

10 Things you Should Know About the New UAE Labour Law

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The Ministry of Human Resources & Emiratisation (“MOHRE”) announced an overhaul to the labour laws in the UAE with the introduction of Federal Decree Law No. 33 of 2021 Regulating Labour Relations, as well as its Executive Regulations, under Cabinet Resolution No. 1 of 2022 (collectively “New Law”), which came into effect as of 2 February 2022 (“Effective Date”).

We have outlined 10 considerations that all retail sector clients need to be aware of:

- **Fixed term contracts only**

Under the New Law the concept of unlimited term contracts has been removed and only fixed term contracts (of up to 3 years) can be issued. Employers have until 2 February 2023 to transition all existing employees that are currently on unlimited term contracts to the fixed term contracts.

- **Probation period notice**

Whilst probation periods remain at a maximum of six months, the New Law now introduces an obligation for either party seeking to terminate employment during probation to provide at least 14 days’ notice, and where an employee is joining another UAE-based employer; they must provide at least

30 days’ notice. In addition, employers can seek repayment of their recruitment costs of the employee from the new employer.

- **Part Time and Flexible Working Arrangements**

A number of new alternative flexible and atypical employment arrangements have now been introduced, including part-time work (with pro-rated benefits), temporary work (for specific project-based work), flexible work (where working hours and days may vary depending on an employer’s needs) and job-sharing (no details provided as yet by MOHRE)

- **Working Days and Hours**

Fridays are no longer the mandatory rest days and employers are required to provide at least one rest day to their employees on any day of the week. Maximum working hours remain at eight hours per day/48 hours a week (on a six-day working week) with two-hour overtime limit however there are potential exemptions from these requirements under the Executive Regulations, which limit the working hours to no more than 56 per week.

- **Annual Leave**

Employees must now utilise annual leave in the year of accrual and cannot carry over unutilised days into the next holiday year unless specifically approved by the employer (or in very limited circumstances where the employer has prevented the employee from utilising leave in the year that it accrued). Any unused days are forfeited without compensation. Pay-out of unutilised leave days only occurs in exceptional circumstances or in respect of annual leave days accrued in the year in which the employment comes to an end and the basis of the pay-out is on basic salary only.

• Other Leave

The New Law enhances and also introduces a host of new leave entitlements:

Maternity leave: increased to 60 calendar days (45 days at full pay and 15 days at half pay); will also be applicable where an employee miscarries after 6 months term.

Compassionate leave: five calendar days in the event of the death of the employee's spouse and three calendar days in the event of the death of the employee's parent or grandparent, child or grandchild or sibling.

Parental Leave: five calendar days (for both parents) which must be utilised within six months of the child's birth.

Study leave: 10 calendar days per year to sit exams as long as the employee has more than two years' service and is studying with an approved UAE education institution.

• Discrimination and Equal pay

Employees are now specifically provided protection from discrimination in the workplace and the law prohibits discrimination on the grounds of race, colour, sex, religion, national origin, social origin and

disability that would impair equal opportunities for an employee or prejudice an employee from gaining employment and continuing such employment. Whilst maternity and/or pregnancy are not listed as a protected characteristic, employers are prohibited from terminating an employee (or threatening to terminate an employee) due to the fact she is pregnant or on maternity leave. Additionally, the New Law provides that there should be equal pay for men and women for the same work.

• Termination of Employment

Despite the use of the term "fixed", the New Law provides that fixed term contracts can be terminated on notice during the course of the term for a "legitimate reason", provided that the period of written notice under the contract of employment is provided. Termination with notice for reasons other than those related to an employee's performance or conduct are now permitted. Most notably, the concept of redundancy is now expressly recognised as a valid reason for termination if the employer is bankrupt or insolvent, or there are any economic or exceptional reasons. In addition, the arbitrary dismissal compensation regime (under the old law) has been significantly pared back with compensation only potentially available to employees in two specific termination instances only noting that it still remains to be seen how the UAE Labour Courts will interpret the new legislation.

• No reduction or forfeiture of gratuity

Previously employee who resigned from employment before five years of service has their end of service gratuity reduced (unlimited term contracts) or forfeited (fixed-term contracts). In addition, summary termination also meant that an employee forfeited their gratuity. The New Law removes these so that an employee is now entitled to their gratuity at the end of their employment, whatever the reason for the termination.

(Note – reduced gratuity provisions remain applicable until 1 February 2023 for those employees resigning from their unlimited term contracts until that date)

• Payment of End of Service Entitlements

Payments of all contractual and statutory entitlements must be made within 14 days of end of employment failing which an employer may face fines from MOHRE of between AED 5,000 and AED 1,000,000.

The above constitutes a summary of the key considerations that have a material impact upon the contractual arrangements that retail companies put in place with their employees. It will necessitate a review of template documentation and policies and procedures to ensure legal compliance with the New Law and the Executive Regulations.