

## Employment and employee benefits in United Arab Emirates: overview

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### SCOPE OF EMPLOYMENT REGULATION

1. Do the main laws that regulate the employment relationship apply to:
  - Foreign nationals working in your jurisdiction?
  - Nationals of your jurisdiction working abroad?

#### Laws applicable to foreign nationals

Federal Law No. 8 of 1980 Regulating Labour Relations, as amended by Federal Laws No. 24 of 1981, No. 15 of 1985, No. 12 of 1986 and No. 8 of 2007 (Labour Law), and applicable Ministerial Orders implementing its provisions, applies to all employees working in the UAE, including foreign nationals, apart from:

- The following categories of workers:
  - officials, employees and workers in federal and local government departments, or appointed for federal and local government projects;
  - members of the armed forces, police and security officers;
  - domestic servants working in private residences;
  - workers employed in agriculture (apart from employees of agricultural companies engaged in processing products, or operating or repairing machinery required for agriculture).
- Employees working for a company with a place of business in the Dubai International Financial Centre (DIFC) and who are based in, or ordinarily work in, the DIFC. These employees are subject to the DIFC Employment Law No. 4 of 2005, as amended (DIFC Employment Law).

Employees working in one of the many free zones in the UAE, including foreign nationals, are subject to the Labour Law in addition to employment regulations introduced in the relevant free zone. Where the free zone regulations are not consistent with the Federal Labour Law, the Federal Labour Law provisions take precedence unless they are less favourable than the relevant free zone regulations.

Where no mandatory laws apply, the law of contract governs the contractual employment relationship. The parties can choose the law applying to the contract, but during litigation the UAE courts generally assume jurisdiction and apply the Labour Law.

#### Laws applicable to nationals working abroad

The Labour Law or DIFC Employment Law only applies to nationals working abroad if this has been contractually agreed between the parties, subject to the jurisdiction they are working in (that is, the laws of other jurisdictions may prevent non-local laws being agreed between the parties).

### EMPLOYMENT STATUS

2. Does the law distinguish between different categories of worker? If so, what are the requirements to fall into each category, the material differences in entitlement to statutory employment rights and are there any maximum time periods for which each category of worker can be engaged?

#### Categories of worker

UAE law does not distinguish between different categories of worker.

#### Entitlement to statutory employment rights

UAE law does not distinguish between different categories of worker.

#### Time periods

UAE law does not distinguish between different categories of worker.

### RECRUITMENT

3. Are any grants or incentives available for employing people? Does any information/paperwork need to be filed with the authorities when employing people?

#### Grants or incentives

The Emiratization policy applicable in the UAE (but not in the DIFC) seeks to increase the number of UAE nationals working in the private sector by providing recruitment targets. The government offers lower transaction fees for processing employment permits, residency visas and labour (or ID) cards for employers meeting these targets and maintaining a diverse workforce.

#### Filings

The employer must obtain a labour card from the Ministry of Labour for each new employee that it hires, and the labour card must be cancelled when employment ends. An employee who is not a UAE national must also obtain a UAE residence visa (*see Question 5*).

### BACKGROUND CHECKS

4. Are there any restrictions or prohibitions on carrying out background checks in relation to applicants?

UAE law imposes no restrictions on background checks of employment applicants, except that the information must be obtained lawfully.

## PERMISSION TO WORK

### 5. What prior approvals do foreign nationals require to work in your country? What information/paperwork needs to be kept or filed with the authorities when they start work?

#### Visa

**Procedure for obtaining approval.** Once the employee enters the UAE on an entry permit, the employer must make an application for a residence visa to the immigration authorities. The employee must pass a medical examination before being granted a visa.

These requirements should be satisfied within 60 days of the employee's entry into the UAE on the entry permit, but it is advisable to meet them within 30 days.

**Cost.** The total cost (for the visa and the required permits) depends on the nature of the company's activity and whether the employee is hired within or outside of the UAE. The cost ranges between US\$400 to US\$1,200.

**Time frame.** The process should be completed within 30 days, but it is often completed more quickly.

**Sanctions.** Sanctions for violations of the visa rules can include fines and imprisonment. For foreign nationals, sanctions can also include deportation and a lifetime ban on re-entering the UAE.

#### Permits

**Procedure for obtaining approval.** Employers must seek the Ministry of Labour's approval (or the relevant alternative authority's approval if the employee is to be employed in the DIFC or a free zone) before the employee enters the UAE for employment purposes. The Ministry's criteria for granting an employment permit include satisfying itself that there are no unemployed nationals who are able to perform the relevant job.

