

LEXIS MIDDLE EAST HR ALERT

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August 2023

TRENDSETTER ATLAS

Employee wellbeing and healthy organisations

PROFILE HOSPITALITY

Monique Dekker of Hyatt

POLICY POINTER

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COPING WITH CONTRACTS

Employment contract changes in the UAE and Saudi



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CONTRACT CHANGES

After Federal Decree-Law No. 33/2021 (the new UAE Labour Law) was issued almost all the UAE HR professionals we interviewed wanted to talk about the huge challenge they and their teams were facing in having to switch the large number of employees they had previously had on unlimited term contracts to fixed term contracts as the law required. It was a huge administrative task and the decision to extend the deadline for completing that work until 31 December 2023 has been a welcome one.

However, as we examine in this issue, it is not the only change that has been happening to employment contracts in the UAE and Saudi.

Federal Decree-Law No. 33/2021 also reflected the way in which the world of work was changing and the need for employment contract requirements to change in response to this.

In May 2023, the Ministry of Human Resources and Emiratisation (MoHRE) issued a list of different employment contract types which reflected work models including part-time and remote working. There has also been a confirmation of the most suitable contract type for those who are job sharing.

In countries such as the UAE and Saudi, the authorities who are eager to ensure employees' rights are protected, keep a close eye on terms on what is being included in employment contracts, so we have also provided information on how rules on employment contract registration procedures and requirements have been changing.

In Saudi a key change has been the introduction of the Qiwa platform which is now used for both Saudi national and foreign worker contracts and acts as a one stop shop. As part of the rollout of a staged programme employers there are now required to register 80% of their employment contracts on this platform. So, understanding how it operates is particularly important.

Claire Melvin - Editor

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COPING WITH CONTRACTS

Fadi Hassoun and Hadeel Mohamed of Galadari Advocates and Legal Consultants explain recent changes to employment contract procedures and requirements in the UAE and Saudi Arabia.

“One area which has been subject to a large number of changes in recent years both in Saudi Arabia and the UAE has been employment contract contents and procedures,” states Fadi Hassoun. “There have been a number of reasons for these changes, including a desire to increase efficiency, attract more foreign talent, protect employee rights and ensure employment law in these jurisdictions follows international best practice.”

UAE CONTRACT TYPES

“There have been a number of changes to employment contract requirements in the UAE following the issue of the new Labour Law (Federal Decree-Law No. 33/2021) there,” Hadeel Mohamed adds. “This law introduced a whole host of new types of employment contracts.”

“The Ministry of Human Resources



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and Emiratization (MoHRE)’s latest guidance on private sector employment contract types which was updated in May 2023 lists the following types - full time contracts where an employee works for one employer only on a full-time basis, part time contracts for employees who work for one or more employers for a specific number of hours or days, temporary contracts for employees on a specific assignment so the contract ends on its completion, flexible contracts where an employee works hours or days that may change depending on business needs and remote work contracts where all or part of the work is performed outside the workplace,” Hassoun explains.

“There are also now job-sharing contracts, where tasks and duties of a role are divided amongst multiple workers as agreed in advance. The part-time contract rules apply with this type of contract.”

CONTRACT TERMS

“However, one of the most significant changes was the requirement from 2 February 2022 that all employees of companies in the private sector had to be employed on fixed term contracts. Unlimited



© Getty Images/stockphoto

term employment contracts are now prohibited in the UAE and all new and existing private sector employment contracts must be fixed term ones," Mohamed states.

"This has required a lot of administrative work for employers which many have struggled to complete," Hassoun adds. "As a result, the deadline for completing all these switch overs has now been extended to 31 December 2023. MORHE has also confirmed that the provisions in Federal Decree-Law No. 33/2021 will still apply to those who have not yet been changed from an unlimited to a fixed term contract."

"Initially, Federal Decree-Law No. 33/2021 also stated that fixed term UAE private sector employment contracts could only be for a three-year limit," Hassoun continues. "However, this was changed by an amendment brought in by Federal Decree-Law No. 14/2022 which provides employers with the flexibility many of them required and allows them to define the fixed term period in their employment contracts."

"The latest MOHRE guidance also states a fixed term employment contract term can be extended or renewed for a similar or shorter duration," Mohamed continues.

RELEVANT LEGISLATION

Article 1 of Ministerial Decision No. 46/2022

Pursuant to the text of the aforementioned Article 10 of the Executive Regulations of Federal Decree-Law No. 33/2021 the contract between the employer and the worker is concluded in accordance with the standard employment offers and contracts approved by the Ministry and listed on its website.

(Source: Lexis Middle East Law)

"However, if the contract is not renewed or extended when it expires, and the parties continue to perform the contract obligations, it is considered to have been renewed under the same terms and conditions as the original contract. Extensions or renewals of an employment contract are also added when calculating an employee's end of services benefits."

"It is also still possible for the employer or the employee to terminate a fixed term contract before the term ends as long as they give the notice period in either the contract or Federal Decree-Law No. 33/2021."

RELEVANT NEWS

Oman: Electronic Registration of Foreign Workers

A deadline of 1 July 2023 has been set for all employers in Oman to register details of their foreign workers on the Omani Ministry of Labour online platform. They must provide personal and employment information, including job title, salary, and educational qualifications. Once the registration is complete, the employer or the foreign worker must appear in person at an authorised service centre (Sanad office) to validate the registration by presenting the worker's original residence card. There is a government fee of one Rial. The requirement to register foreign employees in this platform has been in place for over a year but the requirement to appear in person in order to complete the process is new. In letters sent to employers about this change the Ministry of Labour has called the process the Employment Contract Registration process.

UAE CONTRACT DEVIATIONS

"Under Article 1 of Ministerial Decision No. 46/2022, an employment contract for a worker must follow the standard employment offers and contract templates listed on the MOHRE website," Mohammed states.

"This means that the employee receives an offer and a contract which are in line with each other. Article 2 of Ministerial Decision No. 46/2022, states UAE employers wishing to hire a worker must use the officially approved standard employment contract when they apply for the work permit."

"The terms in the contract cannot differ from those in the offer. Although it is possible to include additional benefits for the worker in the contract, beyond those specified in their job offer."

"However, MOHRE has also confirmed that UAE employers can deviate from the standard requirements of employment contract templates if they can present a legitimate argument," Hassoun states. "Although, any deviation from the base requirements on areas such as working hours, salary and responsibilities must be mutually agreed and documented in writing by both the employer and the employee, or the terms will be considered void."

"Employers can also implement company policies and procedures which may change certain aspects of an individual's employment contract," Mohammed continues.

"However, these policies should be reasonable, lawful, and must not violate the rights of the employee as outlined in Federal Decree-Law No. 33/2021. Changes can also be made as a result of unforeseen emergencies, temporary changes to job assignments or unique operational requirements, which could justify changes from the contract, but these changes should be reasonable, temporary in nature, and should not result in the violation of employees' rights."

QIWA IN SAUDI

"In Saudi the big change in recent years has been the introduction of the Qiwa platform as the single place for registering electronic employment contracts," states Hassoun. "Previously Saudi nationals' contracts were registered on the Mudad platform,

and the Qiwa platform was only used for foreign workers."

"The Qiwa platform is now used for both Saudi national and foreign worker contracts and it has become a one stop shop for all labour-related matters there," Mohamed continues.

"Its services include labour contract authentication, issuing work permits and visas and a simplified registration process."

"The process begins with an employer creating a digital contract on this platform, which is then sent to the employee. The employee has 30-days to accept, reject, or propose alterations to their contract. If they do not reply within that deadline the contract is automatically cancelled," Hassoun explains.

"Employment contracts are mentioned briefly in Article 479 of Saudi Arabia Cabinet Decision No. 820/1444 (the recently issued Civil Transactions Law) which has detailed requirements on a whole host of specific contract types," states Mohamed.

"Although in the case of employment contracts it merely states they will be governed by the statutory provisions related to them. Employment contracts in Saudi Arabia come in three parts. "

"These are compulsory clauses that cannot be amended, optional clauses that may include provisions on confidentiality, and additional clauses. However, if an employee wishes to make alterations to their contract, the Qiwa platform generates different versions of the contract until it is approved by both parties."

