last three months or by obtaining the current employer's consent to transfer before the first year is completed. Employees in Saudi Arabia can also now issue their own exit re-entries and final exits. These are important steps in allowing flexibility for expatriates, and for companies in Saudi Arabia in sourcing foreign talent.



Anir Chatterji
Partner,
Vialto

LAW CHANGES

NEW AND PROPOSED MENA LAWS

HEALTH INSURANCE

Bassem Daher and Yara Hifni of Galadari Advocates and Legal Consultants explain how Dubai Administrative Decision No. 78/2022 has changed the rights of those including employers who purchase health insurance in Dubai.

Dubai Administrative Decision No. 78/2022 came into effect on 28 October 2022 and provides further details on how the Dubai Medical Insurance Law, Dubai Law No. 11/2013 operates in practice.

A key part to this new legislation is that a body known as the Dubai Academic Health Corporation, which is affiliated to the Dubai Healthcare Authority, will now act in a regulatory capacity when it comes to health insurance.

This body will issue circulars to explain how the medical insurance regime in Dubai should work and will also be able to inspect those providing health insurance and issue fines to those who have fail to comply with the requirements.

In addition, where disputes about medical insurance arise, for example between an insurer and a purchaser of health insurance, that dispute will first be heard by the Corporation before it can be considered by the courts or in an arbitration.

The Decision categorises health insurance coverage as either basic or additional and specifies the compliance procedures which apply for each of these categories. Under Articles 3 and 4 of Dubai Administrative Decision No. 78/2022, there are details of all an insurance company's duties.

In addition, the Decision also details the information that must be included in health insurance contracts in Article 16 of Dubai Administrative Decision No. 78/2022. It is also stressed that this information must be given in clear clauses.

One of the Decision's key provisions is that the Subscription Entity (which is any entity subscribing for a Beneficiary in a Health Insurance system, so could



QATAR - PENSIONS



The Director of Customer Management at Qatar's General Retirement and Social Insurance Authority (GRSIA) has confirmed the Social Insurance Law, Qatar Law No. 1/2022 was implemented on 3 January 2023. This law has expanded the scope of insurance coverage to include all citizens working in the private sector. It also adds housing allowances to the subscription salary calculation and allows civilian pensioners to combine their pension and employment salary if they move to the private sector. All employers subject to this law can update or register their information and receive enquiries or requests about the law electronically through the employer's digital services portal on the GRSIA website.

include an Employer purchasing health insurance for an employee) must be granted a trial period of not over 14 days from the effective date and time of the Health Insurance Policy. They can stipulate in the Agreement their right to cancel without any justification, and to recover any payments they have made to the Insurance Company subject to stated conditions.

Article 17 of Dubai Administrative Decision No. 78/2022 also details additional data which is to be included in health insurance agreements, including

renewal procedures, complaints handling and decision-making processes, and internal dispute resolution measures.

Meanwhile, Article 21 of Dubai Administrative Decision No. 78/2022, details the mandatory information which must be included in the Health Insurance card given to the insurance beneficiary by the coverage provider in either an electronic or hard copy form.

There are also specific provisions on the pricing policies that insurance and claims management companies must follow.

OMAN - HOLIDAYS



Oman Sultani Decree No. 88/2022 On Determining Official Holidays has been issued, repealing the previous law on this subject, Oman Sultani Decree No. 56/2020. The law states the dates on which specific national holidays will fall. Details are also given of what happens if the official holiday falls on a weekend or in the case of the Eids if the first day falls on a Friday.

IRAQ - UNIONS



Iraq Decision No. 1/2022 has been issued. It covers the third amendment made to Iraq Decision No. 3/1987 which was issued by the Ministry of Labour and Social Affairs and involved the classification of occupations for workers' trade union organisation purposes.

KUWAIT - IMMIGRATION



The Kuwaiti Cabinet has approved a four year programme which is expected to lead to dozens of new laws being introduced in order to change the country's current population structure and reduce the numbers of expats living and working there. Expats currently make up 70% of Kuwait's 4.5 million population.

