

LABOUR & EMPLOYMENT 2022

Contributing editors

Matthew Howse, K Lesli Ligorner, Walter Ahrens, Michael D Schlemmer and Sabine Smith-Vidal
Morgan, Lewis & Bockius LLP



United Arab Emirates

Rebecca Kelly and Christopher Brinley

Morgan, Lewis & Bockius LLP

LEGISLATION AND AGENCIES

Primary and secondary legislation

1 | What are the main statutes and regulations relating to employment?

Onshore legislation

Following substantive legislative reform in 2021, the United Arab Emirates (UAE) has overhauled the private sector's employment legislation and subordinate legislation.

This chapter deals exclusively with private-sector employees, as public sector employees are governed by other legislation (eg, Federal Decree Law No. (11) of 2008 concerning the Human Resources in the Federal Government (Human Resources Law), as amended) and each emirates' own public service laws.

This is a non-exhaustive list of the applicable legislation and subordinate executive regulations governing private sector labour and employment for onshore UAE:

- Federal Decree Law No. (33) of 2021 regarding the Regulation of Labour Relations (Labour Law). This primary legislation repeals Federal Law (8) of 1980 and came into force on 2 February 2022.
- Cabinet Resolution No. (1) of 2022 on the Executive Regulations of Federal Decree Law No. (33) of 2021 (Executive Regulations). This is subordinate legislation to the Labour Law.
- Cabinet Decision No. (43) of 2018 on the Support of Employment of Persons with Disabilities.
- Federal Decree Law No. (29) of 2021 regarding Entry and Residence of Foreigners (Foreigners Law). This repeals Federal Decree Law (6) of 1973 and came into force on 26 October 2021.
- Federal Decree Law No. (30) of 2021 (the UAE Penal Code).
- Federal Decree Law No. (47) of 2021 regarding Uniform General Rules of Work in the UAE (Uniform Work Rules) which came into force on 2 February 2022.

The above will be collectively referred to as UAE Onshore Legislation.

UAE Onshore Legislation applies to every individual authorised by the Ministry of Human Resources and Emiratisation (MoHRE) to work for a licensed establishment in the UAE, which includes foreign nationals. However, it does not apply to the following categories of employees:

- those employed by a company registered in the Dubai International Financial Centre (DIFC);
- those employed by a company registered in the Abu Dhabi Global Market (ADGM);
- public officials;
- employees working for governmental departments or appointed for government projects;
- public sector employees;
- domestic workers;

- security officers; and
- agricultural employees.

The above employees are governed by their specific legislation (eg, civil service laws that apply to emirate-level and federal government bodies, and the Domestic Workers Legislation Law (10) of 2017)).

DIFC legislation

Employees employed by a company registered in the DIFC are governed by the DIFC Employment Law No. (2) of 2019 (DIFC Employment Law), as amended, and the DIFC 2020 Employment Regulations.

ADGM legislation

Employees employed by a company registered in the ADGM are governed by the ADGM Employment Regulations 2019 (ADGM Employment Regulations).

Protected employee categories

2 | Is there any law prohibiting discrimination or harassment in employment? If so, what categories are regulated under the law?

Yes. The UAE onshore jurisdiction, ADGM and DIFC all have specific provisions which prohibit discrimination and harassment in employment.

Discrimination

Onshore discrimination protections

The UAE is a signatory to the Convention on the Rights of Persons with Disabilities and has implemented those provisions in article 4 of the Labour Law and the Uniform Rules and Federal Decree Law No. (2) of 2015 on Combating Discrimination and Hatred, which expressly prohibit discrimination in the workplace on the basis of:

- race;
- colour;
- gender;
- religion;
- nationality;
- social origin; and
- disability.

Further, there is a prohibition against employers discriminating against female employees who are pregnant. Under article 30 of the Labour Law, an employer may not terminate the service of a female employee or give her notice of termination owing to her pregnancy. Any policies and procedures that are implemented to promote the participation of UAE nationals within the UAE will not be considered discrimination.

