

LEXIS MIDDLE EAST HR ALERT

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January 2024

TRENDSETTER VIALTO PARTNERS

Remote working and virtual assignments

PROFILE ENGINEERING

Delia Popescu of Arup

POLICY POINTER

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



REWARDING SERVICE

UAE End of Service Gratuity Changes



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IN THE END

In the past the GCC region tended to be considered by the many expatriate employees who worked there, as somewhere they would be on a short-term basis, then leave. As a result longer term employment considerations such as funding their retirement tended not to be as important to expatriate staff in the region as they might be when they were based in other jurisdictions.

However, that is something that has started to change. For example, we have begun to see longer visas being offered to expatriates with particular skills, in schemes such as the Golden Visa scheme which has been rolled out in the UAE as well as the rules on longer term residency changes for investors and property owners which are currently being looked at in Kuwait. Changes such as these have led expatriates to take a longer term view on their time in the region and this has led legislators to look at means of assisting non-national employees here make better provision for retirement. In this issue we look at changes to end of service gratuity schemes which have been recently brought in, in the UAE, and are designed to give employers and employees more flexibility, and potentially also higher rates of return on money due to them when they leave employment. The end of service gratuity scheme in mainland UAE was originally put in place in the 1980s to provide a benefit to non-national employees who were not eligible for the UAE state pension. A separate scheme applies in the DIFC which has also been subject to change in recent years, although there are still some outstanding questions on how this mainland scheme and the DFSA Employee Money Purchase Scheme framework in DIFC might interact going forward. What is interesting too is that UAE legislators have not just been considering the best way expatriates can fund their retirement but have also been looking at reforms to pensions contributions for Emirati nationals. This has led an additional new law on this area, being issued which we also include in this issue.

Claire Melvin - Editor

CONTENTS

FEATURE: REWARDING SERVICE	p2
UAE end of service gratuity changes	
TREND SETTER	p5
Vialto > Immigration	
Remote working trends and immigration issues	
NEWS ROUND-UP	p6
including Kuwaiti change on part-time working	
IMMIGRATION FOCUS	p8
including dependant residency visas in Qatar	
LAW CHANGES	p12
including a new UAE pensions law	
CASE FOCUS	p14
Using the DIFC SCT in discrimination and victimisation cases	
HR PROFILE	p16
Delia Popescu > Arup	
A People Partner discusses development support	
MOVES AND CHANGES	p18
Round-up of the big moves across the region	
POLICY POINTERS	p20
Parental leave in Oman	

REWARDING SERVICE

The end of service gratuity has been a long standing feature of the UAE employment regime. Shiraz Sethi and Ali Al Assaad of Dentons and, Chris Cain and Ben McLean of Equiom Group look at a new voluntary alternative which is now being offered to UAE employers and employees which should give them higher returns and more flexibility.

“A new Voluntary Alternative Scheme to the conventional end of service gratuity which is normally paid to employees on the termination of their employment in the UAE, was brought in by Cabinet Decision No. 96/2023 Concerning the Voluntary Alternative Scheme Replacing the Current End of Service Gratuity Scheme which commenced on 13 October 2023 and Ministerial Decision No. 668/2023 On Subscribing to the Voluntary Alternative Scheme Replacing the End of Service Gratuity (Scheme Saving) Scheme which commenced on 23 October 2023,” states Shiraz Sethi.

“The Voluntary Alternative Scheme is an official alternative scheme which should provide employers and employees with more flexibility in this area and potentially also give employees a higher rate of return than would be the case under the conventional scheme.”

SCHEME DIFFERENCES

“The end of service gratuity scheme has been a long-standing feature of employment benefits in the UAE, and was first established under the previous UAE Labour Law (Federal Law No. 8/1980)”, states Sethi. “This scheme was originally put in place as a benefit for non-national employees who were not eligible for a state pension in the UAE and was seen as an extra benefit employees

would receive when their employment ended. On completion of one year of continuous service the employee becomes eligible to an end of service gratuity benefit which will be paid at the end of the employment relationship.”

“The amount they are eligible to receive is calculated based on the employee’s length of service and final basic salary,” Sethi adds. “They receive a lump sum payment on termination of employment. This is equivalent to 21 days’ basic pay for each year of the first five years of their service and thereafter this increases to 30 days’ basic pay for each subsequent year – although there is a cap of two years’ total salary on the end of service gratuity amount which is payable.”



Shiraz Sethi
Regional Head of
Employment
Dentons

“In contrast, the Voluntary Alternative Scheme offers an investment-based platform to the traditional end of service gratuity,” Sethi explains. “However, while the end of service gratuity provides a lump sum at the end of the employment relationship between the employer and the employee based on a calculation of their final basic salary and the duration of their service, the Voluntary Alternative Scheme allows ongoing

contributions to be made into an investment fund throughout an employee’s tenure of employment in order to enhance the potential returns they may receive over time.”



© Getty images/Stockphoto

“As a result this system offers both employers and employees greater flexibility and potentially higher returns which are linked to market performance,” Sethi adds. “It also helps to foster greater financial awareness among employees by encouraging them to actively engage with their end of service benefit plans.”

“Unlike the conventional end of service gratuity scheme, under the Voluntary Alternative Scheme employees can increase the amounts they will be entitled to at the end of their employment by selecting a higher risk/reward investment fund.”

“In addition, UAE nationals and non UAE national employees can also benefit from the scheme to make a voluntary subscription,” Ali Al Assaad states. “Employees can also continue investing and making personal savings using the scheme even after their employment relationship has come to an end.”

“In the past there were some employers who had not set aside sufficient money to make the required end of service payments when they fell due which could cause difficulties,” Sethi continues. “However, with the Voluntary Alternative Scheme, the employer has the option instead to make monthly contributions into one of the specific investment funds, which has been licensed by the Securities and Commodities Authority (SCA) in collaboration with the Ministry of Human Resources

RELEVANT LEGISLATION

Article 4 of Cabinet Decision No. 96/2023

“Employers wishing to subscribe to the Alternative Scheme shall submit a subscription request to the Ministry in accordance with the procedures set by the Ministry in this regard.”

(Source: Lexis Middle East Law)

and Emiratisation (MOHRE), for the benefit of the employee, which makes this risk less likely.”

“These monthly contributions must be equivalent to 5.83% of the employee’s basic salary whenever the period of service does not exceed five years,”

Al Assaad states. “This percentage will be increased to 8.33% if an employee’s period of service exceeds five years.”

“However, Article 5(6) of Cabinet Decision No. 96/2023 gives employers the right to temporarily pause the payment of the basic subscription under the scheme for a duration that will be determined based on MOHRE’s approval under specific circumstances,” Sethi continues. “These scenarios include where the business was

showing signs of financial difficulties; there was an unauthorised absence from work by the employee or they had not returned from leave on time; the employee’s salary had been suspended because



Ali Al Assaad
Legal Manager -
Dubai
Dentons

PENALTIES

Under the Voluntary Alternative Scheme contributions must be paid into the fund by the 15th of each month. If contributions are not made for two months, MOHRE will stop issuing work permits to the employer and a monthly penalty of AED 1,000 (per violation) will be imposed whenever the non-payment continues for four months.

they were in prison; the business was being restructured, purchased or ownership was changing; or the employee was on unpaid leave.”