After an employee enters the UAE on an entry permit for employment purposes, the employer must apply for a labour card or ID card (if the employee is employed in the DIFC or a free zone) within 60 days of arrival. Labour cards and ID cards are normally valid for two years.

**Cost.** The total cost (for the visa and the required permits) is about US\$500.

**Time frame.** The process should be completed within 30 days, but it is often completed more quickly.

**Sanctions.** Sanctions for violations of the labour rules can include fines and imprisonment. For foreign nationals, sanctions can also include deportation and a lifetime ban on re-entering the UAE.

## RESTRICTIONS ON MANAGERS AND DIRECTORS

### 6. Are there any restrictions on who can be a manager or company director?

#### Age restrictions

Directors and managers must be at least 18 years old. However, a person under the age of 21 is considered to be a minor and is therefore subject to legal supervisory authority by a guardian. There is no upper age limit. However, individuals over the age of 60 may find it difficult to obtain the appropriate residence visa or labour card (*see Question 5*) (depending on their qualifications and the nature of the work).

#### Nationality restrictions

There are no formal nationality restrictions, but individuals of certain nationalities are subject to added security checks and it can be difficult for people of these nationalities to obtain visas.

#### Other

In most cases, a manager or director must hold an academic qualification equivalent at least to a bachelor's degree.

## REGULATION OF THE EMPLOYMENT RELATIONSHIP

### 7. How is the employment relationship governed and regulated?

#### Written employment contract

As part of the residence visa and labour card application process, an employee must enter into a standard template dual language contract provided by the Ministry of Labour. The contract must specify the (*Labour Law*):

- Date of its conclusion.
- Date the employment is to commence.
- Nature and place of employment.
- Length of the contract, if it is a limited (fixed) term contract.
- Amount of salary.

Some free zones require the parties to enter into employment contracts using a template specific to the relevant free zone. Subject to the provisions of the Labour Law, the information that must be included in employment contracts varies among the free zones.

The DIFC Employment Law requires employers to provide their employees with a written contract of employment. The contract of employment must specify (as a minimum):

- The names of the employer and employee.
- The date the employment starts.
- The employee's wages.
- The applicable period.
- The terms and conditions relating to hours or days of work.
- The terms and conditions relating to:
  - holiday leave;
  - holiday pay;
  - national holidays and pay for national holidays;
  - sick leave;
  - sick pay.
- The length of notice that the employee and employer must give and receive to terminate the employment.
- The employee's job title or a brief description of their work.
- The period for which the employment is expected to continue or, if it is for a fixed term, the date when it is to end (where the employment is temporary).
- The place of work.
- The applicable disciplinary rules and grievance procedures.
- Any other matter which may be prescribed in any regulations issued under the DIFC Employment Law.
- Which terms of the contract are subject to the employer's policies.

#### Implied terms

The obligation of good faith is implied into employment contracts, although the UAE courts have very wide discretion.

Under the DIFC Contract Law No. 6 of 2004 (*DIFC Contract Law*), implied obligations in a contract may arise from:

- The nature and purpose of the contract.
- Practices established between the parties and relating to usage.
- Good faith and fair dealing.
- Reasonableness.

### Collective agreements

There are no trade unions in the UAE and employee representatives are not common. Collective agreements therefore do not exist.

## 8. What are the main points to consider if an employer wants to unilaterally change the terms and conditions of employment?

Generally, an employer cannot unilaterally introduce changes to employment terms and conditions that are unfavourable to employees. In these cases, employee consent to these changes should be obtained in advance. A non-consenting employee can resign on the grounds of constructive dismissal by the employer.

### MINIMUM WAGE

#### 9. Is there a national (or regional) minimum wage?

There is no specified minimum wage.

(If an employee wishes to sponsor spouses and children to live with him in the UAE, he must earn at least AED4,000 per month. To sponsor parents, the employee must have a monthly salary of AED20,000.)

