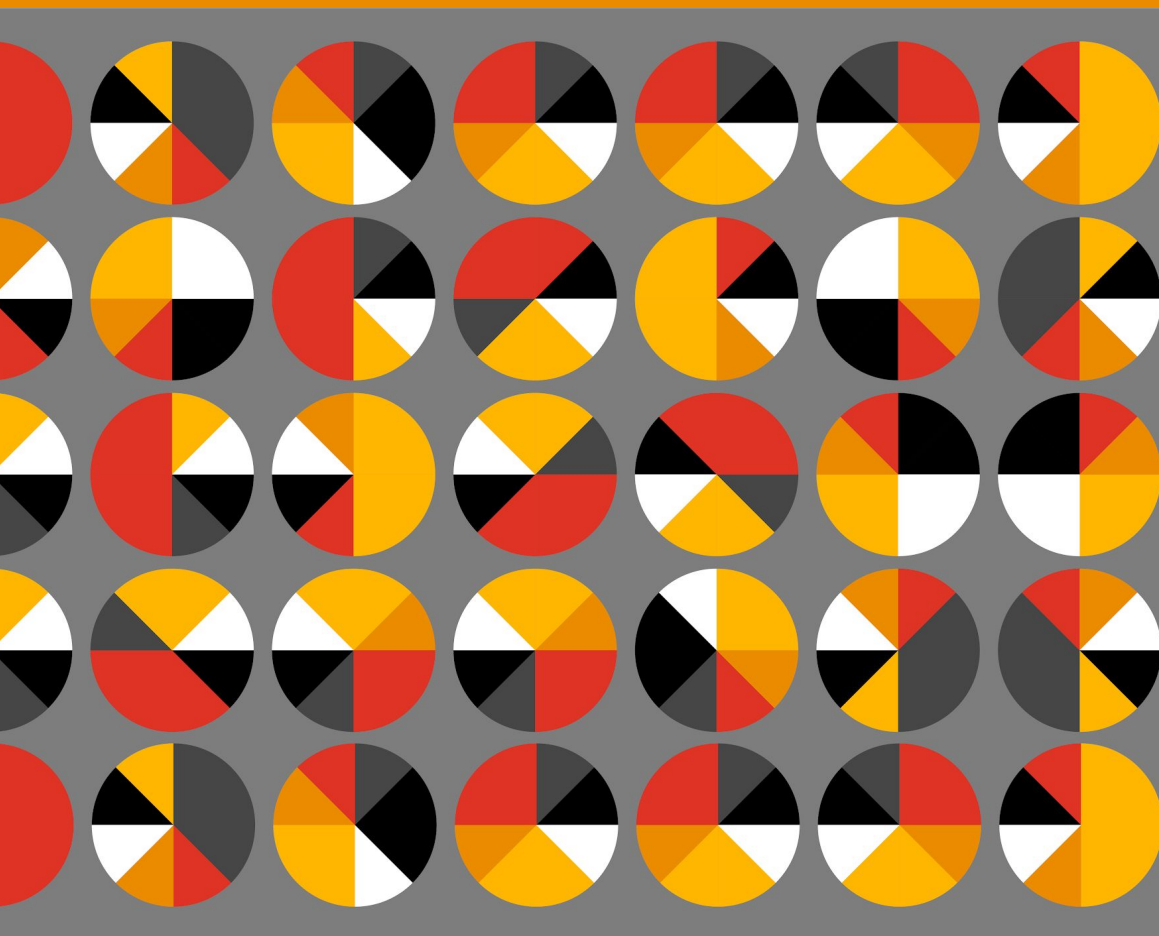


# GCC: Employment and Immigration law update

December 2019



## In brief

In recent developments within the GCC, the UAE and Saudi Arabia have taken further measures to continue their commitment in driving forward their localisation policies. These changes indicate the dedication of both respective governments to ensure that the policies of Saudisation and Emiratisation take full effect, whilst in Qatar, the authorities have announced multiple measures in streamlining their immigration processes to attract further investment into the region.

## In detail

### Kingdom of Saudi Arabia (KSA):

As part of the government's initiative in bolstering Saudisation, the Ministry of Labour and Social Development (MLSD) has declared that they will be removing the 'Yellow' category in the Nitaqat Program. The elimination of the 'Yellow' category is due to take effect on 26 January 2020.

The change means that all companies categorised as 'Yellow' will automatically be moved to the 'Red' category and will need to improve their Saudisation levels before their rating progresses. This will result in such companies being unable to apply for new visas for foreign nationals, change foreign nationals' occupations or renew work permits.

The MLSD introduced the Nitaqat program back in 2011 as a means of implementing and increasing Saudisation in a bid to reduce the number of unemployed Saudi nationals and to help boost their presence in the private sector. Based on their compliance with the program, companies are rated a certain rating of colour ranging from Red (bottom tier) to Platinum (the highest tier). Both the Red and Yellow tiers signify that the companies did not achieve their Saudisation rate and as a consequence, such firms are subsequently denied full access to the MLSD's services.

The recent decision aims to stimulate firms in this zone to move to the Green Zone and above by encouraging them to raise their Saudisation percentage and provide more job opportunities to young Saudi nationals. This will in turn enable the MLSD to provide its services to these firms.

## United Arab Emirates (UAE):

### Emiratisation:

Following on from the UAE government's recent announcement in October with regards to the implementation of Emiratisation, the UAE has introduced a new online jobs portal known as the UAE Jobs Bank initiative, which allows Emirati men and women to apply for over 5,000 jobs across multiple industries and sectors.

The e-government portal which was launched on 26 November, simplifies the job application process for UAE nationals in their search for employment, and prioritises their applications when applying for roles online. The website lists jobs directly, and where an Emirati candidate fulfils the skills for a role, their applications are to be prioritised. Employers are also expected to provide sufficient reasons for rejecting potential applicants.