“In such cases the employer must submit an application to MOHRE outlining the reason for the suspension along with necessary proofs and documentation,” Sethi adds. “These applications should also specify the planned period for the payment suspension. When this suspension term ends or once the reasons for the suspension no longer exist

the employer must resume paying, including paying any amounts due during the suspension period except if the beneficiaries were not entitled to wages as per the UAE Labour Law (Federal Decree-Law No. 33/2021). In the event the contractual relationship ends during a suspension period, the end of service gratuity for the suspension period is calculated in line with the end of service provisions outlined in Federal Decree-Law No. 33/2021.”

ELIGIBILITY

“The Voluntary Alternative Scheme is an option which is available to private sector employers, including those in semi-government entities, which are located outside of the DIFC and ADGM,” Sethi states.

“Individual employees cannot currently participate in this scheme on their own unless their employer is also participating in it. In addition, whilst skilled employees are given the choice of selecting and joining their preferred fund, unskilled employees must join an investment fund which provides a risk-free alternative and better guarantees of their capital.”

“There is no minimum salary threshold for participation,” Sethi adds.

“However, even though this is a voluntary scheme once an employer has chosen to participate in it and has registered, they must remain in it for a minimum of one year, except if a specific exemption is provided for by Ministerial Resolution.”

SWITCHING SCHEMES

“If an employee is currently eligible for a payment under the traditional end of service gratuity scheme and is transferred to the new scheme the end of service benefit accrued prior to the participation in the new scheme will be due at the end of the employment relationship, and will be based on the employee’s salary at the time of joining the new scheme,” states Sethi. “During their period of employment, the employee will have the right to make additional contributions

to the scheme which must not exceed 25% of their total salary. These additional contributions can also be partially or fully withdrawn during their period of employment. These employee contributions can be made in two ways - either payments can be made by the employee into the investment fund account as a lump sum payment, or they can ask the employer to make the contributions on the employee’s behalf by deducting them from their monthly salary,” Sethi explains.



Ben McLean
SEO/Client
Services Director
Equiom Group

WHAT'S NEXT?

“Currently we are waiting for further clarifications from MOHRE and SCA to help providers understand how they can satisfy the Voluntary Alternative Scheme requirements,” Chris Cain states.

“One key requirement where further clarification is needed is what will be considered a ‘risk free’ Guaranteed/Capital Protection fund option.”

“It is also unclear whether this is a default position for skilled employees, and if they would automatically be put into a risk free scheme but would then be able to move out of this if they wished once they had been enrolled.”

“Furthermore, it is unclear if in the event an employee opts for a scheme which is not risk free, whether there will be a requirement for the employer under Article 8(2) of Cabinet Decision No. 96/2023 in respect of Basic Subscription Amounts to ‘top up’ if an employee selects the higher risk option and as a consequence losses have been incurred resulting in the basic rate entitlement not being met,” states Ben McLean.



Chris Cain
Client Services
Director - Middle
East
Equiom Group

“In addition, whilst there is language within the Cabinet Decision No. 96/2023 which could potentially cater for schemes under Financial Free Zone regulations, including the DFSA’s Employee Money Purchase Scheme framework in the DIFC, it is not yet clear how such schemes would meet the prescriptive requirements set out in the annexures to the Cabinet Decision that would enable them to make available such services outside their jurisdiction.”

“It is hoped that an agreement will be reached between the DFSA and SCA (and where applicable MOHRE) on this point, and provide further clarity on this matter,” Cain continues.

“The Voluntary Alternative scheme has provided a potentially more rewarding alternative to the End of Service gratuity scheme and has also offered opportunities for continual contributions into an investment fund throughout an employee’s tenure,” Sethi adds.

“This approach not only offers more flexibility to employers and employees but should also make it easier for employees to better secure their financial future, following on from employment with a UAE employer.”

Remote working

In a recent survey Vialto Partners discovered increasing numbers of employers are now considering remote working and virtual assignments. Jammy Mustafa, Senior Manager, Global Mobility, Ali Ibrahim, Immigration Director and Rens Jongerius, Manager of Vialto Partners, explains what this means in practice in the GCC.

In a survey we undertook on the post COVID mobility revolution, we discovered 77% of respondents expected to see increases in short-term international remote working and 64% expected increases in virtual assignments. In addition, 40% of companies are now looking to create policies to support non-traditional move types, in particular, virtual assignments. The UAE Remote Working Visa (RWV) was introduced in 2020, and allows an individual to work from the UAE for up to one year, for their overseas employer or business, and can be reapplied for a further period if all conditions are met. Individuals should not carry out any work related/revenue generating activities for any UAE based entity - doing so would mean not being compliant with immigration and labour laws. They are allowed to visit and attend meetings in an office, but the employee is not allowed to occupy a permanent desk, as this would not be in the spirit of the rules of remote working. The minimum monthly salary to qualify for the RWV is USD 3,500. Being paid from another country does not trigger local payroll and/or social security issues in the UAE. The individual should also make sure they have valid health insurance covering the UAE during the full validity of the RWV. From a tax perspective, there is currently no personal income tax levied on individuals living and working in the UAE. This will apply to employment income, which includes basic salary, any allowances, benefits, bonuses and equity income. It also applies to any personal income and income including capital gains, dividends, rental income and interest. As such, there are no associated income tax registration or tax return reporting requirements in the UAE for an individual living and working in the UAE but although the UAE's tax regulations generally offer a tax-free status for individual employment income, it is essential to be mindful of potential implications related to Permanent Establishment for foreign businesses given the introduction of Corporate Taxes in 2023. This would potentially lead to tax and legal ramifications for the foreign entity within the UAE. Even with the individual working in the UAE, there could be an ongoing obligation for them to continue paying taxes and social security in their home country or any jurisdiction where they maintain tax residency. Certain nations tax individuals based on residency rather than their physical presence. Conversely, if a UAE-based company has employees

engaged in remote work in another country, this could give rise to legal and tax obligations contingent on the regulations of the country where the individual is working remotely. However, if the individual is not in the UAE, they will not need to secure any work authorisation from an immigration perspective. If they travel to the UAE for business trips, they would need to comply with business visitor rules and ensure their activities do not amount to productive work.

One of the main conditions for obtaining this type of visa is that the work that is being carried out for the benefit of an individual's overseas employer or entity. As they are not registered as local employees, they do not count in the sense of localisation targets. Should an employee with an RWV want to work for a local entity or be based in the UAE on a long term basis, an Employment Residence Permit should be considered - in which case the individual would count regarding meeting localisation requirements if the employer is located in mainland UAE and employing more than 20 people. There are no such requirements at the moment for freezone based companies unless the individual is working in specific sectors like banking or the oil and gas sector. As a result of COVID 19 working from anywhere became the new norm. The RWV visa option has encouraged many individuals who are thinking about setting up a UAE based business to do this in a much easier way. Other GCC countries have not yet rolled out a digital nomad visa. Saudi Arabia and Qatar, for example, do not have a specific category for remote working arrangements, and any work that takes place particularly in a commercial space or office typically requires work authorisation. Both countries have made changes to the application process to streamline it for frequent business travellers. Business visitor categories in each country allow for attending meetings, conferences, or participating in trade shows, as well as light consulting activities. The scope of permissible consulting or advisory services includes activities such as reviews and negotiations, provided the advisory work is not documented or presented in any written format, including advisory reports or papers that may be construed as paid advisory services. Business visa travellers are usually allowed to negotiate and sign deals while in the country but precautions should be taken to ensure the activities are not deemed as work.