"Once an agreed contract is finalised; it is then assessed through the platform," Hassoun continues.

"Even with this level of flexibility there are still situations in which the available options through the Qiwa system do not meet the requirements of both parties," Mohamed explains.

"Where that is the case, businesses may still opt to also issue their own contracts to incorporate elements that are necessary for fulfilling their objectives."

"The Qiwa platform is being used as a means to monitor employment contracts in the private sector and is helping to reduce the numbers of disputes in this area."

"Although this platform now covers both Saudi national and foreign workers not all Saudi employees come under it at present," Mohamed adds.

"The system is being rolled out to employers in three phases."

"The third phase of implementation has now been reached which means that Saudi businesses are currently required to authenticate 80% of their employment contracts through the Qiwa platform."

"Moving forward compliance with these new contracts will become mandatory, and it is likely the validity of paper-based employment contracts in Saudi Arabia will become uncertain."

From Employee Well Being to Healthy Organisations

Middle East employers are increasingly recognising the importance of employee wellbeing, but as Sushmita Acharjee, Senior Manager, HR Service Delivery & Benefits for Atlas in Africa & the Middle East explains a healthy organisation is also needed.

Since the early 2000s improving employee wellbeing has been on the agenda for many organisations. It is about creating a positive working environment for employees and being aware and responding to health and safety legislation such as Ministerial Decision No. 32/1982 On Workers' Safety, Protection, Health and Social Care or Ministerial Decision No. 212/2014 which covers workers' accommodation. You have to take steps to prevent workplace accidents, provide necessary safety training and ensure good working practices are in place. It is also about protecting employee health which can mean putting in place health insurance cover, supporting those with disabilities and physical wellbeing initiatives, such as employer sponsored yoga sessions. Finally, more recently, it has been recognised it also means supporting employee mental health. A study by the McKinsey Health Institute of 4,000 GCC employees found two-thirds of the respondents reported symptoms of poor mental health and wellbeing or had a mental-health condition diagnosis.

We are now seeing a growing number of employers, especially since the pandemic putting in place initiatives, such as access to mental health support, providing mindfulness training and training on areas such as conflict resolution, which can all have a positively impact on staff mental health. Employers are increasingly putting in place employee wellness agendas which aim to provide support and resources to help their employees maintain a healthy lifestyle and manage their overall wellbeing. The UAE Government also has the National Programme for Happiness and Wellbeing and has issued a Guide to Happiness and Wellbeing in the Workplace to help employers create policies which support this area. That Guide recognises that what is needed is not just employee wellbeing but also having a healthy organisation. Healthy organisations consider employee support and resources, the need for healthy lifestyles and overall wellbeing and take those three areas to the next level with a people centric approach. A healthy organisation will have a positive work environment, strong leadership, effective communication, and a supportive

culture. It will prioritise the overall health and wellbeing of the entire organisation, including its employees, teams, and organisational systems. A study by McKinsey found a healthy organisation is impacted by six pillars - department organisation, processes and workflows, employee wellbeing and development, organisational fairness, whether work is meaningful and innovation. Healthy organisations have engagement - their employees are encouraged to feel emotionally connected to their work and have a sense of purpose. They understand how their work contributes to the company's goals.

There is a good work-life balance which can be achieved by offering hybrid or remote working, encouraging time off, and respecting boundaries between work and personal life such as working hours. There is also a collaborative culture where open communication and knowledge sharing is encouraged. They invest in employee career development and provide opportunities for learning, skill-building, and career advancement. The leadership also sets the tone by providing a positive example, supporting employee wellbeing, and creating an inclusive work environment. There are clear organisational values which actions align to. Employees' hard work and business impact is recognised and rewarded, as being appreciated is key to work-life satisfaction. The organisation also encourages innovation and can adapt to evolving circumstances. There is a culture of respect and collaboration and investment in learning and development. The place to start is to assess your company's current wellness and health status, have a clear vision of how to change it, communicate that effectively, and get buy-in from leadership. Employees should also be involved in the process. It is also necessary to implement supportive policies and programmes and improve your organisation's communication and transparency. Once you have done that, you need to assess your organisation's progress, adapt and start over again because moving to a healthy organisation is a long-term commitment and to succeed consistent effort is needed from all levels of your company or organisation.

NEWS ROUND-UP

COVERING RECENT KEY DEVELOPMENTS – REGION-WIDE

UAE

EMIRATISATION CHANGES



The UAE Ministry of Human Resources and Emiratization (MOHRE) extended the deadline private sector companies had to meet their mid year Emiratization objectives to 7 July 2023. Previously it had been stated private sector companies with 50 or more employees had to meet the midyear target by 30 June 2023. The deadline was changed to take account of the Eid holiday.

ABUSIVE MESSAGE



A worker who sent an abusive message to their manager by WhatsApp has been ordered to pay 10,000 AED in compensation by the Abu Dhabi Family, Civil and Administrative Cases Court. They had initially been charged in accordance with a criminal judgment and ordered to pay 1,000 AED. The court indicated the claims for both the criminal and civil cases had been based on the same grounds. The criminal judgment had confirmed the worker's involvement in this act.

WORK CHANGES



New executive regulations of the Human Resources of Government Federal Authorities Law (Federal Decree-Law No. 49/2022) allow federal authority employers to change an employee's work pattern or type of work following a request by the employee as long as the change serves the Federal Authority's interests. These changes can be made a maximum of two times during the service period with the Federal Authority. If the employment pattern is modified, calculations on leave, promotions, bonuses, and end-of-service benefits must also be made.

DUBAI

PROMOTION AND RETIREMENT



The Ruler of Dubai has issued decrees on the promotion and

retirement of local military personnel. Dubai Decision No. 16/2023 outlines the criteria for the promotion of military personnel. It also details the programmes and courses military personnel must complete in order to be eligible for promotion and the assessment process used when deciding to promote an individual to a higher rank. While Dubai Decree No. 27/2023 applies to all local military personnel working in any military or civil entity. It outlines the conditions governing their retirement as well as procedures for notification and postponement. Under this decree, the department is authorised to inform personnel of their impending retirement at least six months before so they have sufficient time to plan and have a smooth transition. Dubai's chief of police and public security is also expected to issue decisions they require to implement this decree.

SAUDI ARABIA

TAX AND TRAINING



The Tax, Zakat, and Customs Authority (ZATCA) has stated that educational programmes which are equivalent to educational certificates can be exempt from VAT. In order to qualify for the exemption the programme must last at least two years but no more than three years. However, this exemption does not include non-compulsory education programmes and courses which do not equate to a recognised certificate. It should be noted that the Saudi state will bear the VAT on fees for education services which are provided to Saudi citizens by establishments licensed by the Ministry of Education, and centres and institutes which are supervised by the Technical and Vocational Training Corporation.

SAUDISATION CHANGES



The Saudi Ministry of Human Resources and Social Development has begun the process of Saudisation of specific jobs and activities

in Medina and Jazan as part of their Regional Saudisation Programme. The aim of the change is to create more employment opportunities for Saudi nationals particularly in restaurants. A 40% Saudisation level has been set for restaurants, kitchens, fast food establishments, and juice shops. While a rate of 50% will apply in ice cream and coffee shops.

QATAR

HEAT STRESS



For the second year running the Qatari government has decided to restrict motorcycle deliveries in the summer months to reduce the risk of heat stress. As a result delivery drivers have been required to use cars rather than motorcycles between 10 am and 3.30 pm during the summer months. This decision follows on from Qatar Ministerial Decision No. 17/2021 On the Necessary Precautions to Protect Workers from Heat Stress. Under this law summer is defined as running from 1 June to 15 September of every year. Workplaces which fail to comply with this law can be partially or totally closed by a Ministerial Decision. Food delivery companies and restaurants in Qatar are using a range of strategies to limit the risk of heat stress including adjusting delivery schedules, providing rest breaks, and equipping riders with cooling vests and helmets.