### RESTRICTIONS ON WORKING TIME

#### 10. Are there restrictions on working hours? Can an employee opt out on either an individual or collective basis?

##### Working hours

The following restrictions apply (*Labour Law*):

- Working hours must not exceed eight hours per day, or 48 hours per week, over a six-day week. This can be increased to nine hours per day for some businesses. Working hours are reduced by two hours per day during the Islamic month of Ramadan.
- Overtime must not exceed two hours per day, unless the work is necessary to prevent substantial loss or serious accident (or to eliminate or alleviate its effects).
- Overtime pay amounts to 125% of an employee's normal remuneration for the period of overtime worked (unless the employee is required to work overtime during the hours of 9.00pm and 4.00am, in which case this rises to 150%).
- The normal weekly holiday is Friday, unless the employee works on a daily wage basis. Where an employee is required to work on a Friday, he is granted one day leave in lieu, or paid 150% of his normal remuneration for the Friday worked. Other than labourers, no employee can work more than two consecutive Fridays.
- In the DIFC, weekly working hours must not exceed, on average, 48 hours over a seven-day period, unless the employer first obtains the employee's consent, in writing, to a greater number of hours.

### Rest breaks

The following restrictions apply:

- Employees cannot work more than five consecutive hours without receiving break times of not less than one hour in total for rest, food and prayer. This break time does not constitute a working hour.
- An employee who works more than six hours per day is entitled to rest and prayer breaks of not less than one hour on aggregate during that period.

These provisions do not apply to certain employees working in a senior or managerial capacity, or ship crews and seamen who work under special service conditions due to the nature of their work.

### Shift workers

There are no special rules for shift workers. The Labour Law (with some limited exceptions) does not permit the employment of women between the hours of 10.00pm and 7.00am.

### HOLIDAY ENTITLEMENT

#### 11. Is there a minimum paid holiday entitlement?

##### Minimum holiday entitlement

For each year of service, an employee is entitled to paid leave of not less than:

- Two calendar days per month, for an employee who has more than six months' service but less than one year's service.
- 30 calendar days per annum, for an employee with more than one year's service.

In the DIFC, an employee is entitled to paid vacation leave of 20 working days per year, in addition to national holidays, if the employee has at least 90 days' service (*DIFC Employment Law*). This is accrued pro rata in the first year, calculated at the rate of 1:12 of the employee's leave entitlement on the first day of each month of service.

##### Public holidays

Leave is in addition to the seven national holidays. The Ministry of Labour declares the length of each national holiday (which can fall on any day of the week each year) before the holiday takes place. The lunar calendar determines the dates of some national holidays.

If a public holiday falls on a weekend, an employer is not obliged to provide an additional day off to compensate.

### ILLNESS AND INJURY OF EMPLOYEES

#### 12. What rights do employees have to time off in the case of illness or injury? Are they entitled to sick pay during this time off? Who pays the sick pay and, if the employer, can it recover any of the cost from the government?

##### Entitlement to time off

An employee is not entitled to paid sick leave during the probationary period. If an employee has worked continuously for the employer for three months after the end of the probationary period, the employee is entitled to 90 days' sick leave per year (either continuously or on aggregate).

##### Entitlement to paid time off

Whilst on sick leave the:

- First 15 days are with full pay.
- Next 30 days are with half pay.

- Remaining 45 days are not paid.

Under the DIFC Employment Law, an employee is entitled to 60 days' paid sick leave per year.

#### Recovery of sick pay from the state

There is no state sick pay (either in the UAE or the DIFC).

### STATUTORY RIGHTS OF PARENTS AND CARERS

#### 13. What are the statutory rights of employees who are:

- **Parents (including maternity, paternity, surrogacy, adoption and parental rights, where applicable)?**
- **Carers (including those of disabled children and adult dependants)?**

#### Maternity rights

A woman with at least one year's continuous service for her employer is entitled to 45 days' maternity leave with full pay. A woman with less than one year's service is entitled to 45 days at half pay.

A woman can take a maximum of 100 (consecutive or non-consecutive) days' leave, without pay, if she suffers an illness resulting from pregnancy or birth. This is in addition to the 45 days' paid leave entitlement.

For 18 months after the date of birth, a nursing mother is entitled to two additional breaks each working day, each not exceeding half an hour, in which to nurse the child. These breaks form part of her working hours and there is no reduction of her remuneration.

In the DIFC, an employee is entitled to a minimum of 65 working days' paid maternity leave if she:

- Has been continuously employed with her employer for at least 12 months preceding the expected or actual week of childbirth.
- Notifies her employer in writing that she is pregnant at least eight weeks before the expected week of childbirth, if requested by the employer.
- If required by the employer, provides a medical practitioner's certificate stating the expected or actual birth date.
- Notifies her employer in writing at least 21 days before the day she proposes to begin her maternity leave.