NEWS ROUND-UP

COVERING RECENT KEY DEVELOPMENTS – REGION-WIDE

UAE

NEW EMIRATISATION TARGETS



The Human Resources and Emiratization Ministry (MOHRE) has announced it has started implementing the legislative changes which led to an expansion in the number of companies subject to Emiratization targets. Companies with between 20 and 49 employees in 14 specific economic sectors must hire at least one Emirati in 2024 and another in 2025. MOHRE has notified over 12,000 companies about their need to comply with this new requirement. Employers who fail to do so will be fined 96,000 AED for each targeted Emirati they have not appointed in 2024 and these fines will be collected from January 2025. Fines of 108,000 AED will then be imposed for those who fail to meet their 2025 targets which will be collected from January 2026.

PENSIONS PORTAL



Individual accounts on the UAE General Pension and Social Security Authority portal are now only accessible by a single individual. Previously it was possible for multiple individuals to access a single portal account. The single individual who is known as the main system user, must be identified and has to register their Emirates Identity Card details on the system. In addition, each time this individual accesses the account on the portal they must verify their credentials using the UAE Pass Platform.

OMAN

START UPS



Oman's Commerce and Investment Promotion Ministry has announced foreign investors will be able to start businesses there without first needing a residency card. Foreign investors interested in starting a business in Oman will be able to register via the Oman Business Platform even if they are still in their home country or accessing the site remotely.

They will be able to access this Platform by logging into the Non-Citizens/ Non-Residents' section on the Platform. Once they provide the information required, the request will be verified. These investors will also be able to own 100% of the business without having to show they have a minimum capital.

SAUDI ARABIA

LATE SALARY PAYMENTS



Saudi Arabia's Human Resources and Social Development Ministry has clarified how penalties are applied to employers who pay wages late for three consecutive months. When this happens all Ministry services provided to the employer are stopped. The employee is also allowed to transfer to another employer without their original employer's consent.

In addition, if an employer fails to pay employees' wages on time for two consecutive months, all Ministry services apart from the issuing and renewing of work permits will stop.

There has also been a reduction in the period employers have to justify a delay in paying workers' salaries from 30 days to 10 days.

INSURANCE COVER



From 1 February 2024 insurance cover will be introduced for new domestic workers. The Insurance on Domestic Worker Contracts service will be provided via the Musaned platform. The cover will have to be provided on contracts for the first two years from the start of the employment contract. After this two year period the insurance cover will be optional.

QATAR

CONTRACT ATTESTATION



Qatar's Labour Ministry has launched a specialist employment contract attestation e-service. The service is available to companies who perform specific work which requires specialist employment contracts with

some additional contractual clauses tailored to their professional requirements. In order to be able to use this service, the company must use a smart card for identity verification through the National Authentication System in order to ensure the representative of the establishment has the required authorisation. The medical and engineering professions will be among those able to use this new service.

HYGIENE LAW



Qatar's Municipality Ministry has explained the violations and penalties now found in Qatar Law No. 18/2017 On Public Hygiene following its amendment by Qatar Law No. 6/2023. Fines of up to 25,000 Riyals can now be levied for leaving, throwing, or pouring waste, or disposing of it in places other than those specified by the relevant municipality.

Penalties include jail terms of six months and/or fines of 10,000 Riyals for building owners and occupants who fail to maintain the cleanliness of their yards, corridors, roofs, façades, private parking areas, and adjacent sidewalks. In addition, it is illegal for squares, roads, streets, corridors, alleys, sidewalks, or public parking areas to have abandoned vehicles, equipment, machinery, or temporary or permanent buildings left in them, without having a licence from the relevant municipality.

KUWAIT

EDUCATION SECTOR



Kuwait's Civil Service Commission has announced new recruitment rules will apply to expatriates wishing to work in the education sector there. These regulations will apply when filling positions when Kuwaitis are not immediately available. In order to be eligible the expatriate will need to have very good certification and the minimum academic qualifications. Certificates which show scientific experience after the individual has obtained an academic qualification from outside the country will also need to be taken into account


and they must be documented by Kuwait's Foreign Affairs Ministry. When bedoons who meet the Central Agency for Addressing the Status of Illegal Residents conditions are being recruited it will not be necessary to comply with these guidelines.

PART TIME WORKING

 Kuwait's Interior Minister has issued a Decision allowing part time work in the private sector from January 2024. The Public Authority for Manpower has clarified that the employee's existing employer must approve a part time work request. Remote working has also been allowed.

However, employees working in the contracting sector have been excluded from this Decision.


MASK WEARING IN HEALTH SECTOR

 Medical and paramedic staff in all hospitals, specialist centres and primary healthcare facilities in Kuwait must now wear face masks during working hours.

These new requirements were issued in Kuwait Circular No. 161/2024. Medical staff have also been urged to ensure they are up-to-date with seasonal respiratory vaccinations, including the latest versions of the COVID-19 and flu vaccines.


BAHRAIN

E-SICK NOTES

 A digital service for reviewing and printing medical sick leave certificates has been launched in Bahrain. The service will be available for sick notes which have been issued by government hospitals there.

QR Codes will be used which can be scanned to obtain the certificate. The relevant authorities will also be able check the authenticity of these sick notes by scanning the code.

END OF SERVICE

 Bahrain Decision No. 109/2023 On an end-of-service reward system for non-Bahrainis working in the private sector has been issued.

The Decision requires employers to submit data on the wages of their insured


employees to the General Authority for Social Insurance within one month of the Decision being published in the Official Gazette.

Where an employer fails to submit the information within the specified period, contributions are calculated on the basis of the monthly wage subject to the contribution of the Work Injury Insurance Branch.

However, following the issue of this decision Bahrain's Social Insurance Organisation has clarified that employers do not have to pay any money to them for the period before this decision came into force, as this was a point causing some confusion.


TURKEY

MINIMUM WAGE

 In December Turkey's Labour Minister announced the minimum wage there would be increased by 49% in 2024.

The minimum monthly net salary will be set at 17,020 Lira.

GOOGLE DISCRIMINATION RULING

 Google has lost a gender discrimination case where it was alleged they had implemented a sexist policy on salary increases and promotions which negatively impacted a Turkish executive. As a result, the executive Ulku Rowe will be paid \$1.15 million in compensation.

Rowe started working at Google in 2017. She claimed the company had offered her a lower salary than her male counterparts in similar positions.

She also accused the company of hiring less experienced and less qualified male candidates for higher positions. In addition, she alleged her opportunities for promotion had been hindered after she voiced concerns about the company's gender discriminatory policies. The verdict was issued in the New York District Court.

The court ruled Google had not violate its salary policies but was engaged in gender-biased practices on promotions. The compensation was awarded in recognition of the distress and suffering Rowe had experienced.

IN BRIEF

UAE: The Human Resources and Emiratisation Ministry (MOHRE) has launched a programme to help train Emiratis in the education sector which will include administrative and leadership roles, as well as teaching roles in areas such as Arabic language, special education, nurseries and primary schools...

UAE: The Human Resources and Emiratisation Ministry (MOHRE) has stated that private sector companies which comply with the Emiratisation programme will now get priority when government procurement contracts are awarded...

Ajman: The Ajman Transport Authority has approved new rules for delivery drivers there....

Saudi Arabia: The General Directorate of Passports has urged expatriates and the family member over six to register their fingerprints to ensure they can access all the Directorate's services...

