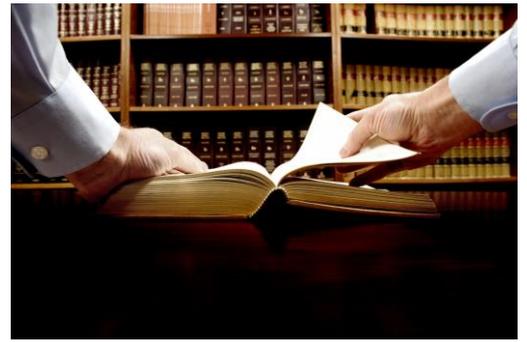


inBrief

**Arbitrary termination of employment under the new UAE Labour Law**

By Charles Laubach and Saurbh Kothari | 24 February 2022

The new UAE Labour Law (Federal Decree-Law No. 33 of 2021) came into effect on 2 February 2022. The new Labour Law replaced the previous 1980 statute (Federal Law No. 8 of 1980, as amended). The new Labour Law is generally applicable to employment relationships in the private sector in the UAE (excluding the DIFC and ADGM free zones).

Under the new Labour Law, either party may terminate an employment contract for any “legitimate reason” by giving a written notice to the other party. There was a similar provision in the old Labour Law. The meaning of “legitimate reason” was frequently debated and often gave rise to employment disputes in the UAE. Termination of an employment contract without notice or for other than a “legitimate reason” would lead to a claim for damages.

In addition, a claim for damages can arise in the event of “arbitrary” termination. The old Labour Law provided that termination by the employer would be arbitrary if done because the employee filed a complaint or court case. It also provided that termination by the employer would be arbitrary if the cause of termination is not related to work. The meaning of “not related to work” was frequently disputed. It was also unclear whether termination for a “legitimate reason” could nevertheless give rise to damages if it was found to be “not related to work.”

The new Labour Law amends the definition of what is considered as arbitrary termination. It retains the retaliatory element - termination of employment by the employer shall be arbitrary if due to (i) the employee filing a complaint with the Ministry of Human Resources and Emiratization or (ii) the employee filing a valid lawsuit against the employer. In contrast, the new Labour Law discontinues the “not related to work” element. Accordingly, an

The Authors

Charles Laubach

Partner

claubach@afриди-angell.com

Tel: +971 4 330 3900

Charles is a partner at Afridi & Angell’s Dubai office. He has practiced as a legal consultant in the UAE since 1986. He advises on general corporate matters, military procurement and offsets, project finance, employment, and international trade controls. Charles is a member of the Pennsylvania and DC Bars. He holds a JD and an MA from the University of Pennsylvania, an MA from the University of London, School of Oriental and African Studies, and a BA from Dartmouth College.



Saurbh Kothari

Senior Associate

saurbh@afриди-angell.com

Tel: +971 4 330 3900

Saurbh joined Afridi & Angell in 2008 and is a senior associate in the corporate and commercial team. He advises both local and international clients on a broad range of corporate/commercial and employment matters. Saurbh is a member of the Bar Council of Rajasthan, India. He holds an LLM from the University of California, Berkeley and a BBA LLB from National Law University, Jodhpur, India.

employee may base a claim for arbitrary termination, and thereby claim three months' salary as compensation, only when the retaliatory element is present.

Absent retaliation, the employee must argue that termination was done without notice or was done for other than a legitimate reason. This provides less scope than before for recovery by a disgruntled employee. The legislative authorities may have intended to reduce the number of employment disputes by narrowing the basis for a claim for arbitrary termination. But the change might not have this effect, given that the "legitimate reason" requirement has been preserved. The UAE courts are known to be hospitable venues for employee claims, and the issue of whether termination was legitimate in a particular case always turns on the specific facts. As before, an employer must be prepared to document its reasons when termination is contested. ■

Afridi & Angell

Founded in 1975, Afridi & Angell is a full-service UAE law firm in its fifth decade at the forefront of the legal community. From the beginning, our hallmarks have been a commitment to quality, unsurpassed knowledge of the law and the legal environment, and crafting of innovative business solutions. Licensed in the three largest Emirates of Abu Dhabi, Dubai and Sharjah as well as the Dubai International Financial Centre, our practice areas include banking and finance; corporate and commercial law; arbitration and litigation; construction; real estate; infrastructure projects; energy; project finance; maritime (wet and dry); and employment. We advise local, regional and global clients ranging in size and sophistication from start-ups, sole proprietorships, family-owned businesses, entrepreneurs and investors to some of the world's largest public and private companies, governments and quasi-government institutions. We attract and retain clients with our dedication to practical guidance focused on their business needs supported by decades of experience here in our home jurisdiction, the UAE.

Afridi & Angell is the exclusive member firm in the UAE of top legal networks and associations, most notably Lex Mundi, the world's leading network of independent law firms, and World Services Group.

www.afridi-angell.com