BAHRAIN

HUSBAND FORCED TO PAY EMPLOYER



Bahrain's Minor Court has ruled a husband must pay 500 Dinars in compensation to his wife's employer. The husband had previously agreed with his wife's employer to pay a guarantee amount if she did not return to her employment as agreed. His wife was a domestic worker who had asked for permission from her employer to visit her mother in her home country, and the guarantee had been made by her husband that she would. However, the wife had failed to return as

agreed. Under Article 35 of Bahrain Decree-Law No. 19/2001 (the Bahraini Civil Code) if an individual assumes responsibility for ensuring the completion of a specific action by another person, and that person fails to fulfil the obligation, the person who took that responsibility will be obliged to honour their obligation.

NEW NATIONAL LABOUR PLAN

 The Bahraini Government has issued a new three year national labour market plan. Ninety-one percent of the initiatives in its last plan have been achieved. Aims include increased employment of Bahraini workers in the private sector, increased number of Bahraini women workers and addressing the cost gap between employing Bahrainis and foreigners. There is also a target to train at least 10,000 Bahraini jobseekers annually, improve the quality of training programmes, and strengthen vocational and technical training. In addition, increased licensing will be needed to practice specific professions in Bahrain. The private sector will also be encouraged to allow different forms of employment including part-time and remote working. On the legal side there are plans to develop new occupational health and safety legislation and regulations, and there will be changes to labour legislation to protect the rights of workers in Bahrain in line with international agreements. In addition further steps will be taken to enhance the wage protection system.


OMAN

WAGE PROTECTION

 Oman Ministerial Decision No. 299/2023 has been issued creating a new mandatory wages protection system there. This requires employers to transfer their employee's wages to an authorised local bank within a maximum seven days from the due date. The process is facilitated through a salary information file. The Inspection Department's Wage Protection division will oversee the electronic system and monitor wage disbursements to the

private sector with a few exceptions. Employers are required to add new employees within 30 days. They must also promptly inform the Ministry of any changes to an employee's wages.

SOCIAL PROTECTION FUND

 Oman Sultani Decree No. 52/2023 has been issued to bring in a new social protection fund in Oman. The fund brings together 11 separate pension schemes in one national scheme. It extends cover for employment injury, maternity, and sickness to expatriate workers under the same terms as national workers. Benefits will be provided for workplace injuries which occur from the period an individual is going to start their work to when they return from it. This will include during movement from their workplace to where they take lunch or pray, and near their workplace, as long as they did not stop or deviate from their normal route or an acceptable route when they were injured.


There will also be cover from the scheme for occupational diseases which occur within one year of termination of the insured's service unless the disease is on a special list of diseases which take longer to appear.

Maternity leave insurance entitlements under the fund will be full pay for a period of 98 days of which 14 days may be prior to the date of delivery. An insured father would also be entitled to the same leave entitlement in the event of the death of the mother during child birth or during their maternity leave.

A member of the Retirement and Social Protection Restructuring Project Team, has also stated that Omanis who work in other GCC countries will also be subject to the Social Protection Law.

TURKEY

NEW MINIMUM SALARY

 As of 1 July 2023, the net monthly minimum salary in Turkey has been set at 11,402.32 Turkish Liras. The gross minimum level has been set at 13,414.50. Turkish Liras. A new minimum salary support level of 500 Turkish Liras, will also be valid from July – December 2023.

IN BRIEF

Oman: Khuta Oman's first interactive career guidance platform has been launched...

UAE: The Federal Government has set out conditions for UAE national employees in the Federal Government being granted study leave...

Kuwait: The minimum wage has been increased to 1000 Dinars...

Saudi Arabia: The Ministry of Human Resources and Social Development (MHRSD) decision on Saudisation requirements for private schools teaching the national curriculum has been issued...

Abu Dhabi: Fines of 10,000 AED are being issued for failing to have a maintenance contract with Civil Defence Authority approved contractors in place for firefighting systems and detectors...

Kuwait: Kuwait Administrative Decision No. 1873/2023 on working hours in commercial shops in artisanal areas has been issued...

Bahrain: Bahrain Decision No. 47/2023 on issuing entry visas and platinum residence permits in Bahrain has been issued...

Jordan: The Council of Ministers has approved a draft law on the recognition and equivalence of non-Jordanian higher education institution certificates ...

Egypt: Minimum salary levels in the private sector have gone up to 3,000 Egyptian Pounds per month...

Kuwait: Implementing Regulations (Kuwait Decree No. 97/2023) on Kuwait Law No. 8/1969, the law on health precautions for the prevention of communicable diseases, including COVID 19 have been issued...

Kuwait: The Health Ministry has approved additional tests for non-Kuwaitis who wish to practice medical professions in Kuwait...

Saudi Arabia: Draft Regulations on the transfer of Personal Data outside Saudi boundaries have been issued with consultation scheduled to end on 31 July 2023. They include information on transfers which are based on an Adequate Level of protection, risk assessment and how to safeguard data transferred outside Saudi ...

Dubai: A new mandatory insurance scheme has been set up for employees of 4,200 companies licensed by the Dubai Aviation City Corporation and will cover areas including unpaid salaries, end-of-service gratuities, repatriation costs and unreimbursed expenses...

IMMIGRATION FOCUS

RECENT GCC IMMIGRATION AND VISA CHANGES

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UAE

REMOVAL OF 10 DAY GRACE PERIOD

 The UAE has removed a 10-day grace period which was previously granted on pre-arranged visit visas. With immediate effect, visitors who hold pre-arranged visit visas must ensure strict compliance with their requirements. In the past, travellers to the UAE who had a pre-arranged visit visa were allowed a 10-day window beyond the expiry of that visa to exit the country without facing any penalties. The removal of this period has been confirmed by the General Directorate of Residency and Foreigners Affairs (GDRFA) and Federal Authority for Identity, Citizenship, Customs and Port Security (ICP). UAE authorities will now require those on pre-arranged visit visas to strictly adhere to the entry and exit dates stipulated in those visas. Failure to leave the country on or before the visit visa expiry date could result in penalties, including fines or potential restrictions on future visits to the country. Visitors to the UAE are being advised to review their visa details, including dates to avoid unintended violations. It is also worth noting that those who hold a pre-approved UAE visit visa can opt to extend that visa in country. However, the extension period issued is at the discretion of the authorities. In addition, this in-country visit visa extension option only applies to pre-approved visit visa, not to visit visas issued on arrival. Extension requests can also only be submitted by the Agency which submitted the initial visit visa request.

90 DAY VISIT VISAS RETURN

 Changes to the grace period are not the only recent ones to the rules on visit visas in the UAE. Authorities there have also now reintroduced the

option to apply for a 90-day visit visa. This option had been previously removed at the end of 2022. It is understood this change is designed to help boost tourism and encourage economic growth in the UAE.

EMIRATISATION REQUIREMENTS FOR SMALL COMPANIES

 The Ministry of Human Resources and Emiratization (MoHRE) has extended the scope of its Emiratization initiative, so that it now includes small companies in certain parts of the UAE private sector. Previously Emiratization requirements only applied if a private sector company or sole trader in mainland UAE had 50 or more employees. It has now been announced that Emiratization requirements will also apply to private sector companies or sole traders in mainland UAE which have 20 to 49 employees. Currently, a 2% Emiratization target applies to UAE mainland companies with a workforce of 50 or more, irrespective of the economic sector they are in. These companies are required to increase their Emiratization rate by 2% at the end of each year, and continue to do so annually, so that they reach a 10% Emiratization target by 2026.

Small private companies will not be subject to the same mandatory targets as the larger ones with 50 or more employees.

Instead, these employers will have to hire at least one Emirati employee in 2024, then a further one in 2025.

In addition, the requirements for smaller employers will only apply to those operating in 14 specific sectors.

These sectors are information and communications; financial and insurance activities; real estate; professional and technical activities; administrative and support services; the arts and entertainment sectors; mining and quarrying; transformative industries; education; healthcare and social work; construction; the wholesale and retail sector; transportation and warehousing; and finally, hospitality and residency services. The sectors which have been selected for this expansion



of the Emiratization scheme have been identified as they align with the UAE's economic development goals and its labour market requirements.