Turkey: Citizens of the UAE, Saudi Arabia, Bahrain Oman, Canada and the USA with original passports can visit Turkey for tourism without needing a visa before traveling for up to 90 days in every 180 days...

Saudi Arabia: Saudisation in the sales, purchase and project management professions became mandatory on 24 December 2023...

Qatar: A new e-service has been launched to enable household employee contracts to be certified...

Qatar: A reduced working hours trial for women with school aged children ran in the public sector in Qatar from 24 December 2023 to 4 January 2024...

Oman: Omani citizens who wish to visit Syria will no longer need to visit Syrian embassies or consulates to obtain an entry visa and will be able to obtain entry visas at border checkpoints...

Kuwait: The Kuwait Municipality has launched a crackdown on construction site health and safety violations, including on safety issues such as fire risks in surrounding areas...

Kuwait: Expatriates are now only allowed to have electronic driving licenses which are valid for one year but can be renewed via the Interior Ministry's website or the Sahel application...

Bahrain: Bahrain Edict No. 4/2023 which covers the procedures and controls which must be followed for grievances of personnel other than senior staff in the civil service has been issued...

IMMIGRATION FOCUS

RECENT GCC IMMIGRATION AND VISA CHANGES

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QATAR

DEPENDANT RESIDENCY AND VISIT VISAS



Qatar's Ministry of Interior has revised the regulations and procedures which govern the entry process for family residency and visit visas with immediate effect. These changes are part of an initiative to streamline visa procedures and make them more efficient. Family sponsorship will now depend on the provisions outlined in the employee's electronic work contract, particularly those relating to salary and accommodation. In the Government and semi-governmental sectors, employees must secure family housing through their employer or have a monthly salary of no less than QAR10,000, which is duly accredited in their employment contract. In the private sector, the profession on the employee's Qatar residence permit will need to be within a certain category, or technical or specialist field. Their salary should also not be less than QAR10,000 per month or QAR6,000 per month if they have employer provided housing and this is verified in the employment contract. In addition, children aged six to 18 years old must be in mandatory education. They must be either enrolled in a school in Qatar or have evidence of their enrolment in education outside of the country. This requirement is checked both when their residence permit is first issued and when it is renewed. Dependant residence permit renewal applications are submitted through the Metrash2 application and can be processed this way if the child is enrolled in a Qatari school, as the Ministry of Interior and the Ministry of Education systems are linked so it can be checked if a child is actually enrolled in a school in Qatar. If a child is not enrolled in a school in Qatar, their renewal application may still be processed by visiting the Main Immigration department on an exceptional basis but approval cannot be guaranteed. Employers should discuss this rule change on mandatory education and

the impact on visa renewal with employees who have dependant children.

Renewals may be more difficult for children who have an existing Resident Permit but are not physically based in Qatar for the majority of time. All dependant children on a dependant residency visa should not be over 25 years old and daughters must be unmarried. Mandatory health insurance must also be put in place which covers the entire duration of the family member's stay, from their date of entry into Qatar.

When applications are made for family visit visas, the employee's profession should be listed as a non-labourer job title on their residence visa, their salary should not be less than QAR5,000 per month, and their housing should be accredited by the relevant authorities.

The visitor should also be a relative of the sponsoring resident, including their father, mother, brother or sister, but it should be noted there are no specific age restrictions. The visitor must also have health insurance coverage for the whole period of their stay in Qatar.

SAUDI ARABIA

ADDITIONAL CLEARANCE



Saudi consular posts in the USA and Pakistan now require Saudi work visa applicants to provide additional clearance information. In the USA applicants for all job titles must now submit an FBI criminal history report and a US police clearance report. Previously, only a US police clearance report was necessary.

The Saudi consular post in Islamabad, Pakistan also now requires a Pakistani police clearance report for Saudi work visa applications.

Previously, these reports were only needed when applications were made to the Saudi consular post in Karachi. These new requirements may cause delays in visa processing and affect employee start dates.

ACADEMIC VERIFICATION



The Saudi Arabia Cultural Attaché (SACA) has introduced a new online platform called Mosadaqa which allows some foreign nationals to



electronically attest their non-Saudi degree certificates. Previously, visa applicants had to visit SACA in person to attest their certificates. At first, Mosadaqa only accepted degree certificates from educational institutions in Egypt, Jordan, Iraq, and Palestine for this purpose but the list also now includes Bangladesh, India, Nepal, the Philippines, Singapore, Sri Lanka, and Thailand. The platform can be used to attest a range of educational qualifications, including college diplomas, bachelor's degrees, higher diplomas, master's degrees, and PhDs. Those using the attestation service must pay a fee by either a Visa or Mastercard credit card on the online platform.

After using this system, eligible nationals must complete a second stage which involves a physical visit to the Saudi Embassy in the country in which their degree was issued to allow it to be manually verified.

UAE

INVOLUNTARY LOSS OF EMPLOYMENT (ILOE) SCHEME CHANGES



UAE authorities have clarified how the Involuntary Loss of

Employment (ILOE) scheme will operate when an employee has changed status. If the employee's Labour Card has been cancelled and then subsequently been reapplied as may happen, for example, if they had a Labour card under an ERP and switched to one with the Golden Visa, there is no need to update the insurance policy.

If category A (basic salary less than 16,000 AED) or category B (basic salary over 16,000 AED per month) remains the same the existing ILOE policy also remains the same.

There is also no need to update the ILOE policy if an individual changes employer, as long as their category remains the same. However, if their category changes when they change employment they must contact the ILOE insurance by email and update their policy. If an employee changes job and does not update their new employer details in the ILOE certificate, they will still be able to make an ILOE claim, if they have also paid the required monthly payments for at least 12 months for their

subscription to the ILOE scheme.

UAE authorities have also released reports to mainland UAE employers listing employees who have failed to sign up to the mandatory ILOE scheme and applicable individual fines. These reports are available on the employer's respective Ministry of Human Resources and Emiratisation (MoHRE) and ILOE portal accounts.

Although employers can view details of an employee who has not subscribed to the scheme and their fines, via their MoHRE and ILOE portal accounts employers are not obliged to pay their employees' ILOE fines. It is hoped enabling employers to review the fine lists will help them warn employees of non-compliance risks. However, UAE employers can pay their employees' fines if they wish through the MoHRE portal.

If a fine is not paid within three months, the MoHRE is expected to deduct the amount directly from the Wages Protection System (WPS) at the time of salary or end of service payment, whichever is applicable.

Employees who have not yet subscribed to ILOE should register with the scheme without delay via <https://www.iloe.ae/>

GCC

UNIFIED VISITOR VISA



The GCC President has announced plans for a simplified visa process for individuals visiting GCC member states. A unified visa of this type would facilitate the movement of residents and tourists across the GCC. Subject to systems being successfully implemented in all six countries (the UAE, Saudi, Qatar, Kuwait, Oman and Bahrain), the new Unified Visa is currently expected to launch between 2024 and 2025. Currently, travellers visiting multiple GCC states, must navigate the individual visa requirements for each GCC country they plan to visit.

The new Unified Visa aims to streamline these requirements and processes, and make it easier for individuals to undertake cross-border travel. This means business people would be able to attend meetings, conferences, and events across the GCC with a single visa, reducing administrative burdens. However, harmonising immigration policies and ensuring consistent application procedures will be critical to the success of the plan.

Employment Residence Permit Transfers

Anir Chatterji, EMEA Immigration Partner at Vialto Partners discusses the impact of the suspension of visa and residence permit transfer services within UAE freezones on employees looking to change employer.

