

## inBrief

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

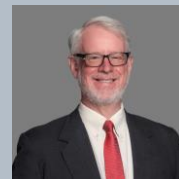
By Charles Laubach and Saurbh Kothari | 24 February 2022

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

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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. ■

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