It is understood MOHRE will shortlist the establishments in these specific economic sectors which are to be covered by these new requirements. This selection will take into account a variety of factors, including specific job roles, job growth and geographical location. The targeted establishments will then be specifically contacted by MOHRE.

As is the case with the larger employers, smaller entities which fail to meet their new Emiratization targets will face fines and penalties. Those who fail to meet their 2024 target will be required to pay a yearly financial contribution in January 2025. This yearly financial contribution will then double to 108,000 AED for those who fail to make the 2025 target, which they will be required to pay in January 2026. As is also the case with larger employers attempts to falsify Emiratization figures, provide false or inaccurate documents relating to the scheme or false or inaccurate information in order to benefit from the Nafis programme (which helps cover salaries or training costs for newly appointed Emirati employees) will incur further penalties and have legal sanctions imposed on them by MOHRE. As a result, companies with between 20 and 49 employees which operate in these sectors in mainland UAE who are looking to increase their workforce may need to review their hiring strategies to ensure they are taking steps to hire and retain Emirati employees.

ILOE SCHEME EXTENSION



On 3 May 2023, the Involuntary Loss of Employment Insurance (ILOE) Scheme which was introduced on 1 January 2023 and initially applied on a mandatory basis just to all employees who worked in the private and the federal sectors in the UAE mainland was extended to also include employees who worked in Freezones and in semi-government entities in the UAE. The scheme aims to provide security to UAE residents, Emirati and GCC nationals who face redundancy or contract termination by their employer, unless they have resigned or lost their job as a result of disciplinary action. Initially,

UAE nationals and residents were given a 30 June 2023 deadline by which to join this scheme. However, this has now been extended to 1 October 2023. It should be noted that this new extended deadline for ILOE Scheme registration only applies to individuals based in companies in the UAE mainland, as although free zone based employees can, if they wish, register with the scheme, this is not mandatory for them. Eligible UAE mainland-based employees who fail to register with the scheme before this new deadline will face fines of up to 400 AED per employee.

Employers are not obliged to enrol their employees on the insurance scheme or pay their contributions, but they should advise their employees of their obligations in this respect. There are a number of selected insurance providers in the UAE which can provide cover under this scheme. However, it is recommended employees go to the official website (iloe.ae) in order to register.

SAUDI ARABIA

PROFESSIONAL EXAMS INCLUDE SRI LANKA



The Saudi Arabian Ministry of Human Resources and Social Development has announced that it has activated their Professional Examination programme in Sri Lanka. The scheme will cover five professions there - plumbing, electrical and automotive electrical work, automotive mechanics, and refrigeration and air conditioning work.

The aim is to verify the skills of workers in these professions, improve the quality of their work and services, enhance productivity, and stop unqualified workers entering the Saudi labour market.

The programme has already been rolled out in India, Pakistan, and Bangladesh. Those wishing to obtain the certificate, register on the professional examination portal. They then schedule a date for the practical and theory exams. Their data is verified with examiners at the centre before taking the exam. Certificates are issued after the worker has passed the assessment stage.

This certificate is treated as an additional requirement for workers during the recruitment process.

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

SENIOR MANAGER – VIALTO PARTNERS



Keeping Connected

Umme Salma, Senior Manager at Vialto Partners explains why keeping connected and being prepared is so important in corporate immigration.

ABOUT YOU?

I have a Degree in Business Management from Bangalore University and over 19 years of corporate experience working with global immigration firms. During that time, I have gained vast experience in corporate immigration, primarily on the MENA region including Saudi Arabia, UAE, Qatar, Bahrain and Kuwait, but I also have exposure in Europe and Asia.

Overall, I would say I am highly experienced and knowledgeable in providing solutions based strategic guidance and am committed to assisting multinational clients with their immigration needs in the UAE and Kuwait. I am also passionate about helping people and businesses to navigate the complexities of immigration and achieve their goals in these countries.

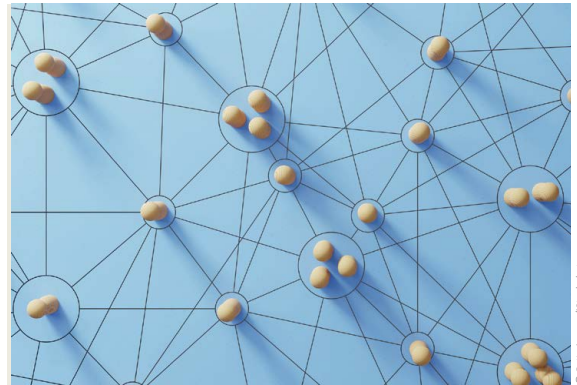
ABOUT YOUR CURRENT ROLE

As a Senior Immigration Manager at Vialto Partners, I have the privilege of working closely with clients, Human Resources, and global mobility teams to effectively manage their global Immigration programmes.

One of my key responsibilities is supporting and overseeing the immigration needs of the large employee expatriate workforce in the UAE of a tech giant. By collaborating with clients, I gain a deep understanding of their unique business objectives and employee mobility requirements. This enables me to develop comprehensive immigration strategies and solutions that align with their global workforce management goals. Working closely with Human Resources and the global mobility team, I ensure seamless coordination and execution of immigration processes for expatriate employees.

This includes managing visa applications, work permits, residence permits, and other immigration-related documentation. I guide the team through the complex immigration procedures within the Middle East region and provide ongoing support to ensure compliance with all relevant immigration regulations and policies.

In addition to managing the day-to-day operations of global immigration programmes, I provide technical training for the team, conducting training sessions in order to enhance their knowledge and skill on



immigration processes, regulations, the constant changes and best practices. By providing the team with up-to-date information and expertise, I enable them to effectively handle immigration matters independently, ensuring their work is efficient and accurate. I also participate in seminars and conferences on immigration trends, regulatory updates and industry developments, and ensure that our global immigration programmes are up-to date and remain compliant.

ADVICE TO EMPLOYERS

Employers are often surprised by the important role job titles play in the immigration process. The job title list used by MOHRE and the immigration authorities is limited, and an employee must be able to prove to the authorities they have the necessary academic qualifications for the selected job title. That can create problems for some senior employees who may not have their academic certificates to hand.

My advice to an employer moving staff to the GCC is to plan ahead. Start the immigration process at least two to three months before the employee's actual start date. This means the case assessment can be completed and documents reviewed in advance for any red flags or potential delays to the process. Employers also need to be prepared for last minute changes to the immigration process which can be implemented without prior notice. In fact, unannounced changes and technical downtime at the MOHRE and immigration portals which impact the timing of relocations and individuals' ability to travel outside the UAE are common challenges employers can face.

To mitigate these at Vialto we stay connected with senior officials at the labour and immigration authorities, so we can pre-empt upcoming changes. We also set client expectations and where possible expedite the immigration process to meet with client demands.

LAW CHANGES

NEW AND PROPOSED MENA LAWS

EMIRATISATION

Dr Laura Voda and Macquelin Pereira of Fichte & Co explain changes made by Ministerial Decision No. 296/2023 on fines for Emiratisation related offences.

In June 2023, Ministerial Decision No. 296/2023 On the Standards of Imposition of Administrative Fines According to Cabinet Decision No. 95/2022 on the Offences and Administrative Fines Related to the Initiatives and Programmes of the Emirati Talent Competitiveness Council (NAFIS), was issued. It covers procedures for imposing administrative fines for various Emiratisation related offences.

In April 2023 Cabinet Decision No. 44/2023 was issued, which inserted a new clause into Cabinet Decision No. 95/2022, under which an establishment that circumvented the Emiratisation targets by reducing the numbers or modifying the classification of their workers or committing some form of fraud in order to circumvent Emiratisation targets would be subject to a fine of 100,000 AED for the first offence, 300,000 AED for the second and 500,000 AED for the third time and every time after that. There have also been recent reports of plans to increase the scope of Emiratisation requirements which previously only applied to entities with 50 employees to smaller employers, e.g. those with a workforce of 20 to 49 employees will be required to hire at least one Emirati employee by 2024.

Ministerial Decision No. 296/2023 has brought in some further changes on the fines imposed. The most significant change is to the procedure for imposing fines, and there is a specified fine depending on whether the violation is a first-time or a recurring violation.