CHANGE

The Federal Authority for Identity, Citizenship, Customs and Port Security (ICP) has announced that visa and residence permit transfer services within UAE freezones have been suspended.

This suspension will affect both intra freezone and inter freezone permit transfers. In a recent update, the ICP confirmed that the option which previously existed to transfer sponsorship from a previous to a new employer (which is known as Release sign-out and Release sign-in in some jurisdictions) would no longer be available both when the transfer is between employers in the same freezone or if the transfer is taking place between an employer in one freezone jurisdiction and an employer in another freezone.

It is currently understood that this change applies to multiple freezones in the UAE. However, we are keeping a close eye out for any further developments or announcements.

“THE NEW PROCESS REQUIRES A NUMBER OF ADDITIONAL STEPS TO BE TAKEN.”

NEW PROCESS

As a result of this suspension, any employee who is currently working in a UAE freezone jurisdiction and secures new employment with another

entity which is either based in the same freezone or another freezone jurisdiction in the UAE who wishes to transfer to that new employer, will now have to first cancel their existing residence permit sponsored by their current employer and will only then be able to apply for a new permit sponsored by the other employer.



Anir Chatterji
EMEA Immigration
Partner
Vialto Partners

IMPACT

This new process requires a number of additional steps to be taken, e.g. the cancellation of the existing permit and then the reapplication for sponsorship with the new employer before an employee in this position can legally change employers.

“THIS CHANGE WILL ALSO IMPACT THE EMPLOYEE'S DEPENDANTS.”

This will most likely lead to an increase in processing times and as a result could also impact future employee start dates.

It should also be noted that this change will impact the employee's dependants.

Their existing residence permits will also need to be cancelled and reapplied for, or their applications will need to be frozen or put on hold until the employee's transfer has been completed, so that applications for their new permit can also be made by the new employer.

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LAW CHANGES

NEW AND PROPOSED MENA LAWS

PENSIONS LAW

Sabrina Saxena and Noor Jamaluddin of Al Tamimi & Co explain radical changes brought in by a new UAE Pensions Law.

Federal Decree-Law No. 57/2023 Regarding Pensions and Social Security was issued towards the end of 2023 and has brought in the most substantial change to pensions regulations in the UAE since the original law on this subject Federal Law No. 7/1999 as amended, was issued. However, it is important to note that Federal Decree-Law No. 57/2023 has not repealed the previous law, and the 1999 Law remains in force despite the new law being issued. Federal Decree-Law No. 57/2023 is applicable only to Emiratis who are hired for the first time in the UAE and/or who are first time registrants with the General Pensions and Social Security Authority (GPSSA) on or after the 2023 law's effective date - 2 October 2023. Notwithstanding the effective date set out in the 2023 Law, the GPSSA (which is the authority responsible for registering Emiratis and GCC nationals employed in the UAE (except those employed in companies which are incorporated in Abu Dhabi and Sharjah who are subject to a separate authority) has confirmed that currently it will consider 31 October 2023 to be the effective date, even though this differs from the effective date actually stated in Federal Decree-Law No. 57/2023. Federal Decree-Law No. 57/2023 applies only to Emiratis, and GCC nationals registered via the GPSSA are not impacted by it.

Under this law both employers and employees must pay mandatory monthly contributions to the GPSSA, which are calculated based on an employee's total fixed monthly salary. The employer's contribution is 15% of the relevant employee's fixed monthly salary, unless the employee earns under 20,000 AED per month in which case 2.5% of the employer's contribution is then paid by the government. Meanwhile, the employee's monthly contribution is 11% of their total fixed monthly salary.



UAE - IMMIGRATION



Ministerial Decision No. 710/2023 On the Creation of a Private Teaching Work Permit has been issued. The permit allows teachers outside educational institutions to provide educational lessons to students privately and to groups of students online and in person. Individuals who have this permit will also be able to work remotely from their home country if they hold a valid residence permit in the UAE. Previously, private education outside of an institution was not permitted in the UAE and those who violated the law were subject to large fines.

Employees' contributions will usually be deducted by the employer at source and paid directly to the GPSSA. Under Federal Law No. 7/1999 there is a monthly pensionable cap of 50,000 AED. However, this has been increased to 70,000 AED under the 2023 law. Federal Law No. 7/1999 also includes a provision which obliges employers to make good any difference in respect of the payments which are made under that law and a potential end of service gratuity entitlement where salary exceeds the 50,000 AED pensionable cap. However, there is no similar benefit under Federal Decree-Law No. 57/2023.

Separately, Federal Decree-Law No. 57/2023 requires contributions (by employers, employees, and where applicable the government) to continue

during leave periods, even if unpaid, and during periods of secondment and study leave. However, exceptions do apply to individuals suspended without pay, those who are on agreed periods of unpaid leave, or who are not entitled to a salary.

If an individual is covered by Federal Decree-Law No. 57/2023, in cases of unpaid leave for study or childcare the continuation of contributions will be allowed if the employee pays all the necessary contributions. When an individual covered by Federal Decree-Law No. 57/2023, retires, their pension is calculated at a rate of 2.67% of the pension account salary for each year of the contribution period. Once they have reached 30 years, this rate will increase by 4% annually up to a maximum of 100% of salary. If the total subscription period

SAUDI ARABIA - HOURS



Saudi Arabia Cabinet Decision No. 337/1445 On the Controls for Working Outside the Official Working Hours and on Holidays and Eids has been issued and covers all public institutions and bodies whose regulations and organisational rules provide for their adoption of independent administrative and financial regulations. The Cabinet Decision states these entities have the right to assign some of their employees to work outside official working hours, on holidays and during Eids, without the need to submit the matter. However, the decision details additional conditions which must be met when this is done.

OMAN - BENEFITS



The Social Protection Law Implementing Regulations Oman Decision No. R/7/2023 have been issued. This law covers a range of benefits including old age pensions, benefits for the disabled, family income support, sick pay, maternity pay, job security insurance, and insurance for workplace injuries and occupational diseases.

QATAR - LOCALISATION



The Qatari Cabinet has approved a draft law on localisation of jobs in the private sector. The law has now been referred to the Shoura Council. The law will give the Qatari Labour Ministry powers to provide incentives, facilities and privileges when Qataris are employed. Training opportunities will also be given to nationals.

is over 35 years, they are paid a rate of three months for each year above the 35-year period calculated on the basis of the pension account salary. Although an employer's general obligations have not radically changed from the position under the previous law, employers should be aware of the obligation to register eligible employees with the GPSSA within one month of start of their employment, update the GPSSA within 15 calendar days of an employee's termination and complete the de-registration procedure. Employers must also provide the necessary documentation to the GPSSA for accurate contribution calculations within 10 calendar days of the initial registration and any delays will lead to fines being imposed by the GPSSA. The GPSSA also always has sole discretion to

calculate the contributions due to an employee, so non-compliance with these requirements can have serious financial ramifications. Employers must pay contributions to the GPSSA on a monthly basis. Federal Decree-Law No. 57/2023 also states that in the first and last month of employment, even where a full month has not been worked by the employee, the contributions should not be pro-rated. Failure to comply with the 2023 Law can lead to sanctions being imposed including (but not limited to) fines that accrue on a daily basis and a one-off lump sum fine of up to 50,000 AED per employee (depending on the nature and scope of non-compliance).

