

New Employment Regime in Jordan: Working Within Flexible Arrangements

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The Jordanian Parliament, following increasing calls for a legislative regime change catering to the flexible needs and requirements of a diverse workforce, has recently enacted a new regulation pertaining specifically to flexible working arrangements in the Hashemite Kingdom of Jordan. Such regime, which is contained in the Regulation of Flexible Employment (Regulation No. 22 of 2017) (the “Regulation”), was published in the Official Gazette on 16 March 2017 and came into effect immediately as of such date.

In short, the Regulation offers certain categories of employees (see below) the right and opportunity to choose, with their employers consent, a flexible working arrangement tailored to their personal and familial circumstances, needs and/or requirements – ultimately fostering a very tangible and concrete work-life balance and, in turn, employee satisfaction and engagement.

Who is covered by the Regulation?

The Regulation covers the following specific categories of employees only (collectively, the “Employees”):

- An employee who has spent at least 3 consecutive years working for the employer;
- An employee who bears “family responsibilities”, which are defined as encompassing a pregnant employee; an employee who assumes parental ‘responsibility’ of a child; or an employee who assumes responsibility for disabled or ill members of their family (including the elderly or infirm).
- University students [who are employed with the employer]; and
- Disabled employees.

What is the scope of the Regulation?

The Regulation provides the Employees with different forms of flexible working arrangements, patterns or schedules of work, including the following:

- The option to work part-time: where the Employee is entitled to work for reduced working hours (the standard normal working hours are 8 hours per day excluding an hour break, 48 hours per week which can be distributed throughout the week provided that the working day does not exceed 11 hours (exclusive of overtime). The option to work a flexible daily working pattern: for example, commencing work at 10:00 am instead of 9:00 am. The Employees, however, are still obliged to ensure that they work their full standard daily working shift
- The option of a varied working weekly schedule or pattern: for example, if the original working days are 5 with daily working hours being 8, the Employees could elect to stagger their working hours across the working week such as 10 hours on Sunday and Monday and 6 hours on Tuesday, Wednesday and Thursday. This option is subject to the provision that the daily working hours should not exceed 10 per day (exclusive of overtime).
- The option of a varied yearly schedule or pattern: for instance, the Employees could elect to work for 6 days a week from January-June and thereafter, work for 4 days a week throughout the rest of the year.

This arrangement is, however, restricted by the prohibition mandated under Article 60 of the Jordanian Labour Law (Law No. 8 of 1996) (the “Labour Law”), under which it is stipulated that the employee is prohibited from working for more than 4 weeks in a row without taking any day off.

- The option for remote working.

The above options are, of course, subject at all times to the prior approval of the employer. It is not, therefore, an unconditional automatic right for the Employees. There will need to be an element of mutual consent to such arrangements taking into consideration the business needs and requirements of the employer at the relevant time. An employer cannot, however, compel an Employee to adhere to a specific arrangement, as otherwise, such arrangement would be deemed as void.

Additional considerations

Where an Employee and his/her employer agree to a flexible working arrangement subject to the Regulation, the following key points should be considered:

- The Employee should be paid pro-rata to his/her working hours and days but not less than the minimum wage applied in Jordan (which amounts to 220 for Jordanian employees and 150 for non-Jordanian employees).
- The Employee’s leaves and entitlements should be provided by the employer pro-rata to his/her working hours and days.
- The Employee should still be entitled to take advantage of all the rights and advantages provided under the Labour Law unless his/her original employment contract or flexible contract provide for a more advantageous right.
- The Employee should be entitled to request to revert to his/her original employment contract at anytime during the flexible arrangement and such request can only be affected upon the approval of the employer.

In order to ensure unhindered implementation of the Regulation, the Regulation obliges the employer to periodically report to the Tripartite Committee (a committee specifically formed by Article 52 of the Labour Law) of its application, where relevant, of the Regulation. Such report should include (i) the forms of flexible arrangements adopted, (ii) the number of Employees who have adopted a flexible working arrangement and the start date of their employment, (iii) the strategy that was implemented by the employer to adopt a flexible working arrangement and (v) the number of all employees working with the employer. The Tripartite Committee shall look into and examine the reports provided by the employer and regularly issue its recommendations to the Minister of Labour in this regard, as required under Article 11 of the Regulation.

Conclusion

The Regulation has received notable positive feedback from various industry circles and is a welcome step in the direction of catering to, and ultimately accommodating, a workforce shouldering differing familial circumstances for female workers, in particular, and in general, the possibility of reducing traffic and avoiding stress of commuting during rush hours. However, certain residual creases still need to be ironed out with regards to the Regulation, including the necessity of amending the Labour Law to align it to the terms of the Regulation and separately, the “employer consent” element attached to the flexible working options generally. Whilst it is acknowledged that any flexible working arrangement requests will invariably need to be considered in the light of an employers business needs and requirements, there should be a careful balance and mechanism in place to ensure that such requests are not flatly rejected or denied by employers arbitrarily; particularly as such an approach would go against the very spirit and aim of the Regulation.