

GCC Immigration and Employment roundup

December 2021



In brief

The UAE Government has introduced significant changes to Labour Laws which will come into effect next year, including different working arrangements being formally recognised.

The introduction of a Five-Year Multi-Entry visit visa is paving the way for overseas companies without a presence in the UAE, to send their employees to the country for certain business activities.

Saudi Arabia has introduced citizenship to 'outstanding' expatriates, in an aim to retain talent and valuable skills in The Kingdom.

The detail

United Arab Emirates (UAE)

Five Year Multi-Entry Visas

Last month, we published a news alert on the introduction of Five Year Multi-Entry Visas, a joint initiative between the General Directorate of Residency and Foreigners Affairs in Dubai (GDRFA) and Dubai's Department of Economy and Tourism (DET). The category is now available to employees of international companies that are in the process of establishing a presence in Dubai. Our alert can be found [here](#)

As a re-cap, companies will be required to register via an online application form, before individual visas can be applied for. Companies will be asked to provide information in order to register, including but not limited to:

- How long the company has been in business
- Countries where the company's branches are located
- Number of services the company offers in Dubai
- Number of employees
- Average annual revenue
- Number of board members

Once a company is registered, individuals who have secured a Five-Year Multi-Entry visa will be permitted multiple entries to Dubai, and stay for up to 90 days with the option of extending for a further 90 days.

This significant initiative is part of Dubai's aim to continue attracting investors and overseas talent, drive business growth and as stated by Helal Saeed Al-Marri, Director General of Dubai's Department of Economy and Tourism (DET) "make the city even more attractive to people around the world and easing barriers to entry for business and leisure travellers".

Changes to UAE labour law

The New Labour Law introduces key reforms in respect of several areas of the employment relationship. Some of key changes are listed in this update. There are references throughout the New Labour Law to implementing regulations which have not been issued to date but which are expected to expand upon the provisions of the law in certain aspects.

New Working Models

The New Labour Law aims to introduce flexibility by specifically providing for alternative working models, alongside the traditional full time working model, including: part-time, temporary and flexible/freelance working arrangements though it remains to be seen how the new arrangements will work in practice (e.g. what type of work permit will be required and will the standard form contracts used by the Ministry of Human Resources and Emiratization (**MoHRE**) and various free zone authorities).

The table below illustrates the range of working models now available.

Arrangement		Details
Full time	:	Working up to 8 hours a day or 48 hours per week for one employer.
Part time	:	Working for one or more employers for a specified number of hours. Statutory benefits may be prorated.
Temporary	:	Working on a specific task or for a specific period of time, with the contract ending upon completion of the task or agreed (short) term.
Flexible	:	Working under a versatile model which may include includes changing working hours and days depending on the workflow, economic and operational circumstances of the employer

Further models may be introduced pursuant to the implementing regulations.

Contract Duration

Despite the flexibility in terms of arrangements introduced by the New Labour Law, the duration of contracts is now limited with the removal of unlimited term contracts. From 2 February 2022, new contracts must be limited in duration and may not exceed 3 years. Contracts may be renewed more than once for an equal or shorter term.

Employers will have until 2 February 2023 to convert existing unlimited term contracts into limited term agreements.

Probation

The permitted duration of probation continues to be 6 months. However, it will no longer be possible to immediately dismiss an employee during the probationary period. Instead, where the employer terminates employment during the probationary period, the employer must provide the employee with 14 days' notice. Conversely, should the employee wish to change employment during the probationary period, the employee must give the employer a 1 month written notice and the new employer will be responsible for reimbursing the first employer's recruitment costs. It is unclear how this will work in practice.

Deductions

The circumstances in which deductions can be made from wages has been expanded. In addition, employers are now entitled to deduct up to 50% of an employee's 'wage', as compared to the previous limit of 10%.

Working Hours

As is the case under the Current Labour Law, employees may work up to 8 hours per day or 48 hours per week under the New Labour Law in addition to up to 2 hours of paid overtime per day. However, there is now an additional cap of 144 working hours over a three week period.

Annual Leave

Employees continue to be entitled to 30 calendar days of leave per year of service with employers still able to set the days of an employee's leave. However, doing so will require one month's notice to be given to the employer. In addition, the New Labour Law specifically provides that employees must take annual leave in the year in which it accrues.

Maternity Leave

The New Labour Law provides for enhanced maternity leave. A pregnant employee is now entitled to 60 days of maternity leave, with the first 45 days being paid in full and the remaining 15 days paid at half pay. In addition, employees are now also entitled to an additional 45 days' unpaid leave.

Additional provisions are included in the New Labour Law to address stillbirth and employees who give birth to a child who is sick or has special needs.

Other Leaves

The New Labour Law provides for new categories of leave which apply in specific circumstances, such as bereavement leave (in the event of the death of a first degree relative) and study leave, subject to an employee having completed at least 2 years of service.

Discrimination and Harassment

Discrimination on the grounds of race, colour, gender, religion, national origin, ethnic origin or disability is now expressly prohibited. Further, the New Labour Law has introduced statutory prohibition of bullying and sexual harassment, which extends to verbal, physical or mental violence against workers by the employer, the employee's manager and coworkers.