KUWAIT - RESIDENCY



Amendments to Kuwait's residency law have been approved by the National Assembly Interior and Defence Committee. As a result, visitors who overstay could be jailed for one year and fined up to 2,000 Dinars. Foreigners caught working for a business that did not recruit them could be fined 3,000 Dinars. Parents of newborn babies would also have four months to obtain a residence permit for the baby, or be fined two Dinars a day in the first month and four Dinars in the second month. Foreign investors and property owners would also be able to apply for long-term residency of between 10 and 15 years.

CASE FOCUS

Case No Miskofi v Milbart, DIFC Case No. 385/2023
issued on 6 December 2023

Jurisdiction DIFC

Court DIFC Small Claims Tribunal

Recommended by Ayesha Karim

WHAT IS IT ABOUT?

Miskofi, a company registered in the DIFC, Dubai filed a claim disputing a legal fee they had been charged by Milbart which is a law firm also registered in the DIFC. The company had engaged the law firm in line with a letter of engagement dated 10 March 2023 by which the law firm was retained to carry out certain legal services and represent them in a potential employment dispute with an employee.

This case involved the legal fee charged by the law firm. The company had filed a claim for a reduction in the fees incurred so that they aligned with the actual work the law firm had performed. However, the law firm filed a counterclaim for 313,766.70 AED plus interest for its legal fees.

According to the company the legal advice they had sought was a straightforward matter and law firm's charges were not proportionate to the advice sought.

The law firm had engaged overseas lawyers and presented the company with inflated invoices. It was also said the law firm lacked transparency and had breached its fiduciary duties in not disclosing that they had retained overseas lawyers to assist in the matter in accordance with the Letter of Engagement.

The law firm denied the company's claim in full on the basis that they had performed their obligations in accordance with the Letter of Engagement and presented emails as evidence that they had kept the company updated.

The Court found that the law firm had updated the company on the fees incurred and had also informed them that they would engage overseas lawyers. The company did not raise any objection at that time.

WHAT WAS DECIDED?

The Court found that the advice sought involved breaches of the employment contract on areas such non-disclosure and inappropriate use of confidential information, non-competition, non-solicitation of employees and not speaking about them in a way that showed they did not have a good opinion of them. There was also a possibility that the company might want to file an application for interim injunctive relief against the employee and this matter was not as straightforward as the company had claimed.

Although the law firm had sent a late invoice to the company they had earlier provided them with an approximate figure for the fee and stated that overseas lawyers would be engaged. The company had not raised any objection to this at that time.

The Court therefore held that although the company was seeking a reduction in the fees and was not seeking a cancellation, the reduction was not permissible as the company had failed to file submissions with the Court on time to support that reduction. The company had also failed to provide the Court with any legal basis that a reduction of 205,000 AED should be made.

The Court held that as that the company had not raised any objection earlier on and continued to work with the Defendant, they must pay the law firm the outstanding amounts due in accordance with the Letter of Engagement in the total amount of 313,766.70 AED, plus interest.

For these reasons, the court had dismissed the claim and allowed the law firm to counterclaim for 313,766.70 AED with interest.

WHY IS IT IMPORTANT?

Legal costs can mount quite quickly, even in cases which do not go to trial and just involve advice, if specialist advice is needed. This case is a good reminder of the importance of the engagement letter when instructing a lawyer on an employment matter. Courts will look carefully at the terms in these letters when deciding on whether a client has been overcharged. It is a good idea to ask for an estimate where the engagement letter only details hourly rates. Some clients also ask to be warned in advance as fees reach certain levels. The mistake by the company in this case was they did not pay attention to estimates they had been given and details provided that an overseas lawyer would be needed. Their failure to raise concerns when they were given that information led to the Court deciding this was not a valid complaint. In addition, when a fee reduction is sought it shows the importance of actually providing evidence showing how the requested reduction has been calculated, for example comparisons with previous work or calculations based on known time spent and the rates in the engagement letter.

Case No Marif v Methur, DIFC Case No. 335/2023 issued on 28 October 2023

Jurisdiction DIFC

Court DIFC Small Claims Tribunal

Recommended by Ayesha Karim

WHAT IS IT ABOUT?

A former employee filed a claim against their former employer, for damages of 456,000 AED for victimisation and discrimination as a result of the employer's actions which had led the employee to suffer mental and emotional distress. The employer contested this on the grounds that the claim was time barred and that as discrimination and victimisation (under Article 59 and 60 of DIFC Law No. 2/2019) were covered by Part 9 of DIFC Law No. 2/2019 (the DIFC Employment Law) the claim could not be heard by the Small Claims Tribunal and would have to be heard by the DIFC Court of First Instance, according to Article 3 of its Schedule 1 of DIFC Law No. 2/2019. This stated the term 'Court' was defined as: 'Any relevant court or tribunal established in the DIFC or, in relation to any proceedings under Part 9 of this Law, the DIFC Court of First Instance'.

The employer also argued the claim was time barred as it was filed outside the six month period for making a claim in Article 10 of DIFC Law No. 2/2019.

WHAT WAS DECIDED?

The Court found that the Claim was indeed filed more than six months from the date of the termination of

employment. However, the employee had stated in defence on the limitation point that mental stress had prevented the claim being presented within the six month limitation period. The Court referred to Article 61(2)(b) of DIFC Law No. 2/2019 which permitted the Court to condone an application filed out of the limitation period, where a complainant satisfied the Court that there were circumstances which justified the delay. The Court found that both the parties had accepted that the employee suffered from a form of disability, to the extent that the employer had had to make adjustments to accommodate him to enable him to perform his duties. Based on this the Court held that without seeking to make a final determination on the claimant's assertions of disability it was not appropriate for the Court to dismiss the Claimant's case at this stage, given that, if confirmed, mental disability could prove to be sufficient circumstance that could lead the Court to disapply the limitation period set out in Article 10 and 61(2)(a) of DIFC Law No. 2/2019.

Other points made on the limitation period were that it was calculated from when necessary fees were paid not when documents were filed and time given for a party to pay the fee invoice did not extend the limitation period. These parties had made an agreement to extend the limitation period but it was not clear, and the Court did not decide if this was something they could do.

The Court dismissed the Defendant's request on the point of limitation.

On the point of jurisdiction the Court held that based on the definition of court in Article 3 of its Schedule 1 of DIFC Law No. 2/2019, the appropriate Court for hearing a case on discrimination and victimisation was the Court of First Instance in accordance with RDC 53.41 and the Law, and ordered the claim be transferred to that Court for determination.

WHY IS THIS IMPORTANT?

Employees taking cases in the DIFC often file claims with the Small Claims Tribunal as it is a cheaper, simpler approach than taking a case to the Court of First Instance. Therefore, it is significant that this route cannot be used for discrimination and victimisation cases.

It is also important to note the points made on claims limitation - that this may not be as strictly applied if the party is disabled and it is seen there are good reasons they could not file before the limitation period. It is also worth noting that the limitation period is not calculated based on when the case was filed but when the case was filed and relevant fees paid.

Finally, at present it is important to be aware if the two parties have agreed a longer limitation period should apply, there is currently a question around whether they have the power to do so, so that agreement should not be relied on when calculating the date when a claim needs to be filed.

HR PROFILE

PEOPLE PARTNER – ENGINEERING



Supporting Development

Delia Popescu, People Partner at Arup, explains how her work is helping to support the career development of others.