An employer in the DIFC must pay maternity pay at:

- The employee's normal daily wage for the first 33 working days of maternity leave.
- 50% of the employee's normal daily wage for the next 33 working days of maternity leave.

An employee in the DIFC can return to work at the end of the maternity leave to the same role or a suitable alternative on the same terms and conditions, and with the same seniority rights, as she would have had if she had not taken maternity leave. An employer must not, because of an employee's pregnancy or maternity leave:

- Terminate the employment.
- Change the employee's role or terms of employment without obtaining the employee's prior written consent.

#### Paternity rights

There are no specific paternity rights.

#### Surrogacy

There are no specific provisions relating to surrogacy.

#### Adoption rights

Where a female employee is adopting a child of less than three months' old, she is entitled to the normal maternity leave, subject to the normal provisions concerning continuous employment and notification requirements (*DIFC Employment Law*) (see above, *Maternity rights*).

There are no adoption rights under the Labour Law or in the free zones.

#### Parental rights

There are no specific parental rights.

#### Carers' rights

There are no specific carers' rights.

### CONTINUOUS PERIODS OF EMPLOYMENT

#### 14. Does a period of continuous employment create any statutory rights for employees? If an employee is transferred to a new entity, does that employee retain their period of continuous employment? If so, on what type of transfer?

#### Statutory rights created

To be entitled to a gratuity payment on termination of employment, an employee must have accrued one year's service and the dismissal must not be for gross misconduct. An end of service gratuity is calculated with reference to the employee's last basic pay before termination at the rate of:

- 21 days' pay for each year of service up to the first five years' service.
- 30 days' pay for each year of service in excess of five years' service.

This also applies in the DIFC (see *Question 19, Severance payments*).

An employee with an unspecified-term contract who resigns from employment with less than five years' service is entitled to a reduced gratuity payment, calculated by reference to length of service, as follows:

- An employee who has more than one year but less than three years' service is entitled to one-third of the total gratuity entitlement.
- An employee who has more than three years' but less than five years' service is entitled to two-thirds of the total gratuity entitlement.
- An employee who has more than five years' service is entitled to the full gratuity entitlement.

An employee with a specified term contract who resigns from employment with less than five years' service is not entitled to a gratuity payment.

This also applies in some free zones, but not in the DIFC.

An employee is not entitled to an end of service gratuity payment in either of the following circumstances:

- The employee is entitled to a company pension which complies with the provisions of the Labour Law or DIFC laws (as appropriate).
- Pension contributions are made on the employee's behalf to the General Pension and Social Security Authority (GPSSA).

Length of service is also relevant for the calculation of:

- Annual leave (*see Question 11*).
- Sick leave (*see Question 12*).
- Maternity leave (*see Question 13*).

Under the Labour Law, employees that are hired outside of the UAE are also entitled to the reimbursement of repatriation costs. These costs are the equivalent of a price of a travel ticket as well as any other travel expenses as stipulated in the employment contract. This entitlement does not exist in the DIFC laws.

### Consequences of a transfer of employee

There are no transfer regulations and an individual's employment with the first employer is treated as having terminated on the transfer to a new employer.

## FIXED TERM, PART-TIME AND AGENCY WORKERS

### 15. To what extent are temporary and agency workers entitled to the same rights and benefits as permanent employees? To what extent are part-time workers entitled to the same rights and benefits as full-time workers?

#### Temporary workers

There are no provisions specific to temporary or agency workers under the Labour Law (including the free zones) or the DIFC Employment Law. A temporary or agency worker is entitled to the same rights and benefits as a permanent employee.

#### Agency workers

See above, *Temporary workers*.

#### Part-time workers

There are no special provisions for part-time workers.

## DATA PROTECTION

### 16. Are there any requirements protecting employee privacy or personal data? If so, what are an employer's obligations?

#### Employees' data protection rights

There are no specific data protection rights for employees under the Labour Law or in the free zones. However, there are general protections in the Civil Code.

#### Employers' data protection obligations

DIFC Law No. 1 of 2007 (as amended) (*DIFC Data Protection Law*) imposes a number of obligations on anyone who processes personal data. Employees have a number of rights concerning their personal data, including the right to have their information processed fairly, securely and in accordance with necessary and legitimate purposes. There must also be adequate protection when data is transferred to a jurisdiction outside the DIFC.