In this case, the Corporation's prior approval is needed where there is an increase in the total annual agreement price. The price list detailed in their licence must also be used and prices can only be increased once a year from a date that is announced by the Corporation.

Situations where an employee's sponsor wishes to cancel health insurance coverage are also covered in this Decision.

In such cases the sponsor must provide proof that the sponsored individual is either now covered by an

alternative health insurance policy or they must provide evidence that the individual's UAE residence permit has been cancelled.

There are also provisions in this Decision on the keeping of confidential data by insurance companies.

The insurance provider must keep confidential data either electronically or on paper, for a period of not less than 25 years from the date when either the last relevant health procedure was conducted or from the date of the last insurance policy.

UAE - ACCIDENTS



The UAE Ministry of Human Resources and Emiratization (MOHRE) has issued a decision on the rules and procedures for dealing with workplace injuries and illnesses. The decision details the mechanisms for reporting injuries and employer's duties in this respect. Details are also laid down on how occupational illnesses should be documented.

CASE FOCUS

Case No DIFC Case No. 327/2022, Lamont v Lapis, 13 October 2022

Jurisdiction DIFC

Court DIFC Small Claims Tribunal

Recommended by Galadari Advocates & Legal Consultants

WHAT IS IT ABOUT?

A dispute arose when an Employer whose company was registered and located in the DIFC terminated an Employee's employment with immediate effect. After this happened the Claimant filed a claim in the DIFC Small Claims Tribunal claiming unpaid salary, holiday pay for untaken holiday, compensation for unfair dismissal and airfare payments which were due under the employment contract. Also considered was the calculation of the Employee's end of service gratuity and payments due under the DIFC's DEWS scheme. The Employer argued that the Employee had been given one month's notice but had failed to attend work during this period so was not entitled for the pay in lieu of notice. The dispute was governed by DIFC Law No. 2/2019 (the DIFC Employment Law as amended by DIFC Law No. 4/2021), and it was decided in conjunction with the relevant provisions of the Claimant's Employment Contract.

WHAT WAS DECIDED?

The Employee claimed outstanding salary, unpaid holiday pay and pay for untaken public holidays. These were all awarded to them because of the Employer's shortfall in keeping complete records. The Employer provided a payslip for August which turned out to be a payslip for payments the month before. In addition, although the Employer claimed the Employee had taken all their leave, they were unable to provide

documentary evidence of this. The Employer had also failed to follow notice procedures in the DIFC Law No. 2/2019 so termination without a notice period was strictly decided on by the Tribunal against the Employer and the Employer had to pay the one month's notice period pay to the Employee. DIFC Law did not include provisions on payment of airfare payments so the terms in the contract of employment were extensively relied on. As the Employee had not requested a specific amount for their airfare allowances the parties were asked to provide three quotes for an economy round trip to the Employee's home country so the court could rule on the amount owed. The employment contract was also used to define the position on the cash liability for untaken holiday. Under DIFC Law No. 2/2019 on termination Employers must give Employees gratuities in addition to the core benefits within 14 days of the Employee's termination date, for any periods of service before the commencement of the Qualifying Scheme and an amount equal to the Qualifying Schemes Core Benefits must be deposited into a Qualifying Scheme under Article 66 of DIFC Law No. 2/2019. There was no evidence to prove the Employee had either been enrolled in such a Scheme or was exempt from being enrolled, so the court ordered the Defendant pay the Claimant an amount equal to the minimum benefits laid down under DIFC Law No. 2/2019 reflecting the contributions that the Defendant should have paid into the Qualifying Scheme had this requirement being complied with.

WHY IS THIS CASE IMPORTANT?

Both the provisions in DIFC Law No. 2/2019 and the Employment Contract (when an area was not covered by the law as was the case with the flight tickets and untaken holiday) were used to confirm the

correct position. In a number of other areas including outstanding salary, payment in lieu of public holidays and contributions to the Qualifying Scheme, the ruling went in the Employee's favour because the Employer had not kept sufficient records to show they had complied with the law and to be able to prove their claims. This shows just how important keeping all the required written records, detailed in the law, in areas of this type is. Therefore, Employers must maintain accurate records of their all Employees, including attendance, leave taken, and any other related perks such as flight ticket allowances that may been covered in the employment contract.