Under Ministerial Decision No. 296/2023 an administrative fine of 20,000 AED is issued for a first-time offence, 50,000 AED for the second time and 100,000 AED for the third time and every subsequent violation. This fine is imposed on any person whose establishment has a fictitious Emiratisation ratio; submits

UAE - TRAINING



Ministerial Decision No. 240/2023 had outlined details of special employment contracts which have to be used for what are being called 'Studying Citizens'. These are UAE citizen enrolled to study in one of the programmes supported and approved by the Nafis scheme in the specialised occupations and job categories determined by the Ministry. It will not be permissible to combine Nafis benefits and privileges for citizens working in the private sector and compensation given to a studying citizen who is enrolled as studying in one of the programmes supported and approved by the Nafis in the specialist occupations and job categories determined by the Ministry, during the study period. These students cannot change what they are studying without prior approval from the ministry and the employer. They must also join the employer after successfully completing their studies for a period equal to the duration of their employment contract.

OMAN - LABOUR



A new Oman Labour Law, Oman Sultani Decree No. 53/2023 has been issued and replaces Oman Sultani Decree No. 35/2003. It underlines the importance of employers having a plan for localisation which is published in their workplace and website. They will also be required to produce a report on Omani workers, including their salaries, gender and information on job vacancies. Employers must also have a plan on appointing and training Omanis for leadership roles. A number of provisions have been put in place to support women workers in this law including a 98-day maternity leave provision, and the right to take unpaid leave for up to a year for childcare reasons. There is also now seven-day paternity leave and 15 day caregiver leave - where an employee needs to accompany a patient. In addition, sick leave levels have been increased.

incorrect documents or data in order to obtain the benefits from NAFIS; or who terminates the service of a NAFIS beneficiary and reappoints them at the same establishment in order to obtain the Council's support. In addition, if an establishment fails to report any change made to the terms of benefit of an Emirati employee, without a reason that is acceptable to the Council, an administrative fine of 20,000 AED will be imposed for every case in which this happens.

An administrative fine of 20,000 AED is also imposed for every national failing to comply with the UAE Labour Law (Federal Law No. 33/2021) and its implementing regulations, if the beneficiary did not take up the post after being issued with a work permit and the establishment getting support from the Council; if the beneficiary takes up the post but does not work on a regular basis; or if the beneficiary ceases to work and the establishment fails to inform the Council of that.

SAUDI ARABIA - DATA PROTECTION



A draft version of the Saudi Arabia Personal Data Protection Law Implementing Regulations has been issued for consultation. The draft Regulations provide additional information on a range of areas covered in the law including what is considered personal and family use and the legal basis for Processing. There is also further detail on the information which should be provided to Data Subjects when this data is collected and what should happen if a data subject asks a Controller to access their personal data. Consent and the withdrawal of consent is also covered. The photocopying or copying of official documents which reveal data subjects' identities is also specifically dealt with. The final regulations will come into force from the date the Personal Data Protection Law is in force. The consultation has been scheduled to end on 31 July 2023.

BAHRAIN - PENSIONS



Bahrain Decision No. 50/2023 has been issued, which amends certain provisions of Bahrain Decision No. 33/2012 on the purchase of presumed work periods by government employees. As a result, the allowance mentioned in Article 2 will be calculated in line with Schedule 6 of Bahrain Law No. 13/1975 on Pension and Retirement Benefits for Civil Servants. The changes will apply to employees who continue to work after the age of 60. In addition, a new Article has been added to Bahrain Decision No. 33/2012 which covers how awards are determined when government agency employees purchase virtual periods of service.

An administrative fine of 2,000 AED per month up to a maximum of 5,000 AED will also be imposed if required documents are found to be invalid or there is a failure to renew them within the required period of time.

It is worth noting the types of fines which are detailed in Ministerial Decision No. 296/2023 are not new. The offences they cover which include fake Emiratisation, failure to comply with the applicable rules on Emiratisation, and unfairly obtaining NAFIS benefits have all been covered in earlier legislation. What is new and has now been clarified is exactly how these fines are to be imposed, particularly in cases of multiple violations by an establishment. The offences which have been detailed in this Ministerial Decision are as a result of the Ministry of Human Resources and Emiratisation (MOHRE)'s experience of violations committed by establishments in the past year, specifically how some businesses have attempted circumvent the rules on Emiratisation targets. These fines are a mechanism to counter those sorts of fraudulent acts.

Employers can face severe consequences for any violation of Emiratisation targets or the rules against fake Emiratisation. It is important to note the fines imposed are higher when an offence is committed for the second time or any subsequent time. Employers need to take utmost care in ensuring they comply with the Emiratisation targets and the rules for implementation of Emiratisation. They should also closely monitor all the developments on Emiratisation, and work with governmental authorities to ensure their entity is compliant with the applicable laws in this area.

Failure to do this can have undesirable consequences, ranging from imposition of hefty fines to legal action by the Public Prosecution.

KUWAIT - EX PATS



A law which regulates the residence of foreigners in Kuwait is expected to be voted on by the parliament in the next session which starts in October. Under new proposals, expatriates would be granted a residence permit of not more than five years. Investors would be given residence permits of up to 15 years, depending on their activity. Other proposals include giving a 10 year residency permit to children of Kuwaiti women.

CASE FOCUS

Case No Muftan v Mekher, DIFC 094/2023, [2023]
DIFC SCT 094 issued on 3 April 2023

Jurisdiction DIFC

Court DIFC Small Claims Tribunal

Recommended by Dentons

WHAT IS IT ABOUT?

The Claimant, Muftan, was a former employee of the Defendant, Mekher a Company registered in the UAE. Muftan had been employed on 14 January 2022, as a Corporate Head Chef.

Mekher then terminated their employment after Muftan had continued to pay salaries to external staff on behalf of the Company for June, July and August 2022 despite the fact their employer had asked them not to take on any external staff from June 2022.

Muftan argued that, as stated in their Offer letter, the company owed them their salary, holiday pay, allowances, commission, pay in lieu of notice, an end of service gratuity and reimbursement for invoices they had paid on behalf of the company.

Muftan had previously filed two claims in relation to their employment with the Mekher prior to this claim.

After the first claim, a Consent Order dated 18 January 2023 was issued, settling the case. A key point was that the Consent Order stated the terms contained in it 'were a full and final settlement of this Claim'.

In the second claim, Muftan sought an additional end of service entitlement. The second claim was dismissed.

In this claim, Muftan argued that they had not put all their claims forward in the first claim as they did not want the company to prolong the process of making the payment to them. However, their employer argued that the same claim had been fully and finally decided

by the court in the previous judgment by the Consent Order.

The key question for the tribunal to consider was whether the employee was eligible for additional claims following the issue of the Consent Order.

WHAT WAS DECIDED?

The DIFC Small Claims Tribunal applied the legal principle, Res Judicata. This means where a matter has been decided by the court, whereby an order and/or a judgment has been issued, then no further action can be pursued in respect of that same claim.

The Small Claims Tribunal found that as a Consent Order had been issued which constituted a full and final settlement of the claim, the tribunal was unable to pass any judgment in relation to the matter as it had already been decided.

The Small Claims Tribunal also confirmed that the employee had waived their rights to make further claims as a result of the agreement they had entered into with the employer in the first claim and by issuance of the Consent Order.

WHY WAS IT IMPORTANT?

The DIFC Small Claims Tribunal confirmed the application of the Res Judicata principle in this case. It is clear that where a claim has been previously decided by a DIFC court and is deemed to be fully and finally settled the court may be unable to pass any judgment on that same issue at a later hearing. It should also be noted that the tribunal carefully considered the wording of the Consent Order before applying the Res Judicata principle in this case.

This case also shows the importance for those making claims to present their case fully with all the available facts and any possible requests they may

need to make when the initial claim is first made. Leaving some requests out of an initial claim, to speed resolution of other parts of the claim is a high risk approach, as it is likely the courts will not be able to pass another judgment and/or order, at a later date on parts of a claim or requests that were not initially made, after the first claim has been decided.

Case No TCOC Case No. 89/2023 K issued on 4 May 2023

Jurisdiction Turkey

Court Turkish Constitutional Court

Recommended by Gün + Partners

WHAT IS IT ABOUT?