## DISCRIMINATION AND HARASSMENT

### 17. What protection do employees have from discrimination or harassment, and on what grounds?

#### Protection from discrimination

There are no specific anti-discrimination protections for employees under the Labour Law or in the free zones, except as noted below. The Labour Law and various ministerial decisions contain the following provisions that are favourable to UAE nationals:

- UAE nationals have priority to work in the UAE. Foreign nationals can only be employed in the private sector if both the following apply:
  - there is appropriate approval from the authorities, and if they obtain a residence visa and labour or ID card (*see Question 5*);
  - the employee has the professional competence or educational qualifications that the state requires.
- If no UAE national is available to take up a position, preference must first be given to persons who are nationals of an Arab country, and then to persons of other nationalities.
- There are certain limitations on the ability of companies to dismiss UAE nationals (*see Question 19*).

In the DIFC, employers must not discriminate against any person on the basis of their:

- Sex.
- Marital status.
- Race.
- Nationality.
- Religion.
- Mental or physical disability.

Discrimination means that an employee is:

- Treated less favourably than others would be treated in the same circumstances.
- Put at a disadvantage not faced by others.
- Subject to unwanted treatment or conduct for the purpose of creating an intimidating, hostile, degrading, humiliating or offensive work place.

Discrimination includes failing to make reasonable adjustments to the workplace, or working practices, that would enable a disabled person to meet their occupational requirements. This covers:

- Refusal to employ a person.
- Refusal to continue to employ a person.
- Discriminating against a person concerning their employment or any term or condition of their employment.

Any programme or activity can be undertaken that is intended to benefit disadvantaged individuals or groups, including those with mental or physical disability.

The Employment and Sponsorship Regulations of the Abu Dhabi Media Free Zone Authority contain anti-discrimination provisions. These regulations state that the aim of the authority is to create an environment where employment and advancement is based on merit and an employee is not treated less favourably by reason of gender, marital status, religion or disability. The regulations further state that employers in the free zone must be guided by this principle of non-discrimination when employing employees.

#### Protection from harassment

There are no specific rules under the Labour Law protecting employees from harassment. However, assaulting another employee is grounds for summary dismissal. In addition, there are UAE ministerial resolutions imposing sanctions on certain behaviour, including harassment.

The DIFC Employment Law requires that employers must provide and maintain a workplace that is free from harassment, safe and without risks to employees' health and that an employer must not threaten, intimidate or coerce an employee because of a complaint or investigation.



## WHISTLEBLOWERS

### 18. Do whistleblowers have any protection?

There is no specific protection for whistleblowers under the Labour Law or the DIFC Employment Law.

## TERMINATION OF EMPLOYMENT

### 19. What rights do employees have when their employment contract is terminated?

#### Notice periods

The minimum notice period is 30 days (*Labour Law*). An employer and employee can mutually agree to a longer notice period, but they cannot shorten notice to less than the statutory minimum period. If either party defaults on the agreed notice period, that party must pay compensation in lieu of notice based on the employee's current pay (in proportion to the number of days in default).

An employer can dismiss an employee without notice if the employee commits an act of gross misconduct or is on probation. The offences which constitute gross misconduct are limited to the following (*Labour Law*):

- Adopting a false identity or nationality, or submitting forged certificates or documents.
  - Making a mistake resulting in substantial material loss for the employer, if the employer notifies the Ministry of Labour of the incident within 48 hours of becoming aware of its occurrence.
  - Disobeying instructions concerning industrial safety or the safety of the workplace, if the instructions are in writing and displayed clearly. If the employee is illiterate, the employer should have read the instructions to them.
  - Failing to perform their basic duties under the contract of employment and persisting in violating them despite the fact that they have been both:
    - the subject of a written investigation;
    - warned that they will be dismissed if their behaviour continues.
  - Revealing company secrets.
  - A competent court has sentenced the employee for an offence involving honour, honesty or public morals.
  - Being found drunk or under the influence of a drug during working hours.
  - Assaulting an employer, a responsible manager or a colleague during working hours.
  - Being absent without a valid reason for more than 20 non-consecutive days, or more than seven consecutive days.
- In the DIFC, the minimum notice period in the DIFC Employment Law is:
- Seven days, if the period of continuous employment is less than three months.
  - 30 days, if the period of continuous employment is at least three months but less than five years.
  - 90 days, if the period of continuous employment is five years or more.

However, an employer and employee can agree to:

- A longer or shorter period of notice.
- Waive notice entirely.
- Accept a payment in lieu of notice.

