

## UAE UNVEILS NEW LABOUR LAW: A MAJOR OVERHAUL

The UAE is a leading international financial hub with a robust legal and regulatory framework and has the reputation for being renowned worldwide as a haven for foreign investors and large multinational corporations. The UAE has been in the forefront of evolving its rules and laws to align with its ever-growing multinational population.

The year began with a change in the work week for government departments, which has been adopted by the private sector as well.

The most recent change has been the promulgation of the new labour law *viz.* Federal Decree Law No. 33 of 2021 (“**NLL**”) abrogating Federal Law No. 8 of 1980 (“**Old Law**”). The NLL came into force from February 2, 2022, and the Ministry of Human Resources and Emiratization (“**MOHRE**”) have also published the Cabinet Resolution No. 1 of 2022 Concerning the Executive Regulations of Federal Decree Law No. 33 of 2021 on the Regulation of Labour Relations (“**ER**”) (NLL and ER collectively “**New Law**”), which provide further guidance on the NLL.

The New Law will be applicable to all employers and employees in the UAE mainland and free zones except in Dubai International Financial Centre and Abu Dhabi Global Markets, as both free zones have their own employment regulations.

Employment contracts are required to be amended by February 2023 to bring them in compliance with the New Law.

This note discusses certain key changes brought about by the New Law.

### Employment Contracts

The concept of unlimited contracts has been abolished and the New Law provides for limited terms that may be renewed for further periods.

The New Law provides for different types of contracts that may be entered into, including the introduction of a flexible employment contract, which we believe is inspired by the move by many employers to implement a flexible work model.

Abolishing unlimited contracts may raise a concern on whether the change could have a detrimental effect on benefits such as end of service gratuity (“**EOSG**”). Employees can be rest assured that EOSG would continue to be calculated from the original employment date.

### Internal Policies

The New Law requires companies with fifty (50) or more employees to establish written policies in relation to disciplinary rules, bonuses, promotions etc. With this requirement, it will become imperative for large entities to prepare policies or revise the existing ones to bring them in line with the New Law.

### Probation Period

A notice is now required for termination of employment by either party during the probationary period. We believe this change is necessitated to provide time to find alternative employment and / or a replacement.

### Maternity and Parental Leave

The maternity leave entitlement has increased for female employees under the New Law to bring it in line with the global standards and the parental leave may be availed by male employees pursuant to the birth of their child.

The New Law provides for maternity leave entitlement at half pay. However, more beneficial terms may be provided.

#### Miscellaneous Leave

The New Law has introduced additional leave entitlements including for bereavement, study leave and paid sabbatical for Emirati employees to perform national and reserve force service. There is no guidance on payment of compensation during availing of study leave.

#### Working Hours

The maximum number of working hours would not be applicable to certain levels of employees.

This can be used by employers to have such employees work for longer hours. This would have to be analyzed in terms of existing overtime payments, if any.

#### EOSG

Under the New Law, employees dismissed without notice on grounds that merit an immediate dismissal would continue to be entitled to EOSG, which is a departure from the Old Law. This may be pursuant to the debate of motive of termination for long-standing employees.

#### Notice Period

For the first time, a maximum notice period for termination has been introduced. Such a cap may not be welcomed by employers who typically have senior executives on a longer notice period.

#### Non-Compete

The extent of application of the non-compete has been clarified and the New Law also provides for certain categories of employees who may be exempt from non-compete clauses. This change is welcome as it will limit the court's discretion on

deciding whether a non-compete provision is too onerous.

#### Compensation in Lieu of Leave

The New Law provides that an employee may not carry forward unavailed annual leave, unless agreed otherwise with the employer. There is a limit that has been set on carry forward of leaves including being compensated in lieu thereof, based on the basic salary.

#### Anti-Discrimination and Anti-Harassment

The New Law is progressive in that it expressly prohibits sexual harassment in the workplace. Though sexual harassment was prohibited by virtue of the UAE Civil Code, there was no specific reference of sexual harassment in the workplace in the Old Law, thereby bringing clarity to employers on the importance of this subject.

#### Disciplinary Sanctions

The New Law stipulates a detailed procedure on handling of disciplinary sanctions.

#### Labour Disputes

The emphasis on employee rights is evident in the New Law, which now permits collective labour disputes thereby permitting a group of employees to file a labour complaint against their employer.

#### Disclaimer

*This communication is based on the UAE Laws & Regulations available in the public domain as on February 11, 2022. The objective is only to provide general information and should not be construed or relied upon as specific legal advice.*

#### **HOW KOCHHAR & Co. CAN HELP**

*Kochhar & Co. Inc. is a full-service law firm licensed to practice UAE law. We regularly advise clients on the establishment of entities, employment law, corporate structuring, compliance issues, corporate governance, arbitration and dispute resolution, real estate and intellectual property.*

*In the event you require advice and assistance with your business in the view of the New Labour Law, please feel free to contact one of our lawyers as mentioned below or your usual contact as the Firm.*

**PARTNERS' CONTACT DETAILS:**

Rohit Kochhar [rohit@kochhardubai.com](mailto:rohit@kochhardubai.com)  
Anjuli Sivaramakrishnan [anjulis@kochhardubai.com](mailto:anjulis@kochhardubai.com)  
Janardhan Shetty [jshetty@kochhardubai.com](mailto:jshetty@kochhardubai.com)  
Nikhat Sardar Khan [nikhat@kochhardubai.com](mailto:nikhat@kochhardubai.com)  
Carlyn Lobo [carlynl@kochhardubai.com](mailto:carlynl@kochhardubai.com)