In Turkey, Turkey Law No. 5953/2003 on Arrangement of Relations Between Employers and Employees in the Field of Press sets out the terms and conditions which apply to journalists who work there. Article 6 of Turkey Law No. 5953/2003 covers journalists' entitlements to severance pay and the termination of their employment contracts by employers. This article stated that journalists with at least five years' professional service were entitled to severance pay. This entitlement was calculated as one month's salary for each service year based on the journalist's most recent monthly gross salary. If there was a partial year's service, this was calculated on a pro rata basis. However, a partial year less than six months' service, would not be considered in this calculation. The Ankara 21st Labour Court applied to the Turkish Constitutional Court on the legality of this provision, as the conditions in Article 6 of Turkey Law No. 5953/2003 meant that journalists were in a less favourable position than other types of employees who were covered by other labour laws in Turkey, such as the Turkish Labour Law, Turkey Law No. 4857/2003. Turkey Law No. 4857/2003 deemed one year of service was sufficient in order to qualify for severance pay, while under Turkey Law No. 5953/2003 a journalist would need five years of service in order to be eligible for severance pay.

WHAT WAS DECIDED?

The Turkish Constitutional Court stressed that Article 10 of the Turkish Constitution stipulated there should be equality in the eyes of the law for all who had the same legal status. This principle aims to ensure those with the same legal status are subject to the same legal treatment in order to avoid any kind of discrimination or privilege. If there is any difference in treatment it must rely on objective and reasonable grounds and also be proportionate. Journalists whose employment was governed by Turkey Law No. 5953/2003 were in a worse position than other employees governed by Turkey Law No. 4857/2003 when it came to the required service to qualify for severance pay.

The position for all employees working under an employment contract in Turkey should be comparable. Journalists may benefit from certain favourable rules

on salaries and benefits as a result of their role in a democratic society but in this case the Constitutional Court felt there was unfair treatment of journalists who were subject to Turkey Law No. 5953/2003 compared to other types of employees. Although, the main Turkish Labour law (Turkey Law No. 4857/2003) provided for the calculation of severance pay using a method based on all service at the same employer's workplace and the Press Labour Law (Turkey Law No. 5953/2003) used a calculation method for severance pay which merged Professional Service with different employers without setting a severance cap, this advantage did not change the fact that Turkey Law No. 5953/2003 did not rely on objective or reasonable grounds for setting the severance pay qualification period for journalists at five years' professional service, to the potential detriment of journalists.

The Constitutional Court also emphasised that a press worker who had completed five years of service, whose position was then terminated, and received severance pay, would then face a clear imbalance and an extreme and unproportionate burden, as severance pay would only then become available after they had a further five years' Professional Service at workplaces which came under Turkey Law No. 5953/2003. The five-year service requirement was deemed to be against the principle of equality in terms of the right of property.

In addition, Turkey Law No. 5953/2003 also did not count any partial year Professional Service of less than six months within the calculation.

This was also another area where there was not an equivalent detrimental provision in the main Turkish Labour law, where the entire service duration was considered in the severance pay calculation. There was also no objective or reasonable grounds for not including service periods of less than a certain duration in the calculation of severance pay for press workers. As a result, the Turkish Constitutional Court also deemed this provision was a breach of the principle of equality in terms of the right of property.

WHY WAS THIS IMPORTANT?

The Turkish Constitutional Court decided as a result to cancel the provisions in Turkey Law No. 5953/2003 on the five-year service requirement and on how portions of annual service of less than six months would be treated when calculating severance pay.

This has put press workers on an equal footing with other type of workers in this area. Key points in this ruling included that were different legislation applied to a particular group of workers which put them in a position which was not equal to that of comparable workers covered by alternative legislation, the Constitutional Court was looking for objective or reasonable grounds in the legislation which justified that difference in approach. In addition, it was also noteworthy that the Constitutional Court assessed both severance pay entitlements in terms of the right to property.

HR PROFILE

SENIOR VP HUMAN RESOURCES – HOSPITALITY



Resilience and Growth

Monique Dekker, Senior Vice President Human Resources at Hyatt, Europe, Africa and the Middle East explains her approach to HR in an industry where resilience and growth have been the recent requirements.

ABOUT YOU

I have a degree in hotel management from Hotelschool The Hague. I began my career in 1996 at Grand Hyatt New York and then worked in various roles in Hyatt properties in Tokyo, Düsseldorf, Chicago and Singapore, before becoming the General Manager of the iconic Park Hyatt Vienna and Area Vice President for Austria, Czech Republic, Italy and Hungary.

During that time I also served on the company's Global Diversity Equity and Inclusion Council. In addition, I was the Chair of Women@Hyatt for seven years, which is a global initiative to accelerate and increase professional growth opportunities for female employees. Within the EAME region we currently have 13 chapters and 600 colleagues involved in this initiative.

I took on a new role this year as Senior Vice President Human Resources EAME. Over 18,000 professionals work in the region I am responsible for.

ABOUT YOUR COMPANY AND INDUSTRY

Hyatt Hotels Corporation, which is headquartered in Chicago has more than 1,250 hotels and all-inclusive properties in 75 countries across six continents. The hospitality industry is like no other. Companies like ours had to demonstrate incredible levels of resilience during the pandemic. However, as travel picks up across the globe post pandemic, we are now growing exponentially. In the last four years at Hyatt, we have doubled our luxury rooms. We have been the fastest organically growing hospitality company for six consecutive years. In the EAME region, Hyatt's portfolio includes 205 hotels which is a 266% increase in hotel numbers compared to 2016. That growth level is continuing. We have properties throughout the Middle East including in the UAE, Oman, Kuwait, Qatar, Bahrain and Saudi Arabia as well as Egypt, Jordan, Lebanon and Syria. In 2022, 45% of the 120 hotels that joined Hyatt were in the EAME region and 10% of Hyatt's 117,000 rooms pipeline is expected to be in the EAME markets.

YOUR ROLE

As Senior Vice President Human Resources EAME, my role is to drive the development and retention of



the industry's best talent while also advancing a more diverse, inclusive and equitable workplace. At Hyatt we aim to care for people so they can be their best, and foster an environment where all individuals can thrive in their roles and feel a sense of belonging. One of my priorities is to create and maintain a diverse workforce in line with Hyatt's Diversity, Equity and Inclusion initiative. This includes creating opportunities for young people and supporting both the local and expatriate workforce. Our industry needs to cater to the needs of a new generation of guests, who perhaps feel more comfortable in sneakers and ripped jeans than the haute couture traditionally associated with Five Star Hotels. These new customers want and deserve to find people like them on the other side of the counter. That is why diversity and inclusion is so important.

In the hotel industry you can create a career regardless of your background. The General Manager in one of our hotels began her career as a waitress in a small restaurant. The growth our industry is experiencing means now is the best time for aspiring hoteliers to join this industry. It is also an industry

PRACTITIONER PERSPECTIVE



Amy Guest

Senior Associate
Clyde & Co

Amy Guest of Clyde & Co looks at how the employment of young workers is supported and regulated in the UAE.

It makes sense for employers to consider taking on and training young workers who have the potential to become future leaders when they are recruiting. The Federal Nafis scheme can be particularly helpful where an employer is considering recruiting

a young Emirati who may need training or to gain further experience before they can take on all aspects of the role. Under the scheme the employer can receive financial support for training costs or financial support to help fund trainees' salaries if the trainee is an Emirati recruit.

The UAE Labour Law (Federal Decree-Law No. 33/2021) defines a 'Minor' as a person who is over 15 (i.e. has reached their 15th birthday, so they could be 15 years and a day) and under 18 years of age. In the UAE, employers are prohibited from employing anyone under 15 years old and there are also certain restrictions which apply to the employment of a Minor.

