

inBrief

**Hiring an employee in the UAE - key considerations to be mindful of**

By Bashir Ahmed and Saurbh Kothari | 23 January 2023

The United Arab Emirates (UAE), a sought-after destination by foreign businesses for establishing their regional offices, consists of multiple jurisdictions for incorporation/establishment of entities. Each Emirate of the UAE has its own licensing authority and, additionally, there are more than 40 free zones in the UAE. Each Emirate and each free zone can be regarded as a separate jurisdiction for the incorporation and establishment of entities.

Federal Decree-Law 33 of 2021 on Regulation of Labour Relations (as amended) (the **new Labour Law**), which repealed and replaced Federal Law 8 of 1980 concerning the Regulation of Labour Relations (as amended) (the **old Labour Law**), applies to all jurisdictions within the UAE except for the Dubai International Financial Centre (DIFC) free zone and Abu Dhabi Global Markets (ADGM) free zone, both of which have their own employment laws.

In this inBrief, we discuss certain fundamental points which are commonly raised by employers headquartered outside of the UAE and with little familiarity with the new Labour Law. Although commonalities exist in all jurisdictions, points covered in this inBrief apply to entities established in the UAE excluding the DIFC and the ADGM.

UAE Residency Visa and Work Permits

The majority of the workforce in the UAE is comprised of foreign nationals (excluding Gulf Cooperative Council (GCC) countries nationals) who are sponsored by their employers. To sponsor an employee, a UAE employer will arrange residency visas and work permits for such foreign national employees. Subject to complying with certain procedural requirements and passing a routine health and security check, UAE residency visas and work permits are readily issued by the appropriate UAE authorities.

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Use of Standard Form of Employment Contract

Most jurisdictions within the UAE require the use of standard form of employment contracts. For entities operating in mainland UAE (outside of the free zone areas), the UAE Ministry of Human Resources & Emiratisation (MOHRE) has published a standard form employment contract. Similarly, Jebel Ali Free Zone Authority (JAFZA) (the authority which regulates Jebel Ali Free Zone) and a number of other free zones have issued standard forms of employment contracts.

The standard form employment contracts are invariably basic documents covering the minimum provisions required for an employment contract. Therefore, it is common for an employer and an employee (such as senior employees) to enter into a more sophisticated contract covering additional points not covered in the standard form contract or providing greater detail on standard provisions than what is typically included in the standard form contract.

Term of Employment Contracts

Under the old Labour Law, it was permissible to enter into either limited term employment contracts or unlimited term employment contracts. However, under the new Labour Law, the concept of unlimited term employment contracts has been removed. All employment contracts are now required to be for a limited term. There is no limit on the minimum or maximum number of years of a term. It is permissible to renew an employment contract for similar or shorter periods as agreed between the parties.

Probation Period

The probation period of an employee can be a maximum of six months. Under the old Labour Law, either party could terminate an employment contract during probation period without notice. Under the new Labour Law, however, notice of termination of employment is required to be served and notice period will vary depending on the circumstances.

Salary and End of Service Gratuity

Salary is generally divided in two components, basic salary and allowances. Allowances can be further divided into different types of allowances and can be any amount the employer chooses and are not required to be the actual amounts incurred by the employee. For example, the monthly housing allowance is not required to be equal to the actual monthly rent of an employee.

Employees are entitled to an end-of-service gratuity (a benefit which an employer is required to pay at the end of an employee's service) which is calculated on the basis of basic salary. The higher the basic salary, the higher will be the end-of-service gratuity. It is common to split the monthly basic salary and allowances to, say, 40-60, 50-50 or 60-40 ratios. An employer has discretion to keep a further lower basic salary and offer higher allowances.

Once agreed in an employment contract, the employer will not be able to unilaterally reduce or adjust the basic salary and allowances to the detriment of an employee.

Pension contributions are mandatory for employees from GCC countries. End of service gratuity is not required to be paid to employees from GCC countries.

Termination at Will

The Labour Law does not provide for termination of employment at will. The Labour Law provides for grounds on which an employment contract may be terminated by either party. In case of wrongful termination of an employment contract by an employer, the UAE courts may award compensation to an employee which is capped at a maximum of three months of current salary¹.

¹ Other provisions may apply for termination of employment of UAE nationals.

Governing Law and Dispute Resolution

All employment contracts must be governed by the laws of the UAE and be subject to UAE local courts. In case of a dispute, irrespective of the provisions of an employment contract, UAE courts will have jurisdiction and will apply the laws of the UAE. An employment dispute cannot be subject to resolution through arbitration.

Reliefs of Injunction and Specific Performance

The UAE courts generally do not grant remedies of injunction and specific performance. In case an employee, in breach of his non-compete obligations, joins a competitor of his previous employer, the previous employer will need to file a case before the UAE courts and prove and claim damages (which is often difficult) from the employee.

A detailed inBrief on the new Labour Law can be accessed [here](#). ■

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