Numerous government bodies including the Ministry of Human Resources and Emiratisation, the Federal Authority for Identity and Citizenship and Federal Authority for Government Human Resources have all been included in the implementation of the UAE Jobs Bank Initiative.

The system is to be rolled out in two phases - with the second phase to be implemented next year; opening the portal much wider to also include all government entities, semi-government entities and the private sector.

The policy of Emiratisation - known as Tawteen, is a key priority of the UAE government and has been introduced to tackle the country's dependency on an expat workforce through encouraging the employment of Emirati men and women. With the number of Emirati graduates increasing, the incentive here is to provide adequate employment across a multitude of job sectors, which will also allow for more diversity in the workplace.

In October, the UAE Cabinet declared 10 strategic solutions to support Emiratisation, to implement what it referred to as the 'Letter of the New Season', which seeks to reinforce the country's economic and community performance across all sectors. As part of the announcement, Sheikh Mohammed bin Rashid, the Vice President and Ruler of Dubai, said that 20,000 new jobs would be created for Emiratis over the next three years.

The government is also ensuring that it supports the private sector in pivotal ways to help implement Emiratisation. In recent developments, it has also been announced that Emiratis must cover 90% of jobs in administrative and support services of federal government entities. To achieve this goal, companies have been instructed to increase Emiratisation by 10% every year.

However, with the continued efforts to increase Emirati employment in skilled professions in particular, this is expected to have a direct effect on the hiring of foreign nationals and changes in the hiring of foreign nationals are to be anticipated.

## Abu Dhabi Global Market:

The Abu Dhabi Global Market (ADGM) freezone has announced changes to its employment law framework that are anticipated to go into effect 1 January 2020. The previous laws that were implemented through the ADGM Employment Regulations 2015 have since been repealed and the New Regulations 2019 include the following:

- Changes to the provisions regarding overtime for employees
- A breakdown in the entitlement for the sick pay of 60 business days
- More flexibility in the minimum notice periods for both employers and employees
- Authority to the ADGM courts when imposing penalties on companies who fail to pay employees what they are entitled to upon termination
- An anti-discrimination provision to include 'colour' as a protected class

Employers in the ADGM freezone are responsible in ensuring that the changes are implemented and compliant with the new framework.

## DIFC:

In our **November 2019** alert, we set out details in relation to the DIFC Employer Workplace Savings Scheme (DEWS); a new initiative introduced by the DIFC intended to replace the existing end-of-service gratuity payment scheme. The change was expected to be introduced on 1 January 2020, however, given that the new regulations have not yet been outlined, the date has been pushed back to 1 February 2020.

This will, in turn, grant both employers and employees in the DIFC more time to brief themselves with the new regulations and responsibilities once formally introduced. Any company who chooses to opt out of DEWS will need to apply for Certificates of Compliance relating to other recognised schemes before 31st March 2020.

In the meantime, the existing Employment Law framework remains intact and employees can continue to accrue their end of service gratuity until 31 January 2020. We will continue to monitor these changes and keep you up to date on any further developments.

## **Qatar**

The Ministry of Interior (MOI) and the Ministry of Administrative Development Labor and Social Affairs (MADLSA) in Qatar have announced numerous reforms with the aim of attracting investors into the region. The proposals include the following:

- Introduction of a Temporary Work Visa:

A new Temporary Work Visa, issued to foreign nationals in certain professions allowing companies to sponsor individuals who are required to undertake short-term or urgent work, has been introduced. This has been brought in to combat the existing long-term work visa option, which can take up to four months to process, and the short-term business visa, which requires a sponsor.

- Reduced government fees for processing immigration applications electronically:

The MOI has proposed a reduction of government fees for the processing of immigration applications electronically, as part of its framework in facilitating procedures and providing services to beneficiaries in the best way possible. The incentive is part of the Ministry's goal to achieve being a "ministry without paper" through electronic systems and high quality automated programs. It will also encourage employers to complete applications to obtain the relevant services with minimal effort and less time.

- Allowing eligible male dependents to work without changing sponsorship:

Male children (defined as those who have not yet completed university-level studies and are under the age of 25) who are under the sponsorship of their parents will be able to obtain work authorisation from an employer in the private sector, without changing sponsorship from their parent to an employer. The government has not yet announced if the provision will extend to male spouses of foreign nationals.

Male dependents are not allowed to work currently under dependent status and must relinquish this status when obtaining work authorisation. This change will also benefit employers, who can focus more on local talent for hiring and look to focus on candidates in Qatar instead.

Details on the implementation of the above proposals are yet to be announced.

- E-Contracts:

The MADLSA has announced a change in the requirements regarding employment contracts. Previously, an employee simply had to hold a registered employment contract with the MADLSA - however, the authorities now require for Qatar Work Residence Permit and Labour Card holders to obtain a registered employment e-contract that is procured through the MADLSA's online e-contract portal. The change demonstrates an incentive for the authorities to enhance their services - moving towards a more online, electronic system.

In addition, with regards to residence permit renewal application, the immigration authorities have also announced that they will now require an attested e-contract effective 3 November 2019. The contracts must be attested by the Ministry of Labour (MOL) prior to submitting the renewal application.

## The takeaway

Whilst there have been various changes to attract foreign investment and expats into the region, the GCC governments are simultaneously conscious of ensuring that further opportunities are also afforded to its local citizens. This demonstrates a desire to encourage growth at a much more domestic level in a bid to enhance and utilise the skill sets of its own population. In addition, Qatar are revamping their immigration processes for ease of service in order to benefit both employers and employees alike.

We will continue to monitor these changes and keep you up to date on any developments.

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## Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

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