Case No DIFC Case No. 322/2022, *Licia v Liesma*, 12 October 2022

Jurisdiction DIFC

Court DIFC Small Claims Tribunal

Recommended by Ayesha Karim

WHAT IS IT ABOUT?

Licia was employed as a legal secretary at Liesma by Liesma, a limited liability partnership, incorporated in the DIFC. She began her employment on 15 July 2022. However, on 19 August 2022, her employment was terminated. On 31 August 2022, she filed a claim in the DIFC Small Claims Tribunal because she claimed the two weeks' notice she had been given was not a reasonable period in which she could find alternative employment. She sought damages of 60,280 AED which was made up of three months' remuneration of 36,000 AED in lieu of notice, compensation of 20,000 AED for undue stress and moral damage for having her position terminated in this way and the payment of her court fees. Her Employer argued that Licia had no legal basis for this claim under her employment contract. Her Employer stated they were not required to provide a reason for her termination as she was currently on a probationary period. In addition, it was incorrect to state that she had been dismissed with immediate effect as she had actually been provided a two week notice period in line with her employment contract. The Employee had been handed the Termination Notice in an in-person meeting on 19 August 2022 and on the same day been sent an email by her Employer attaching the Termination Notice. Her Employer also stated they were not obliged to issue her any written warnings or notifications about the Termination under the DIFC Employment Law DIFC Law No. 2/2019 or under her employment contract, as her employment had been terminated while she was still serving her probation period.

WHAT WAS DECIDED?

The DIFC Courts found that the DIFC Courts and the SCT had jurisdiction over the matter and that the dispute was governed by DIFC Law No. 2/2019 as amended by DIFC Law No. 4/2021 (the DIFC Employment Law) and by DIFC Law No. 6/2004 (the DIFC Contract Law) in conjunction with the relevant

Employment Contract and other valid agreements which existed between the two parties.

The Court stated that the main issue in this case was whether the Employee was entitled to any compensation under the Employment Contract other than the two weeks' pay in lieu of notice she had received. The Court found that according to the terms of her employment contract, **Licia** was on probation for the first six months of her employment and during this period either party could terminate the employment contract by giving the other notice of two weeks. In addition, the Employer had the right upon notice of termination to require that the Employee did not attend work or carry out any duties for all or part of the notice period. The Employee was entitled to be paid all dues owing to her including her salary and leave, and holiday entitlements from the commencement date until the date on which the notice period ended.

WHAT WAS DECIDED?

Although what had happened to the Employee was unfortunate, she did not receive compensation as she had not provided proof that she had suffered damage in having her employment terminated in this way. An employment relationship can potentially be terminated at any stage during employment, and the Employee should expect if that should that happen, they will face some form of inconvenience. It was not appropriate to order any compensation to be paid to the Employee and the Employee had failed to provide evidence which demonstrated she had suffered stress for the material and moral damages that she had been subjected to by the Defendant.

WHY IS THIS IMPORTANT?

Article 62 of DIFC Law No. 2/2019 lists a number of notice periods which must be given if an Employee in the DIFC is terminated for cause. These range from seven days if an Employee has been in continuous employment for less than three months to 90 days if they have been in continuous employment for over five years.

However, these periods do not apply during a probation period agreed in a contract of employment. Article 14 of DIFC Law No. 2/2019 details the maximum length of the probation period. Employees who have resigned in order to take up a new position may feel aggrieved if the new position is terminated shortly after this, but this does not automatically entitle them to compensation for stress.

Stress and damages require actual proof if compensation is to be awarded, and cause needs to be linked to a wrong carried out by the Employer. Where the parties have willingly entered into an Employment contract which includes terms on a probation period, the Employee's right to minimum notice may be less than the legal minimum and practical difficulties such as finding an alternative job however unfair do not change this.