Cabinet Decision No. (43) of 2018 on the Support of Employment of Persons with Disabilities (People of Determination) and Dubai Law (3) of 2022 include specific protections against discrimination for

persons with disabilities, and Abu Dhabi Circular No. (1) of 2021 on Classification Manual of Disabilities for the Emirate of Abu Dhabi sets out the manner in which disabilities should be treated in the workplace and in education.

DIFC discrimination protections

Pursuant to article 59 of the DIFC Employment Law, DIFC employees are afforded discrimination protections in order to ensure they are not subjected to either:

- less-favourable treatment based on one of the protected classes; or
- the application of practices that place an employee at an immediate disadvantage.

Part 9 article 59(2) of the DIFC Employment Law specifically prohibits an employer from discriminating against an employee on the following grounds (the protected classes):

- gender;
- marital status;
- race;
- nationality;
- age;
- pregnancy and maternity;
- religion; and
- mental or physical disability.

However, in accordance with article 59(7), discrimination is permitted if there is a genuine need for an employee to meet certain operational requirements (eg, a role requires proper sensory or physiological abilities).

ADGM discrimination protections

Article 54 of the ADGM Employment Regulations specifically prohibit employers from discriminating against employees on the grounds of:

- gender;
- marital status;
- race;
- nationality;
- colour;
- religion;
- age; or
- disability.

Unlike the DIFC Employment Law, pregnancy and maternity are not protected characteristics under the ADGM Employment Regulations. However, article 36 of the ADGM Employment Regulations prevents an employee from being terminated because of pregnancy, paternity or requiring maternity leave.

Similar to the DIFC, employers in the ADGM would not be found to be engaged in discriminatory treatment if they require employees to meet genuine occupational requirements.

Harassment

Onshore harassment protections

Article 14 (2) of the Labour Law imposes specific prohibitions against harassment in the workplace, specifically sexual harassment, bullying, or any verbal, physical or psychological violence against an employee by his or her employer, superiors and colleagues. Sexual harassment is a criminal offence punishable by imprisonment under article 413 of the Penal Code.

Pursuant to article 45(2) of the Labour Law, where an employer, or his or her legal representative, has subjected an employee to an assault or harassment in the workplace, and this has been reported to the MoHRE within five working days of the incident, the employee is

entitled to end their employment agreement without notice, reserving all contractual entitlements, including any end-of-service gratuities.

DIFC harassment protections

Pursuant to article 59(2)(c) of the DIFC Employment Law, employers must provide and maintain a workplace that is free from harassment, is safe and does not risk the health of employees. An employer must not threaten, intimidate or coerce an employee due to complaints or investigations.

ADGM harassment protections

In accordance with article 37 of the ADGM Employment Regulations, employers are required to provide and maintain a workplace that is free of harassment, is safe, and does not risk the health of employees.

Enforcement agencies

3 | What are the primary government agencies or other entities responsible for the enforcement of employment statutes and regulations?

The MoHRE, the Federal Authority for Identity and Citizenship (FAIC) and the Public Prosecutor are responsible for the enforcement of employment legislation and regulations for companies onshore in the UAE.

The Public Prosecutor has exclusive jurisdiction in the UAE to initiate and prosecute criminal proceedings and is part of the judicial body. The Prosecutor assumes the authority over investigations, imposes charges and makes the necessary referrals to competent courts if charges are imposed.

The MoHRE issues work permits and residency visas, regulates employer conduct, and issues penalties for those breaching their obligations.

The FAIC has the right to exercise all powers of the Ministry of Interior in relation to nationality, passports and entry and residency of expatriates. It may also issue administrative deportation orders where deportation is required for the sake of public interest, public security, public morals or public health, or where an expatriate does not have an apparent means of living.