YOUR COMPANY AND WORK

I have over a decade of diverse experience in Human Resources in the Middle East which began in Dubai in 2011 as an HR Generalist in an international distribution company which specialised in wire and cable products where I learnt about the day to day functions of HR. Later I moved to Arup, where I initially joined an HR Coordinator but I have now held several HR roles there and am currently the People Partner. Arup is a global collective of designers, consultants and experts who are dedicated to sustainable development, and to using imagination, technology and rigour to help shape a better world. People join Arup for the creative challenge, the collaborative working environment we offer and how we harness our creativity in powerful ways and develop new solutions to our clients' biggest challenges. We provide strategies and data which enable clients to make better decisions and choose a more sustainable path. The construction and engineering industry is undergoing a digital transformation, with a focus on technology such as AI, automation and data analytics. As we adapt to the post-COVID 'new normal', we are looking ahead to what the future will mean to us in terms of hybrid working, digitalisation, talent management and sustainable development, while keeping the focus on equality, diversity, inclusion and members' well-being.

As the People Partner at Arup in the Middle East, I operate within the UK, India, the Middle East and Africa region. I am responsible for managing HR activities in the Middle East which has a current focus on the UAE. It includes overseeing operations in our Dubai and Abu Dhabi branches, and ensuring HR functions align with the firm's goals across both Emirates. It is a multifaceted role focused on overseeing the entire HR function, collaborating with our business leaders to understand their strategic goals and align HR strategies to support these. I work closely with the leadership on workforce planning, to ensure we have the right talent in the right roles at the right time. This includes talent acquisition, talent mapping, skill gap analysis, succession planning and development plans. My responsibilities range from aligning the People Plan with the regional strategy to implementing People programmes, HR policies and well-being, diversity and inclusion initiatives. I act as a trusted



advisor to the business and provide HR insights which support decision-making processes. One of the main challenges we face is a talent shortage and increased demand due to regional market growth. There is a highly competitive talent market for skilled engineers so we have to employ a diverse, proactive recruitment strategy. We have strengthened our employer branding and offer enhanced benefits to stay competitive in the market. We tap into our global talent through internal recruitment. We prioritise the identification and development of talent within our existing workforce globally, and encourage career growth and progression. We also leverage our alumni network of former members which is a valuable talent pipeline and actively engage with professional networks and educational institutions, participate in industry events and build partnerships with the engineering community to establish connections with potential candidates. We want to inspire the next generation of engineers and build a sustainable talent pool for the future. I take pride in helping individuals to grow and progress in their professional journeys and in believing I have played a small part in their success. It is incredibly rewarding and motivates me in my own career. I help to create a work environment where members feel empowered to bring their whole selves to work. It is rewarding to see them get involved in challenging and exciting projects which give them opportunities for personal and professional growth. Creating a humane inclusive work culture that prioritises our members' well-being where they feel valued, recognised and supported to be authentic drives my dedication to my work.

LEGISLATIVE CHANGE

Recently, in the UAE the main changes have come from the new Labour Law (Federal Decree Law No. 33/2021 and its Executive Regulations). This had immediate

PRACTITIONER PERSPECTIVE



Joshua Decker
Of Counsel
Vaishvik Law
International

With more GCC employers using internal staff development and promotion to solve recruitment issues Joshua Decker of Vaishvik Law International explains the policies needed to ensure fairness.

For many employers, particularly those facing localisation or recruitment challenges, staff development and promotion from within is a good solution. However, it is necessary to ensure there is no perceived unfairness particularly if there are pressures to relax

performance standards to staff up quickly. Anti-discrimination legislation was first issued in the UAE in 2015. Federal Decree-Law No. 34/2023 On Combating Discrimination, Hatred and Extremism has since reinforced the ban on discrimination in the workplace. This includes any distinction, limitation, exception or preference among individuals or groups, on the basis of their religion, rite, community, sect, race, colour, ethnic origin, gender or race. Although, Article 24 of Federal Decree-Law No. 34/2023 stresses that any benefit, advantage or preference prescribed by virtue of any other legislation in the State does not constitute discrimination. For example following the law on Emiratisation or the disabled would not be considered discrimination. The best way to prevent this risk is to develop robust promotion policies that are not just compliant with anti-discrimination laws but are also perceived by employees as fair and equitable. Best practice requires consistency in both promotion and employee evaluations. UAE employers are not legally required to have written promotion or employee evaluation policies, but having a written policy is useful in legal disputes as it helps to show the established policy and prove how the company applies it. These can include consistent interview questions, ideally supported by a checklist showing each question has been considered. Job vacancies should also be posted openly, along with the required qualifications, as this helps to reduce the risk of claims employers have been acting in a discriminatory manner by modifying qualifications based on gender, race, nationality, or other discriminatory factors. Discrimination risks also need to be considered when it comes to transfer decisions, as some positions will inherently offer more opportunity for upward mobility. Using employee evaluations in transfer decisions helps reduce employee concerns about discriminatory transfers.

Objective considerations are the bedrock of fair promotion decisions. One way of objectively measuring employees is to have a rating scale for each aspect of the employee's performance with 1=Unacceptable, 2=Does not meet expectations, 3=Satisfactory, 4=Exceeds expectations, 5=Outstanding. These scales can be used to evaluate a range of areas including the employee's communication, quality of work, attendance, or timeliness. Consistent application of this scale and thorough documentation of these evaluations can help safeguard against claims of improper evaluation. Using more subjective standards such as a 'correct attitude' or an ambiguous desire to 'get ahead' leave an employer open to more scrutiny by a court. Employers who undertake and document regular performance evaluations tend to have clear and objective data they can use when considering who to promote from within. However, to be effective, performance evaluations must provide employees with clear notice of deficiencies, and sufficient time and guidance on how to correct them, as well as a candid explanation of potential consequences, including termination if improvement is not seen. Some supervisors shy away from documenting criticism because of concerns about the impact on their daily work and relationship with the employee. This can lead to inflated and unreliable evaluations which may create problems when considering an employee for a promotion. A negative evaluation should be fact based, as unjustified negative evaluations can also lead to discrimination claims if they are in fact discriminatory. Everyone including executive leadership should be subject to evaluation and company leadership evaluations should include questions on whether performance evaluations are being conducted properly. Documentation of employee performance can be based on informal verbal reviews, but it is most effective when in writing. Properly conducted, written performance evaluations are contemporaneous records which can be used in employment discrimination claims as they capture any performance issues or misconduct.

Employees must also be able to provide documented input into the evaluation and have ample opportunity to address and rectify deficiencies. Having an internal grievance procedure also helps make the evaluation process more equitable if evaluations are disputed.

implications, particularly as all members' unlimited contracts had to be converted to fixed-term contracts. This legislative also impacted our HR policies and procedures, which we had to and are still amending to align with the new law and Arup's global standards. The new unemployment insurance scheme has also been important as we had to ensure all members had registered with the scheme by the deadline to avoid any potential fines. We are currently committed to aligning with the UAE government's goal of increasing the

employment of Emirati nationals in the private sector. We are looking at strategies to ensure compliance with the expanded Emiratisation targets and support Emirati talent enter and thrive in the workforce. Our focus is on collaborating with educational institutions in the UAE to attract Emirati students and create a training and career development programme which enhances technical skills, provides exposure and contributes to the long-term career growth of graduate Emirati engineers.