HR PROFILE

HEAD OF HR & ADMINISTRATION – LEGAL



Attract and Retain

Maisa Maarouf, Head of HR & Administration at BSA Ahmad Bin Hezeem & Associates LLP explains the importance of staff retention initiatives in her work.

ABOUT YOU?

I have a Bachelor of Business Administration Degree and am an Associate Member of the CIPD. I work as the Head of HR at the law firm BSA Ahmad Bin Hezeem & Associates LLP.

Our firm was established in 2001 but since then has grown organically. We now operate in five countries across the Middle East. We have 15 partners and a team of talented lawyers who provide innate cultural understanding, depth of expertise, and an unmatched contact network to their clients.

As Head of HR, it is my job to align employees' needs with the firm's requirements. My role includes planning and setting budgets for the department; leading and directing my team; the recruitment cycle; overseeing daily workflow; coordinating policies; and staff wellbeing activities, as well as ensuring legal compliance and implementation of the firm's mission and talent strategy.

I have to be able to look for both strategic and innovative ways to contribute value to the firm. I enjoy listening and interacting with people which helps in this respect. I am also lucky to have a good working relationship with senior individuals within the firm, which is crucial to obtaining a holistic understanding of the business and being able to communicate, share thoughts and ideas. I find that speaking to firm members at all levels enables me to assess where I can add most value both to employees and the business.

JURISDICTIONAL DIFFERENCES

My work primarily covers the UAE, Saudi Arabia and Oman. The legal position in Oman is quite stable and does not change so much.

I have also found although there have recently been frequent labour law changes in the UAE, as I am based there, these are easier to deal with.

When it came to the recent UAE Labour Law changes in 2022, we found most of the required changes had already been implemented in our firm or were not relevant. However, the UAE study leave change which has seen employees who have been two years or more with the firm, being entitled to 10 days study leave a year, has been very welcome.

In Saudi Arabia there have also been a large number of recent changes impacting human capital, including labour law reform, exit and re-entry visa



reform, and final exit reform which is expected to help with attracting foreign employees.

At an entry or a mid-level in HR, there does not tend to be a major difference between sectors as the work is operational in nature. However, I have found in a senior role you need an understanding of the industry and the stakeholders in order to be able to address challenges, and plan in a strategic way. In the professional services sector, for example, being aware of compliance issues is very important.

This year, I would say that HR departments will have to keep a close eye on visa rules changes, labour law developments, and data protection law changes.

RETAINING TALENT

Working in the professional services sector as I do, finding, attracting and retaining talent, in what is a highly competitive market, is key. As well as bringing talent into the firm, you need to have the right tools

PRACTITIONER PERSPECTIVE



Sara Khoja
MEA Employment
Partner
Clyde & Co

Sara Khoja MEA Employment Partner at Clyde & Co looks at the main recent reforms impacting employers with staff in Saudi Arabia including those which may make it easier to attract new employees.

In the last 18 months, the Saudi Arabian Ministry of HR and Social Development has focused on two main issues - the UAE the promotion of employment for Saudi nationals but also the streamlining of their electronic services in order to make it easier for individuals to complete

a number of immigration procedures independently and streamline the employment documentation required there.

In terms of Saudisation, the Ministry has focused on measures within what it calls the Saudisation of professions. This means that certain roles within specific industries are either now entirely reserved for Saudi nationals or a specific percentage of employees within a group carrying out certain functions within an employer must be made up of Saudi nationals. The sectors and activities impacted in this area are extensive and include the sale of medical devices, the finance function, IT and communications, legal teams, dentistry and pharmacy.

The latest measures impact the consultancy profession where the regulation is directed at specific consultancy services (referenced by the ISIC code with wider application for government contracts) and specific professions as well as a general requirement for 'consulting' roles to be covered. There is a two stage implementation with a 35% rate to be reached by 6 April 2023 and a 40% by 25 March 2024.

The other main change impacting employers has been the measures which the Ministry has put in place to promote compliance with its electronic service platforms. In this case the three main compliance changes are that every employee in Saudi regardless of their nationality must now have an electronically generated and registered employment contract which is based on the Ministry's template contract. In addition, every employee should be paid through the Wages Protection System into a Saudi bank account at least once a month; and finally employing establishments should have in place certified work regulations which are also based on the Ministry's template document.