An employer can dismiss an employee without notice for cause in circumstances where the conduct of one party warrants termination and where a reasonable employer or employee would have terminated the employment.

#### Severance payments

An employee who has at least one year's continuous service with an employer is entitled to an end of service gratuity payment on termination of their employment (*Labour Law*) (see *Question 14, Statutory rights created*).

The position is the same under the DIFC Employment Law (see *Question 14, Statutory rights created*) and there is no reduction in end of service gratuity when an employee resigns.

#### Procedural requirements for dismissal

An employer must cancel or transfer sponsorship of an employee's residence visa and labour card (or ID card if the employee is working in the DIFC or in the free zones) within 30 days following termination of employment. Employees must sign a final settlement form confirming that they have received all of their legal entitlements before the authorities will cancel their residence visa and labour card (or ID card, if applicable).

### 20. What protection do employees have against dismissal? Are there any specific categories of protected employees?

#### Protection against dismissal

The dismissal of UAE national employees is prohibited without the Minister of Labour's approval. There are no other express protections from dismissal as such.

#### Protected employees

Other than UAE nationals, there are no specific categories of protected employees.

## REDUNDANCY/LAYOFF

### 21. How are redundancies/layoffs defined, and what rules apply on redundancies/layoffs? Are there special rules relating to collective redundancies?

#### Definition of redundancy/layoff

There is no concept of redundancy under the Labour Law. Redundancies therefore fall under the dismissal provisions. The position is the same in the DIFC.

#### Procedural requirements

See above, *Definition of redundancy/layoff*.

#### Redundancy/layoff pay

See above, *Definition of redundancy/layoff*.

#### Collective redundancies

There are no special provisions on collective redundancies.

## EMPLOYEE REPRESENTATION AND CONSULTATION

**22. Are employees entitled to management representation (such as on the board of directors) or to be consulted about issues that affect them? Is employee consultation or consent required for major transactions (such as acquisitions, disposals or joint ventures)?**

### Management representation

Employees are not entitled to management representation.

### Consultation

Employees are not entitled to be consulted.

### Major transactions

Employee consultation or consent is not required for major transactions.

**23. What remedies are available if an employer fails to comply with its consultation duties? Can employees take action to prevent any proposals going ahead?**

### Remedies

Not applicable (*see Question 22*).

### Employee action

Not applicable (*see Question 22*).

## CONSEQUENCES OF A BUSINESS TRANSFER

**24. Is there any statutory protection of employees on a business transfer?**

### Automatic transfer of employees

Employees are not automatically transferred with the business on a business transfer.

### Protection against dismissal

Employees are not given specific protection against dismissal on a business transfer. The dismissal provisions under the Labour Law apply (*see Question 19*).

### Harmonisation of employment terms

There are no regulations concerning harmonising the terms of transferred employees with other (existing) employees of the buyer.

## EMPLOYER AND PARENT COMPANY LIABILITY

**25. Are there any circumstances in which:**

- **An employer can be liable for the acts of its employees?**
- **A parent company can be liable for the acts of a subsidiary company's employees?**

### Employer liability

An employer can be vicariously liable for the acts of its employees carried out in the course of their employment.

The DIFC Employment Law provides that an employer is liable for acts of the employees carried out in the course of their employment. An employer is not liable if it proves that it took reasonable steps to prevent the employee from doing the act, or similar acts, in the course of the employment.

### Parent company liability

A parent company is generally not liable for the acts of a subsidiary company's employees.

## EMPLOYER INSOLVENCY

**26. What rights do employees have on the insolvency of their employer? Is there a state fund which guarantees repayment of certain employment debts?**

### Employee rights on insolvency

An employee's claim against the employer for employment entitlements enjoys the highest priority of all claims against the estate of the bankrupt, with the exception of the costs of the bankruptcy and governmental claims. Employee claims rank ahead of all other claims, even claims of secured creditors.

### State guarantee fund

There is no state guarantee fund in the UAE.

## HEALTH AND SAFETY OBLIGATIONS

**27. What are an employer's obligations regarding the health and safety of its employees?**

The Labour Law and various ministerial resolutions place a positive obligation on the employer to protect employees from hazards, such as:

- Injuries and vocational diseases.
- Fire.
- Those arising out of the use of tools and machinery.

This obligation includes:

- Providing employees with clear and detailed instructions, and training, on health and safety.
- Ensuring the provision of adequate ventilation, space, lighting, first aid equipment and so on.