Disciplinary Sanctions

The Current Labour Law provides an exhaustive list of disciplinary sanctions which may be imposed on employees in the event of wrongdoing (subject to having first carried out a complete disciplinary process). The available sanctions have been expanded in the New Labour Law, giving employers the ability to suspend without pay for longer (now 14 days compared to the previous 10 day limit) and suspend on half pay for up to 30 days where an investigation is being carried out.

Termination of Employment

The Current Labour Law prohibits termination of an unlimited term contract in the absence of a valid reason. Limited term contracts cannot lawfully be terminated prior to the agreed end date. As set out above, unlimited term contracts are no longer recognised by the New Labour Law. From 2 February 2023, all new and existing employees should be engaged on limited term contracts. Despite that, the New Labour Law still contains notice provisions for both employers and employees. The minimum notice period in the New Labour Law is 30 days and the maximum, 90 days. In addition, where employment is terminated by the employer, the employee is also entitled to one day of leave per week during notice to secure a new role. The leave will be unpaid.

The reasons for which an employer may lawfully dismiss an employee, both with and without notice, have been expanded in the New Labour Law. Interestingly, the New Labour Law recognises the permanent closure of an establishment and the employer's inability to continue carrying on business for economical reasons as valid basis for termination.

Further, the reasons for which an employer may summarily dismiss an employee have been clarified and expanded in the New Labour Law. Of most significance, employees may be summarily dismissed where they misuse their position for private gain or joins another employer without complying with the requirements for doing so.

Under the New Labour Law, references to arbitrary dismissal and early termination compensation no longer exist. Instead, employees are simply entitled to 'compensation' in the event of unlawful termination of employment. However, compensation is still capped at three months' remuneration. The actual payment will depend on a number of factors such as the type of work and damage suffered as well as the employee's tenure.

End of Service Gratuity (ESG)

The provisions in respect of ESG in the New Labour Law are clear as to scope, and in particular the fact that GCC nationals are not entitled to ESG.

In terms of financial impact for employers, the most significant change is that the Current Labour Law provides that employees will be entitled to a reduced ESG payment in certain cases and will forfeit payment entirely in others (for example, in the event of summary dismissal). This is no longer the case. Instead, the New Labour Law provides that employees will continue to be entitled to ESG irrespective of the reason for, and timing of, termination.

Post-Termination Restrictions

The New Labour Law provides that non-compete clauses may be for up to 2 years in duration (subject of course to the reasonableness of the restriction in all other aspects such as geographical scope and business sought to be restricted). However, it is important to note that an employer will not be in a position to enforce restrictions which would otherwise be enforceable if the employer has failed to abide by the provisions of the New Labour Law.

New Working Week

On 7 December 2021, the UAE Government announced that federal government employees will shift their working days from Sunday - Thursday to Monday - Friday and that Friday would be a half day meaning that employees work 4.5 days only. Schools have announced a change to their operating hours to reflect the public sector working week.

There is no direct obligation on private sector employees to change the working week. As set out above, the New Labour Law provides that employees are entitled to one rest day a week but there is no requirement for that rest day to fall on a particular day of the week. Therefore private sector employers are entitled to retain the Sunday to Thursday working week. Despite that, it is clear that many businesses are shifting their work week to align with Government and school operating hours.



Saudi Arabia

Introduction of citizenship

We published an alert last month detailing the introduction of citizenship in Saudi Arabia for foreign nationals with specialised skills. 'Outstanding', highly skilled professionals working in the legal, scientific and medical, technical, sports and cultural fields, will be able to naturalise as a Saudi citizen according to a royal decree. Those who contribute to the growth of The Kingdom will be considered for citizenship, and the announcement signals the country's aim to attract and retain expatriates with exceptional skills and talent.

Iqama renewals

Saudi Arabia's Ministry of Interior has begun to issue residency permits (Iqamas) for periods of three months, in line with a recent decision of the Council of Ministers to permit the issuance and renewals of Iqamas on a quarterly basis. This is with the exception of domestic workers.

This change means that employers are now able to renew Iqamas for varying periods of three months, six months, and nine months, paving the way for the hiring and renewal of Iqamas to meet business needs.

Key takeaway

In view of the New Labour Law coming into effect on 2 February 2022, employers in the UAE are encouraged to proactively commence examining their potential statutory and contractual obligations, in order to ensure a smooth transition, compliance with the provisions and regulations of the New Labour Law, and ultimately avoid any disruption to the business.

Applications for Five-Year Multi-Entry visas are now open in Dubai, and overseas businesses are able to register for the programme online, with credentials being assessed before employees are able to submit their individual visa applications.

The Kingdom is continuing to implement initiatives to attract and retain exceptional foreign talent, as well as ease processes for businesses to facilitate the hiring and renewal of Iqamas for employees.

How can we help?

We understand that this is a challenging and unpredictable time for many companies and their employees. We can help to:

- Advise on changes highlighted in this round-up, from the introduction of a Five-Year Multi-Entry Visit visa to UAE Labour law changes;
- Review employment contracts, policies and processes to ensure readiness for UAE labour law changes in 2022;
- Assist with advising stakeholders and drafting communication to employees on travel and visa requirements as they change in the region (in compliance with Government announcements and immigration requirements).

Let's talk

For a deeper discussion of how these issues might affect your business, please contact:

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continue to monitor these changes and help you up to date with the latest developments.



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