There have also been initiatives put in place to make life easier for foreign nationals working in the country. In particular, the Ministry together with the Passport office (which sits within the Ministry of Interior) have taken steps to move previously manual processes onto electronic platforms which helps to ensure

consistency and in many cases also eliminate discrepancies.

One of the latest of these changes is the removal of the reporting service through QIWA. This enables employers to clear their employer files by transferring details of an absconded employee to the Absence Reporting Service. The new procedure protects employers and employees as there is a neutral mechanism for the employee to either leave the country or transfer their visa within 60 days of the notification.

There have also been reforms in Saudi on exit and re-entry visas. As a result of these changes employees in Saudi are now able to apply for exit and re-entry visas online through Abshr and employers can enable an employee to freely choose when they leave and re-enter the country. This permits foreign employees in Saudi to have greater control over their movements in and out of the country, and those of their dependents. This change has been seen as potentially making it easier for employers in Saudi Arabia to attract foreign employees to work there.

The fact foreign employees now have greater control over their own physical movements in and out of Saudi is likely to increase the confidence levels of these employees that they will be able to live and work in the Kingdom.

Another area of recent change in Saudi Arabia has been that new standards have been introduced on work environment requirements for security guards.

Security guards in Saudi must also now have their own allocated desk and chair, and a secure locker for their personal items. There must also be air conditioning, a first aid kit, and CCTV cameras which cover the security guard's working area or station.

However, these are not the only changes to Saudi Labour Law currently expected in the near future.

It is widely expected that the Saudi Labour Law Saudi Arabia Cabinet Decision No. 219/1426 will be amended shortly. Proposed amendments were published in 2020 and there was a public consultation. However, to date no amendments to the Labour law have been introduced. At present it is believed that the changes that will be brought in with this amendment to the Labour Law will include an extension of maternity leave, the introduction of employee resignation as a reason for valid termination of a contract (as this is a lacuna in the existing law which it is important to close) and potentially also the ability to offer employees time off in lieu of overtime worked.

to retain them. As a result, our HR department stays abreast of the compensation and career growth opportunities other firms are offering in this market and use this information to compete. It is also important to give people space to be heard and involved in order to address this challenge. Employees in professional services firms like ours are generally looking for career advancement and

they are motivated by things like development and mentoring programmes, and study support, whereas in other industries employees may be more focused on salary as a priority.

I also lead a firm wide strategic project and our HR team has delivered a number of initiatives designed to support retention including creating a career development path for lawyers.

MOVES AND CHANGES

A ROUND-UP OF BUSINESS NEWS, APPOINTMENTS AND PROMOTIONS

INCENTIVES FOR PROMOTION

Mohsin Khan who works in the Employment and Incentives Department at Al Tamimi & Co in Jeddah has been made a Partner at the firm. Prior to joining Al Tamimi, Khan trained at a City law firm in London. He has experience of advising on a wide range of day-to-day employment related legal issues including disciplinary, performance and absence management processes, on recruitment, and business immigration issues arising from recruitment. His work also includes employment contracts, transfers and termination of employment, post-termination restrictions, restructuring and redundancies, labour disputes, and employee incentive schemes. He also has experience of advising on employment issues in corporate transactions including share and asset purchases.

THE REAL THING

The Coca-Cola Company has appointed a new HR Director for the Middle East and Eurasia region, Karan Bhalla. Bhalla is a qualified coach who also has experience of organisation design. His other areas of expertise include talent development and performance enablement and rewards work. He began his career in India and has over 16 years of professional experience in various sectors including IT and consulting. He began his career at Tech Mahindra as the Rewards and Recognition Lead. Prior to moving to Coca-Cola, he was the HR Director - Talent, Rewards & Culture for Americana Foods in Dubai. He has also worked for IBM and E&Y.