MOVES AND CHANGES

A ROUND-UP OF BUSINESS NEWS, APPOINTMENTS AND PROMOTIONS

H IS FOR HIRE

Sultan Baddar has been appointed as H Dubai's new Director of Human Resources. Baddar has spent over two decades working in human resources in the hospitality industry and has a degree in Applied Educational Sciences from the University of Jordan. He began his career in hospitality back in 1999, when he was appointed Training Manager at IHG Hotels & Resorts. In his new role he will be responsible for developing innovative recruitment strategies and promoting diversity and inclusion. He previously worked as Cluster Director of Talent and Culture at Accor, where he oversaw and led a team of 200 staff. One of his first initiatives in his new role will be ensuring proper succession planning and that every individual in the company has a career development plan in place.

TAKING IT TO THE BANK

Yusra Baqi has been promoted to Chief Human Capital Officer, over at Aafaq Islamic Finance PSC in Dubai. In her new role Yusra, who joined the bank back in 2016, will lead transformative initiatives designed to empower the workforce, promote talent growth and drive continuous improvement. Her previous roles at the bank have included time spent as Head of Corporate Communications and Happiness and Senior Vice President, Marketing. She began her career in banking back in 2004 as Head of Ladies Banking at the Commercial Bank of Dubai.

CULTURAL EXCELLENCE

Faruk Investment Group, a business which operates in a range of sectors including telecommunications and technology, medical services, hospitality and leisure has appointed Ahmed El-Beheary as its Group Chief People and Culture Officer. In his new role El-Beheary will oversee the HR function across the group's diverse range of subsidiaries and its holding company. He will also be responsible for improving policies, procedures and systems as well as strengthening the HR team and aligning HR strategies with the company vision.

His other areas of responsibility will include talent acquisition and management, organisational development, nurturing the workforce

and developing a culture of excellence.

OPENING NIGHT

Ahead of its opening, the Anantara Mina Al Arab resort in Ras Al Khaimah has appointed Rudaina Sa'ad as its Director of People and Culture. Since 2016 Rudaina has been working on fostering positive environments for teams and individuals. Her previous roles have included time spent as Director of Human Resources at two of Qatar's top performing resorts, including The Plaza Doha by Anantara where she had worked since 2022.



IN THE POST

The logistics company FedEx has appointed Sumit Neogi as Managing Director HR for FedEx Asia Pacific, Middle East and Africa.

Sumit will be responsible for overseeing the human resources function and people operations in the Middle East, the Indian subcontinent and Africa. Before joining FedEx, Sumit worked at the Lubrizol Corporation, Reliance Industries, Cipla, Hewitt Associates, E&Y, Bharat

Petroleum Corporation and TVS Motors. He has over 20 years' experience in business HR, strategic HR consulting and retail sales and marketing.

He has experience of both people and team development, as well as HR tech, analytics, HR transformation, organisation design and change management. His other areas of expertise include talent management, performance management, system design, compensation and benefits, leadership assessment, HR competencies, capability building and HR due diligence.

GAME ON

The games and esports company Savvy Games, which aims to drive long term growth and development of esports and the broader games industry worldwide has appointed Majed Al-Muhanna as their Chief Human Resources Officer. In this new role Al-Muhanna will drive the company's HR strategy and support the development of talent pipelines and specialist jobs in Saudi Arabia.

This will include overseeing talent development and attracting both local and international games specialists.

His previous experience includes human resources leadership roles in a range of major financial and consumer-facing organisations in industries such as investment banking, retail, and manufacturing. He was also previously the Chief Human Capital Officer of SNB Capital. In addition to his new role, Majed is also the Chair of the Human Resources Committee of the Capital Market Institutions Committee, a committee which supports the development of the capital market sector in Saudi Arabia.

OTHER CHANGES

TIME: The UAE hospitality company Time hotels has appointed Patsy Kruger as Director of Human Resources. She was previously Human Resources Director at Zuri Zanzibar Resort in Tanzania.

Dusit Thani Dubai: Esther Openio has been appointed the new Human Resources Manager.

SEND US YOUR NEWS

If you have news of an appointment or promotion within the legal or financial professions you would like to see reported in Lexis Middle East Law, please send details to: daniel.emmett-gulliver@lexis.ae



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Parental Leave



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Oman Sultani Decree No. 53/2023 (the new Labour Law) which came into force on 25 July 2023 has made significant changes to parental leave rights for employees there and also imposes stricter responsibilities on employers in this area. Details of these changes are included in Title 4 of Oman Sultani Decree No. 53/2023 which covers working hours, leave and wages.

MOTHERS

There have been changes to the minimum leave which must now be given to mothers when they go on maternity leave in Oman. Mothers are now entitled to 98 days on full pay which covers the pre and post-delivery period. An employee is entitled to leave to cover the pre-delivery period based on a recommendation by the relevant medical authority, provided this does not extend beyond 14 days. This medical recommendation must also be in writing in the form of a certificate. The remainder of the maternity leave then commences from the date of birth. The new law, Oman Sultani Decree No. 53/2023 also grants new mothers a nursing hour each working day which is taken at a nursing female employee's discretion, for one year after she returns from maternity leave. This break is calculated as part of their working day. It should be noted there is no qualifying period for eligibility for maternity leave. This

means that maternity leave applies from day one of the employee's service, which is not the case in a number of other jurisdictions where minimum service with the current employer is needed to qualify for maternity leave and pay. However, the employer may request proof of the pregnancy.

DEATH OF A CHILD

In addition, a parent will be entitled to 10 days of paid leave if their son or daughter dies. It should be noted this applies to both parents and under Oman Sultani Decree No. 53/2023, the child's death does not need to be linked to childbirth.

SPECIAL LEAVE

In terms of special leave if a mother or child suffers illness or disability as a result of pregnancy, an Omani employee will be entitled to 15 days' paid leave to accompany the sick child for any treatment they require. This sickness is not specifically linked to childbirth under Oman Sultani Decree No. 53/2023.

PATERNITY LEAVE

Fathers in Oman are entitled to seven days of paid paternity leave under new paternity leave provisions in the Sultanate. Again there is no qualifying period in order to be eligible for this leave and paternity leave applies from day one of the employee's service. However, the employer may request proof of the childbirth. In addition, the paternity leave is not supposed to extend beyond 98 days' from the child's date of birth and it is on the condition that the child is born alive. This leave is also fully paid.

UNPAID LEAVE

Parents in Oman are also entitled to unpaid extended leave following core maternity leave. A mother

can take unpaid leave to care for their child for up to one year, provided the employee pays all of their contributions to the Social Protection Fund. There is no unpaid paternity leave entitlement for fathers in Oman. However, the employer and the employee can agree on unpaid leave if they wish.

SPLITTING LEAVE

It should also be noted in Oman maternity leave or other child support leave cannot be split between parents under Oman Sultani Decree No. 53/2023. Female employees are entitled to maternity leave, subject to the conditions under the Law and fathers are entitled to paternity leave. There is no other entitlement to leave in these cases.

ADOPTION

In some other jurisdictions parents are also entitled to leave when they adopt a child. The new Omani Labour Law Oman Sultani Decree No. 53/2023 does not refer to the adoption of children.

EMPLOYERS' POLICIES

Employers in Oman should make sure any policies they have in place on parental leave have been reviewed to ensure they comply as a minimum with their obligations in Oman Sultani Decree No. 53/2023 and if they do not changes to those policies should be made. It is important to note these are minimum requirements for employers in Oman. It is possible for employers to grant additional or more generous leave entitlements should they wish, including on areas such as leave following adoption of children which are not covered under Omani law.

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