Employers who are registered with the Ministry of Human Resources and Emiratisation (MOHRE) may also find that after registering on the Nafis platform and creating an account, it becomes easier to connect with young Emiratis who could be potential employees, as they will be able to submit details of job vacancies and training opportunities on this platform. However, it is also important to be aware of the additional obligations employers may have to meet when they employ younger workers. Firstly, there are restrictions on the working hours of Minors. They cannot work more than six hours per day which must include one or more breaks of not less than one hour if the Minor works more than four consecutive hours. In comparison an older worker is permitted to work eight hours per day and there is a requirement to provide them with a rest break if they work more than five consecutive hours. A worker who is classed as a Minor also cannot work between the hours of 7pm and 7am; or work overtime, including during any days off or on any public holidays.

There are also some more general protections involving a Minor's health and wellbeing at work. For example, a certificate must be issued by the medical authority proving the Minor's fitness for the required work; and they cannot undertake work which is considered to be of a hazardous or onerous nature, or that might inflict any harm on their health, safety or morals.

Therefore, Minors cannot undertake dangerous or harmful work or work in industries or professions which are likely to endanger their health and safety. For example, they would not be allowed to undertake work which involved the handling of dangerous chemicals.

In addition, the Minor's guardian or custodian must provide their written consent to the Minor working. This may be because despite the employment of Minors in the UAE being fairly heavily regulated under Federal Decree-Law No. 33/2021 in order to ensure their protection, there are no specific rules on the minimum payment Minors must receive when working in the UAE. The Implementing Regulations to the Labour Law (Cabinet Decision No. 1/2022) also place a number of specific obligations on employers who employ Minors. For example, they must employ them on a Juvenile Work Permit and must maintain a special record of the Minors they employ. This record must include, amongst other things, a record the Minor's guardian or custodian's contact details. As is the case for all other employees, insurance must be obtained for any Minors who work for the employer. They should also be trained on how to use equipment and procedures designed to protect occupational health and safety. The provisions which apply to the employment of Minors should also be detailed in a prominent location where they can be clearly seen by the Minors themselves, their colleagues, managers and supervisors. If an employer violates the provisions in Federal Decree-Law No. 33/2021 on the employment of a Minor, they can be subject to a fine of between 50,000 and 200,000 AED per Minor employed in violation of the law. There is also a risk of fines being imposed on the employer in line with the general regulatory breaches set out in the UAE Labour Law, where the maximum fine is one million AED.

which provides flexibility to work around the world, from busy cities to remote, exotic destinations. It is an industry where it is possible to gain experience in a range of areas in everything from finance to operations and marketing. However, what drives us is a desire to look after our guests and enable them to have happy, unforgettable experiences at our properties. Hyatt, is a purpose-driven company, and people are what brings our purpose to life. We care for our colleagues and want them to be able to thrive and become the best version of themselves they can.

We are also at the forefront of the industry's effort to make working conditions more attractive at all levels, in every area including salary and work-life balance. As

our company grows, we have to be able to bring on new people so we can scale up, while maintaining service standards. This means recruitment techniques have to evolve, along with relationships and strategy. The hospitality industry is facing a recruitment challenge and talent shortage across certain parts of the world. What I have been most proud of in my career to date has been the ability of this industry to remain resilient throughout the lows and difficult times, including most recently during COVID. However, after those three difficult years, our industry has come back stronger than before, and is now growing again. It is that which excites me. It is this ability to stay agile and lead with a growth mindset.

MOVES AND CHANGES

A ROUND-UP OF BUSINESS NEWS, APPOINTMENTS AND PROMOTIONS

CHANGES AT PLADIS

Pladis the global snack company whose products include McVitie's, Jacobs and Godiva have announced two significant changes in their global human resources team. The company has a global workforce of 16,000 staff and operates across the world including in the Middle East. It is a subsidiary of the Turkish conglomerate Yıldız Holding. Former Group Chief Human Resources Officer Fulya Fraser has taken on a new role as the Group Chief Growth Officer. As a result, Geraldine Fraser is now the company's Chief Human Resources Officer. Geraldine has over 35 years of experience in leadership roles in multiple companies and countries. She joins Pladis from Royal FrieslandCampina, which is a multinational dairy nutrition company where she worked as the Chief People Officer.



LEADING ON LEARNING

Amwaj Rotana in Dubai has appointed Jason Powles as Learning and Development Manager. His career to date has included time spent at the W Doha Hotel and Residences in Qatar, where he was the Director of Learning and Development.

Other roles have included working as an education and an academic coordinator, as well as a period as a learning and development co-ordinator in Seoul, South Korea.

SMART CHOICE FOR TIQMO

Imad Ghazzawi has been appointed the new Group Executive Director of HR at Tiqmo, the Saudi based Smart Digital Payments company. Imad has around 15 years' experience in a range of HR and development roles. Past roles have included spearheading and managing shared services operations. He has previously worked in a range of sectors including the oil and gas industry, aerospace industry, manufacturing, engineering and consulting.

PEOPLE AND CULTURE

Al Daajan Holding, a company which started in 1983 and whose areas of interest now include general trade, the food industry, and real estate investment has appointed Hisham Ayub as their new Chief People and Culture Officer. The company operates across Saudi Arabia where it has 2,000 employees.

Ayub previously worked as the Halwani

Brothers' HR Leader and has over 20 years' experience.

He began his career with KFC in the USA before returning to Saudi Arabia to work for Walt Disney. His other past employers have included the Binladin Group, Mayar Foods, and Al Muhaidib Group.

INVESTING IN HR

Fahad Khalil has taken on the role of Chief Human Resources officer at the Saudi Investment Bank (SAIB). Khalil, who initially studied engineering has over a decade's experience of working in HR. This has included with EMKA and the Al Rajhi Bank.

IN THE LAP OF LUXURY

The luxury brand Burberry which has corporate offices across the globe including in Dubai has appointed a new Chief People Officer.

Alexandra McCauley will take on responsibility for all aspects of the brand's people strategy from the Autumn.



She will also join the company's executive committee. Alexandra has been working as the head of Global Diversity and Inclusion and Global People Communications and Engagement at Chanel. She has also held senior HR and labour relations roles at NBCUniversal.



DATA PROTECTION EXPERT APPOINTED

Data protection expert Kellie Blyth has joined Addleshaw Goddard in Dubai as a Partner. Her core practice includes advising on complex commercial arrangements, including outsourcing, as well as all areas of data privacy work.

She holds CIPP/E Data Protection certification and previously worked for Baker McKenzie, where she led the firm's Middle East technology and data practice for nearly five years.

BAHRAIN BANK APPOINTMENT

The Arab Banking Corporation BSC (Bank ABC) which is an international bank headquartered in Manama, Bahrain has appointed a new Group Head of Human Resources. The bank has operations across the globe including in the Middle East and North Africa, where Tunisia, Egypt, Algeria, Jordan and Turkey are important locations. Ehab AlMaskat who has worked for Bank ABC for 18 years has taken over from Elaine Wood who had been the Group Head of Human Resources there for the last seven years.

In the past AlMaskat has had a number for different HR roles at the bank. Mostly recently he worked as the company's Group Head of HR Operations and Reward.

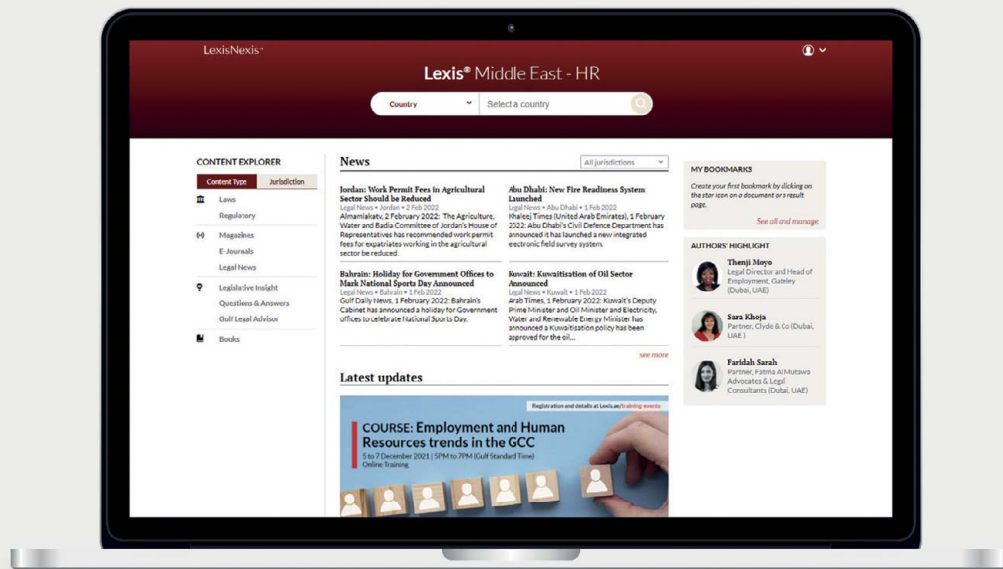
OTHER CHANGES

Madaëf: The tourism investment company which is based in Morocco, has earned a best place to work certification.