OUT OF THE BLUE

Radisson Blu Dubai Media City has brought in Laeeq Ahmed as their new director of HR. Ahmed previously spent just over two years at Sofitel Dubai Jumeirah Beach where he was the director of talent and culture. As human resources director at Radisson, Ahmed will be responsible for leading the HR departments, including talent acquisition, learning and development, employee engagement, compensation and benefits, talent management and HR information systems (HRIS). He will also have responsibility for making strategic decisions for these departments. His past roles have included time spent as a senior as a human resources executive at the Aditya Birla Group, as the assistant human resources manager for Mövenpick Hotel Jumeirah Beach and

as Personnel Manager at Accor MAF Central services, where he managed and streamlined HR operations throughout the brand's entire UAE portfolio.

HAIL TO THE CHIEF

The global law firm Norton Rose Fulbright has appointed Kate Evans as their chief people officer for Europe, the Middle East and Asia.

Evans has more than 20 years' experience and has worked with firms which have included accountants Deloitte and KPMG, and the retail business Tesco. Her priorities will include enhancing employee engagement, talent retention, career development, and ensuring a more inclusive workplace at Norton Rose Fulbright's EMEA division.

She also acts as a coach and mentors potential leaders. Her mentoring work includes acting as a mentor for Solaris, a global executive leadership programme designed for women of colour. In addition, she co-created a leadership development solution for next generation chairpeople with the London Business School, and sits on the advisory board at iVentiv, a global organisation which runs workshops for chief talent and



learning officers.

PEOPLE EXPERIENCE

The Global Real Estate firm JLL has appointed Emma Hendry as their People Experience Lead for the EMEA region.

In what is a newly created role, Hendry who will be based in London will support the firm's clients on all aspects of their workforce experience. She will provide knowledge and advice on the application and optimisation of human-centred design and workplace technologies, and on how to make organisations healthier and more inclusive. Hendry has almost 20 years' international experience of working in the corporate real estate and technology sectors, where she has acted as an adviser to a number of large blue-chip organisations and has provided assistance on scaling and coaching innovation to start-ups.

IMMIGRATION LEAD

Ananth Prasad has joined immigration and mobility specialists Vialto Partners as an Immigration Manager and will work on Middle East Immigration. Prasad previously led a global immigration firm's team in Dubai, where he focused on UAE-based business. He has just under nine years' experience of working in the Immigration advisory and legal services industry. As an Immigration Lead, he will partner with business leaders and stakeholders from various multinational and national companies operating in the UAE and will work on areas including risk management, immigration compliance, process improvements, and providing strategic guidance.



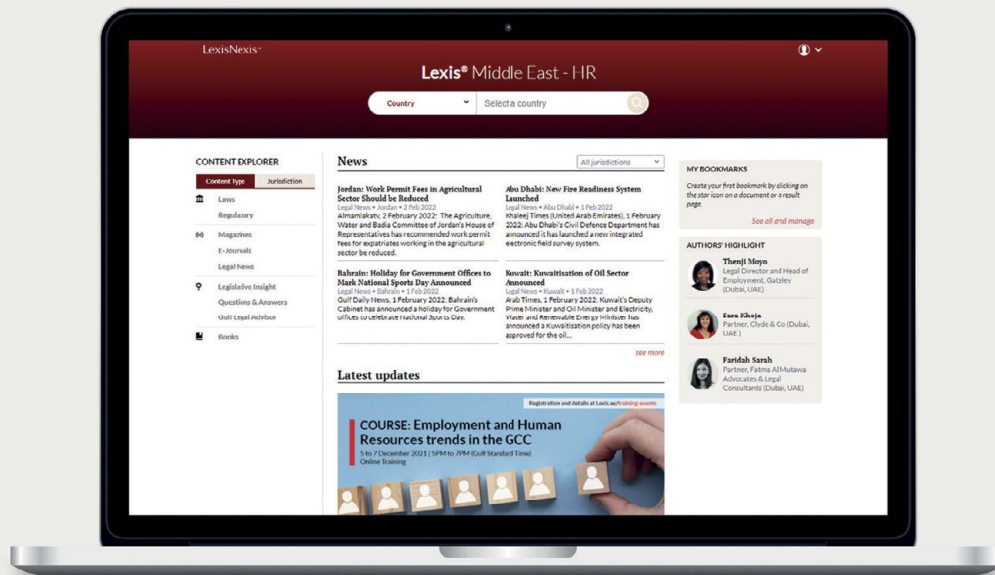
OTHER CHANGES

Deel: The Global payroll, compliance and hiring firm Deel has launched a new service in partnership with Hofy to enable businesses to send remote team members equipment internationally. Equipment rental on Deel operates on a subscription basis with a flat fee paid per piece of equipment. Pricing varies based on type of equipment, location, and contract length.