The DIFC Employment Law imposes a number of health and safety obligations on employers, including a general duty to ensure a safe workplace that is free from risks to employees' health. Employers must also minimise risks regarding fire hazards, and provide training and information on protective measures.

Employers must also ensure adequate:

- Ventilation.
- Lighting.
- Cleanliness.
- Drinking water.
- Space.
- Sanitary facilities.
- Seating.

In addition, the Labour Law states that every employer must provide its employees with the means of medical care up to the standard determined by the Minister of Labour and Social Affairs in consultation with the Minister of Health. In Abu Dhabi and Dubai, employers must provide health insurance coverage to employees in accordance with Abu Dhabi Decision No. 25 of 2006 and Dubai Law No. 11 of 2013, respectively. In Abu Dhabi, the insurance cover extends to the employee's dependants.

The obligation to provide health insurance cover to employees also exists in the DIFC Employment Law.

## TAXATION OF EMPLOYMENT INCOME

### 28. What is the basis of taxation of employment income for:

- **Foreign nationals working in your jurisdiction?**
- **Nationals of your jurisdiction working abroad?**

#### Foreign nationals

The UAE does not impose any personal income taxes on either UAE national or foreign national employees.

#### Nationals working abroad

Nationals working abroad are not subject to local income taxation, but individuals may be subject to taxation in the jurisdiction where they are working.

### 29. What is the rate of taxation on employment income? Are any social security contributions or similar taxes levied on employers and/or employees?

#### Rate of taxation on employment income

The UAE does not impose any personal income taxes on either UAE nationals or foreign national employees.

#### Social security contributions

UAE and Gulf Cooperation Council (GCC) nationals who hold a UAE Family Book (that is, a book documenting the lineage of a family in the region) are entitled to a monthly pension contribution from their employers (*Pensions & Social Securities Law, Federal Law No. 7 of 1999 (Pensions Law)*). These contributions are payable to the GPSSA (*Pensions Law*) (see *Question 14, Statutory rights created*). Employees must also make monthly contributions, which the employer deducts from the employee's salary and transfers to the GPSSA with the employer's contribution. The rates for UAE nationals are as follows:

- Employer's contribution: 12.5% of the total monthly salary.
- Employee's contribution: 5% of the total monthly salary.

Pension contributions for GCC nationals vary, depending on the requirements of the relevant GCC country.

## BONUSES

### 30. Is it common to reward employees through contractual or discretionary bonuses? Are there restrictions or guidelines on what bonuses can be awarded?

Bonus schemes are common in the UAE. There are no statutory restrictions or guidelines on what bonuses can be awarded, either under the Labour Law or DIFC Employment Law.

## INTELLECTUAL PROPERTY (IP)

### 31. If employees create IP rights in the course of their employment, who owns the rights?

The author of a work is its owner (*Federal Law No. 7 of 2002 for Copyright and Neighbouring Rights (Copyright Law)*). An employer and employee can agree to the contrary in the employment contract, but there are limitations on the disposal of future copyright works. Specifically, purported disposals of more than five

future works are void. The author's moral rights to a work are not transferable. If a work is a collective work, created by co-authors under the direction of the employer and for publication in the employer's own name, then the employer owns the copyright. However, this can be varied by agreement.

Unless the parties have agreed otherwise, an employer has the right to apply to patent any invention created during the course of an employee's employment (*Federal Law No. 17 of 2002 Regulating and Protecting Patent and Property Rights in Industrial Designs and Models (Patents and Designs Law)*). However, the employee has rights to compensation if the economic value of the invention was not anticipated when the employment contract was entered into.

The employee may be entitled to the invention if both:

- This inventive activity is outside the scope of the employee's duties.
- The employer uses their employer's resources to make an invention relevant to the employer's business.

In these circumstances, the employee must give the employer notice of the invention, and if the employer fails to confirm interest in owning the invention, the employee is entitled to own it. If the employer does confirm an interest in owning the invention, the employee is entitled to fair compensation, taking into account the significance and economic value of the invention to the employer.

## RESTRAINT OF TRADE

### 32. Is it possible to restrict an employee's activities during employment and after termination? If so, in what circumstances can this be done? Must an employer continue to pay the former employee while they are subject to post-employment restrictive covenants?