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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- Free Zone Employment Contracts:
 - ADGM Standard Employment Contract
 - DIFC Employment Contract (Basic Version)
 - DMCC Standard Contract of Employment
 - TECOM Employment Contract
 - UAQ FTZ Employment Contract

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Family Business Policies



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Federal Decree-Law No. 37/2022 On Family Businesses established a legal framework regulating the ownership and governance of UAE Family Businesses. This can have an impact on staffing and management policies in these types of businesses. In the UAE a Family Business is defined as every company incorporated in accordance with the provisions of Federal Decree-Law No. 32/2021 On Commercial Companies, where most of the shares or stock are owned by people who belong to a single family.

MANAGERS

According to Federal Decree-Law No. 37/2022 a UAE Family Business is overseen by a manager. However, family business managers' roles are different from managerial roles in other businesses because a family business manager also acts as a sort of referee between the (sometimes competing) interest of various family shareholders. This expanded role means HR policy makers have to consider a range of additional points when drafting policies on the powers and duties of these types of managers.

These managers must act in an equitable way when dealing with all shareholders and cannot prioritise the interests of one over another. They must also be independent and free from bias and personal interests and are expected to prioritise the family business's interests over other considerations.

Family business managers can be appointed by a provision in the business's Memorandum of Association (MOA), but if there is no such provision in the MOA, a resolution of shareholders who own at least 51% of the shares (or other percentage detailed in the MOA) represented at a general assembly meeting, can be used to appoint them. This manager role can be taken by one or more people, who can either come from amongst the shareholders or from outside. The manager can also be a legal entity, for example, another company, rather than a natural person, but at least one of the Family Business managers (if there are more than one) must be a natural person.

Unless the manager's employment contract, or the MOA or company bylaws restrict the manager's powers they can exercise all necessary powers and duties for managing the Family Business, including executive management; distributing profits, deducting amounts from profits or benefits payable to shareholders, or any amounts owed by shareholders to the family business; representing the family business before the Committee, courts and third parties; and seeking assistance if appropriate on managing the Family Business. They can also have any other powers stipulated in the MOA, which do not conflict with the family business's objectives and UAE laws.

If a shareholder dies, the manager unless the MOA provides otherwise, acts as a Trustee over their shares, supervises the share

transfer to the legal heirs, and takes necessary procedures to amend the MOA, after settling any rights or debts which may relate to those shares in favour of the family business or third parties.

In line with Federal Decree-Law No. 32/2021, these managers must manage family businesses with necessary care and diligence and provide shareholders with an annual report on the management of the Family Business and any other obligations listed in the MOA. In addition, family business managers cannot acquire or manage, directly or indirectly, for their own account or for third parties, any economic activity that competes with the Family Business or its subsidiaries' activities, unless the MOA allows a majority of the shareholders to agree otherwise. They also cannot borrow in their personal capacity against guarantees of Family Business assets; or dispose of Family Business's assets except within the limits of what achieves the business's objectives and is permitted by the MOA.

Without prejudice to other penalties in UAE law, if a Family Business manager is proven to have breached any of the obligations or responsibilities in Federal Decree-Law No. 37/2022 or Federal Decree-Law No. 32/2021, a request can be made to dismiss them and for them to be liable to pay compensation, if necessary, by a court judgment, unless the MOA provides for otherwise. Family business managers can also be dismissed in either the cases specified in their employment contract or the MOA, in line with the conditions under which they were employed. However, if a manager is employed for an indefinite term by an explicit MOA provision, they may not be dismissed except by the same majority required to amend the MOA.



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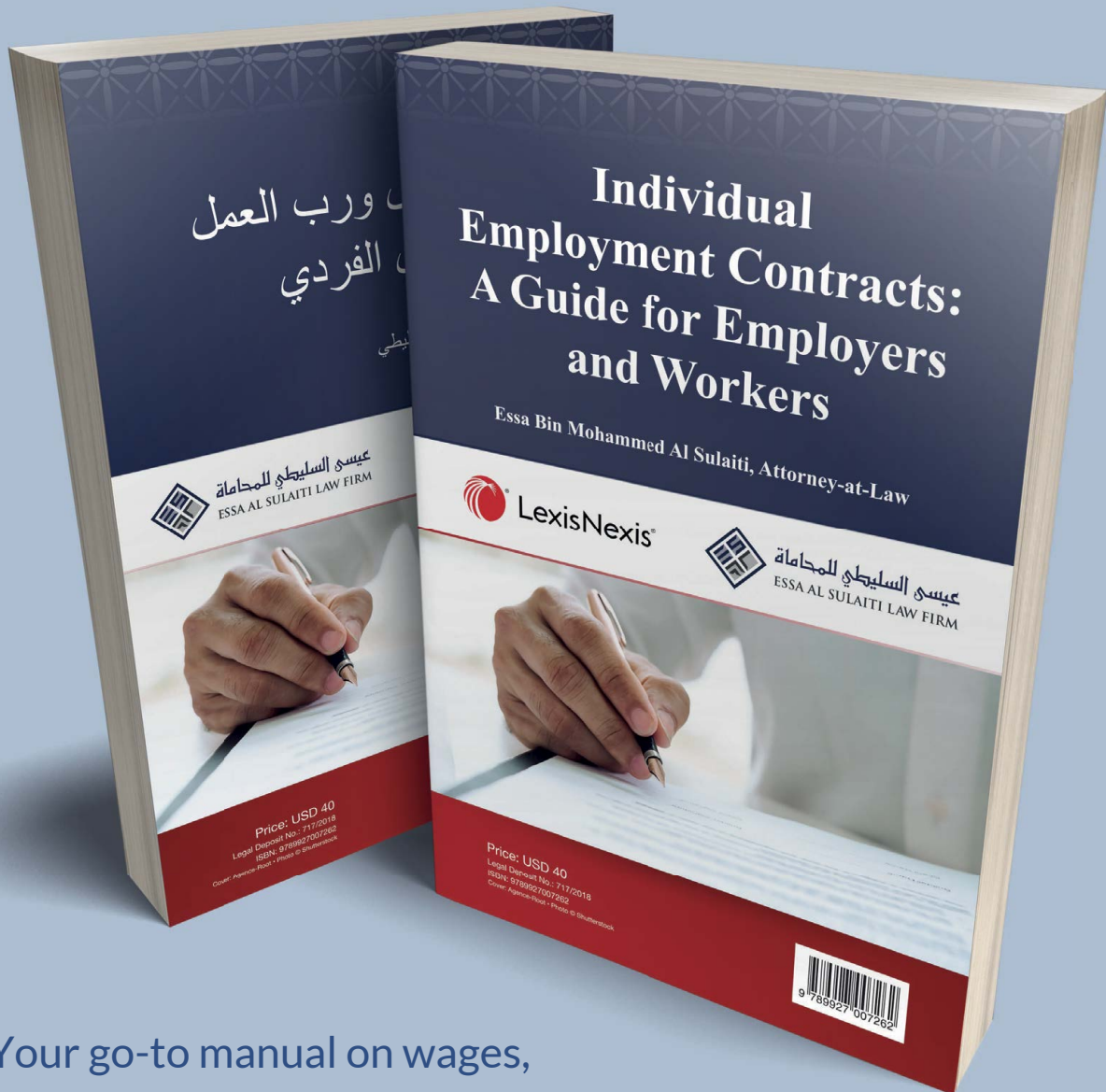
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