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





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- Working From Home Policy (GCC Countries)
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 - DIFC Employment Contract (Basic Version)
 - DMCC Standard Contract of Employment
 - TECOM Employment Contract
 - UAQ FTZ Employment Contract

For more information, visit www.lexis.ae/hr, or contact our team by email: contact.mena@lexisnexis.fr

Probation policies



Probation periods are found in employment contracts in many jurisdictions. Their aim is to provide employers with a period in which they can evaluate a new employee's performance and employees can review their working conditions before either party commits to a long-term employment relationship. In most jurisdictions, they range from three to 12 months. The policies which apply to employees in the DIFC on probation periods are largely similar to those in other jurisdictions.

PROBATION PERIODS

Article 14(2)(l) of DIFC Law No. 2/2019 (the DIFC Employment Law) states the maximum length of a probation period in a DIFC employment contract is six months (which is quite modest) unless the contract is for a period of six months or less. In such cases, the maximum probation period is half the period of the contract term. It is not possible to extend this period by an agreement among the parties and the employment is assumed to have been confirmed upon the expiry of the probation period (i.e. at the latest after a period of six months). Attempts to extend the probation by agreement are likely to be penalised by the DIFC Courts.

TERMINATION

Under Article 62 of DIFC Law No. 2/2019 an employer or an

employee may terminate an employment contract without cause after the probation period has expired by giving notice in writing.

The written notice required to be given by either party is not less than seven days, if the employee's period of continuous employment is less than three months, including any period of any secondment; 30 days, if the employee's period of continuous is over three months but less than five years, including any period of any secondment; or 90 days, if the period of continuous employment is in excess of five years, including any secondment period.

The employer and employee can also agree to a longer (but not shorter) notice period in an employment contract.

However, the requirement to provide notice in the event of a termination does not apply in cases where the termination occurred during the probation period, or an employee may decide to cease employment) without first giving notice.

Although, it should be noted that it is permissible (but not mandatory) for an employer and an employee to agree to have a specific notice period in cases where the termination is to occur during the probation period.

In the recent case of *Licia v Liesma*, DIFC Case No. 322/2022, [2022] DIFC SCT 322, the DIFC Small Claims Tribunal confirmed that an employer would be required to provide notice to an employee who was on probation as agreed in their employment contract. A challenge by the employee that the specified contracted notice period was not sufficient to find alternative employment was found to be irrelevant.

GRATUITIES AND BENEFITS

Since 1 February 2020, an

employer in the DIFC has been required to pay any gratuity due to an employee to a qualifying scheme (as recognised by the DIFC Employment Law, DIFC Law No. 2/2019 and DIFC Employment Regulations) on a monthly basis. An employer may defer the payment of such a gratuity during an employee's probation period and would not be required to make these payments if the employment was terminated during the probation period. However, if employment is confirmed after the probation period, the employer must then calculate and make a contribution into the qualifying scheme in respect of the employee retrospectively from the date of the commencement of the employee's employment. In addition, in the *Licia v Liesma*, DIFC Case No. 322/2022 [2022] DIFC SCT 322 case the court confirmed that an employee whose employment was terminated during their probation period would still be entitled to all other end of service benefits from the date of the commencement of their employment. This could include leave or holiday entitlements (if there were any) and payment in lieu of notice if the employment contract required notice to be provided in the event of termination.

In practice, it is not uncommon for employment contracts in the DIFC to include a notice period for terminations during the probation period.

This allows employers to minimise disruption to their business by preventing an employee from immediately terminating employment and allows employees time to look for alternate employment.