#### Restriction of activities

It is not possible to obtain injunctive relief from the UAE courts, so contractual restraint of trade clauses are of limited use. However, it is possible to prevent an employee from working in the UAE through Ministry of Labour administrative processes. If an employee resigns before completing less than one year of service with an employer, the Ministry of Labour generally applies a six-month employment ban on the employee. The Ministry of Labour can also impose a ban on an employee with more than one year's service and less than three years' service, but this can be lifted on payment of a fee or if the former employer confirms that it does not object.

#### Post-employment restrictive covenants

Employers do not have to pay former employees any remuneration while they are subject to post-employment restrictive covenants.

Similarly, free zone authorities can enforce post-termination restrictions if they are included in an employment contract, but only within the relevant free zone.

In the DIFC, restraint of trade clauses can be included in an employment contract. Injunctive relief is available from the DIFC courts, but an injunction order is only enforceable within the DIFC.

## PROPOSALS FOR REFORM

### 33. Are there any proposals to reform employment law in your jurisdiction?

Amendments to the Labour Law have been under consideration for several years. Most of the proposals focus on improved protections for the rights of employees. There has been some discussion of granting rights of collective bargaining or the right to strike, but no



specific legislation has yet been prepared. Also under consideration are proposals to bring the work week into closer alignment with actual practice, by perhaps reducing the number of working days from six to five and the number of working hours from 48 to 40.

There are no plans to reform the DIFC Employment Law, but implementing regulations referred to in the DIFC Employment Law have yet to be enacted. The DIFC Authority has not indicated a

proposed timetable for issuing the regulations, or provided information regarding their substantive content.

Currently, there are no plans in place to reform the Pensions Law. A draft intellectual property law is being prepared in the DIFC, but nothing has yet been implemented.

Further measures to encourage or require the hiring of UAE nationals are also anticipated.

## ONLINE RESOURCES

### United Arab Emirates Ministry of Labour

W [www.mol.gov.ae](http://www.mol.gov.ae)

**Description.** The United Arab Emirates Ministry of Labour website is maintained by the UAE government to provide information on all work related issues, including UAE Labour Law.

### General Directorate of Residency and Foreigners Affairs (Dubai)

W [www.dnrd.ae](http://www.dnrd.ae)

**Description.** The General Directorate of Residency and Foreigners Affairs website is maintained by the UAE government to provide information on rules related to entry permits (for visitors and workers), e-gate services and health examinations for visa clearance.

### The General Pension and Social Security Authority

W [www.gpssa.ae](http://www.gpssa.ae)

**Description.** The General Pension and Social Security Authority website is maintained by the UAE government. It provides guidelines on pensions and insurance for citizens and residents of the UAE.

### Abu Dhabi Retirement Pensions & Benefits Fund

W [www.pension.gov.ae](http://www.pension.gov.ae)

**Description.** The Abu Dhabi Retirement Pensions and Benefits fund website is maintained by the Abu Dhabi government. It contains information on ways to manage contributions, pensions and end-of-service benefits for UAE Nationals working in or retired from the government, semi-government and private sectors in the Emirate of Abu Dhabi, and their beneficiaries.

### Dubai International Financial Centre

W [www.difc.ae](http://www.difc.ae)

**Description.** The Dubai International Financial Centre website is maintained by the DIFC. It provides information on setting up and operating in DIFC, areas of business and laws and regulations of the DIFC.

### Jebel Ali Free Zone

W [www.jafza.ae](http://www.jafza.ae)

**Description.** The Jebel Ali Free Zone website is maintained by JAFZA authorities. It provides information and guidelines to set up a business in JAFZA.

### TECOM Investments

W [www.tecom.ae](http://www.tecom.ae)

**Description.** The TECOM Investments website provides information and guidelines to set up a business in TECOM. It is maintained by TECOM authorities.

### Twofour54 Abu Dhabi

W [www.twofour54.com](http://www.twofour54.com)

**Description.** The twofour54 Abu Dhabi website provides information and guidelines to set up a business in Abu Dhabi Media Free Zone. It also states laws and regulations that require compliance whilst operating as an Abu Dhabi Media Free Zone company. This website is maintained by the Abu Dhabi Media Free Zone authority.

### Communication Legal Translation

W [www.communicationdubai.com](http://www.communicationdubai.com)

**Description.** Communications Legal Translations website offers online translations, online laws and a list of various other translation services. The website is maintained by Communications Legal Translations. English language translations of many materials are available on commercial terms.

## Practical Law Contributor profile



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