Sulakshana Senanayake, Senior Associate, Afridi & Angell also contributed to this article.

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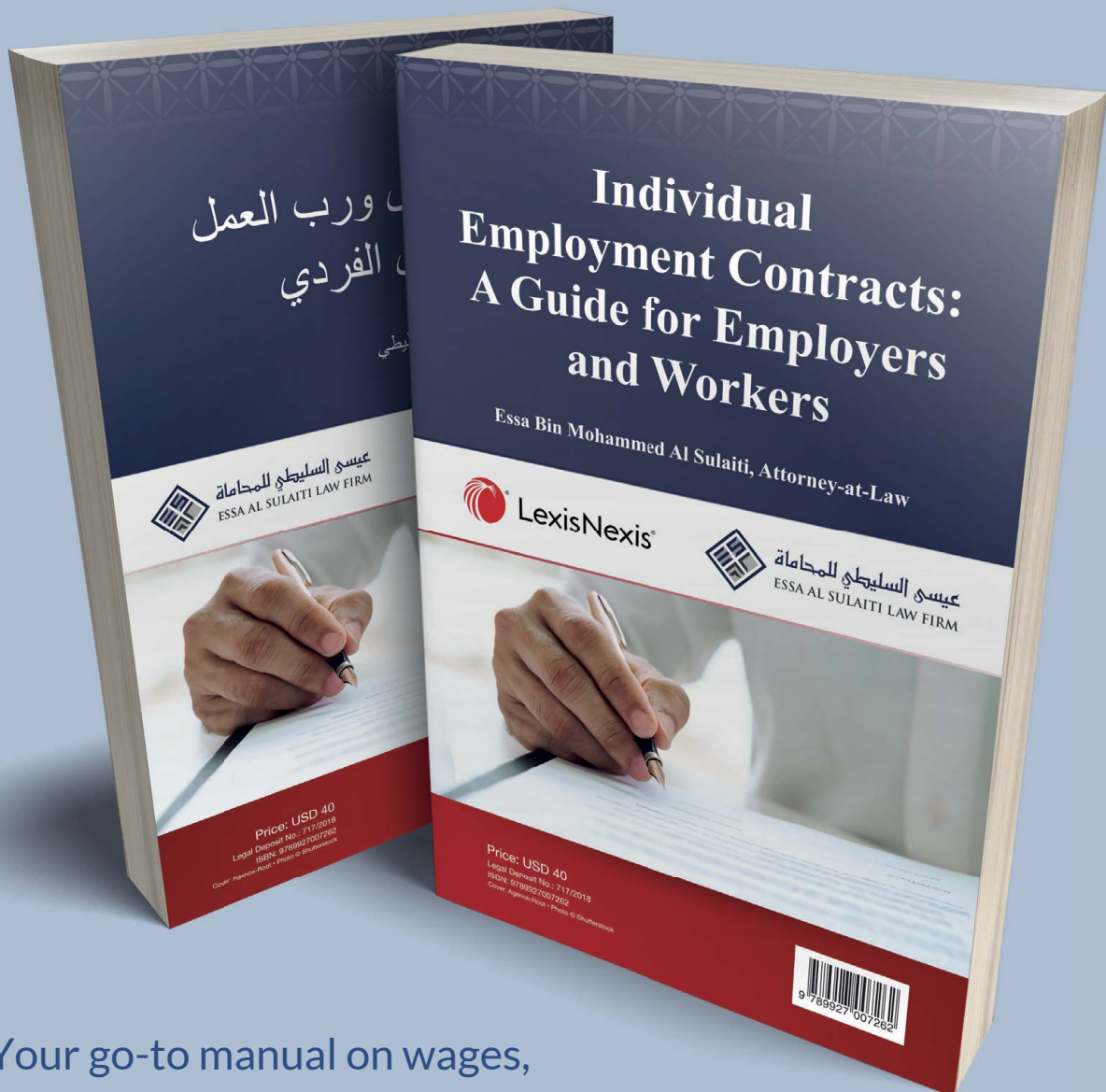
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