The Foreigners Law contains the framework for the processing of visas, renewals and cancellations, and sets out the applicable penalties for violations of certain immigration-related regulations. The Foreigners Law applies to all expatriate employees in the UAE, other than those in the DIFC and ADGM, and prevents expatriate employees from conducting work activities without the approval of the MoHRE. The Federal Authority for Identity, Citizenship, Customs and Port Security is responsible for the enforcement of the Foreigners Law.

The DIFC Authority is the authority responsible for the enforcement of the DIFC Employment Laws.

The ADGM Authority is the authority responsible for the enforcement of the ADGM Employment Regulations.

WORKER REPRESENTATION

Legal basis

4 | Is there any legislation mandating or allowing the establishment of employees' representatives in the workplace?

No, there is no legislation or ability for the establishment of employee representatives or trade unions in the United Arab Emirates (UAE).

Onshore

The establishment of employees' representatives, trade unions and workers' councils or committees is not permitted in the UAE. However,

collective labour disputes are permissible under article 56 of the Federal Decree Law No. (33) of 2021 regarding the Regulation of Labour Relations (Labour Law) and article 32 of Cabinet Resolution No. (1) of 2022 on the Executive Regulations of Federal Decree Law No. (33) of 2021 (Executive Regulations) in certain circumstances. Notification of a collective dispute must be submitted to the Ministry of Human Resources and Emiratisation (MoHRE) within two weeks of the date of the dispute by the affected group of employees.

The MoHRE can impose a precautionary attachment upon the employer's funds to guarantee the rights of the employees where a dispute relates to unpaid salaries.

ADGM and DIFC

The establishment of employees' representatives, trade unions and workers' councils or committees is not provided for under any of the laws of the ADGM or DIFC.

Powers of representatives

5 | What are their powers?

The establishment of employees' representatives, trade unions, and workers' councils and committees is not provided for under any of the laws of the UAE, DIFC or ADGM.

BACKGROUND INFORMATION ON APPLICANTS

Background checks

6 | Are there any restrictions or prohibitions against background checks on applicants? Does it make a difference if an employer conducts its own checks or hires a third party?

No, there are no restrictions on an employer conducting a background check in the United Arab Emirates (UAE), as long as the privacy and data protection laws in the relevant jurisdiction are adhered to. This often involves securing the express consent of the employee.

Onshore

There are no restrictions or prohibitions in the UAE against carrying out background checks on applicants. Employers are entitled to conduct their own background checks or hire a third party to do so, provided that any such checks are conducted in accordance with the provisions of Federal Decree Law No. (45) of 2021 (Data Privacy Law).

The Data Privacy Law requires employers secure their employees' specific, clear and unambiguous consent to collect, store and process their personal data in the form of a positive statement of action, subject to the following exemptions:

- Processing personal data in order to:
 - perform a contract to which the data subject is a party;
 - taking actions at the data subject's request to conclude, amend or terminate a contract;
 - fulfil the data controller's obligations under applicable laws;
 - carry out the obligations and exercise the rights of the data subject;
 - defend a legal claim.
- The data controller is acting in the public interest.
- The personal data was made public by the data subject.

DIFC

Employers in the Dubai International Financial Centre (DIFC) are entitled to conduct their own background checks or hire a third party to do so, provided that any such checks are conducted in accordance with the provisions of the DIFC Data Protection Law No. 5 of 2020 (DIFC Data Protection Law).

ADGM

Employers in the Abu Dhabi Global Market (ADGM) are entitled to conduct their own background checks or hire a third party to do so, provided that any such checks are conducted in accordance with the provisions of the ADGM Data Protection Regulations 2021 (ADGM Data Protection Regulations).

Medical examinations

7 | Are there any restrictions or prohibitions against requiring a medical examination as a condition of employment?

Yes, an employer is entitled to refuse to hire an applicant who does not submit to a medical examination, as this is a prerequisite for any residency visa and the granting of a work permit.

Pursuant to article 4 of the Federal Decree Law No. (29) of 2021 regarding Entry and Residence of Foreigners, it is mandatory for all expatriate employees in the UAE to submit for a medical as part of the residency visa process. Passing the medical screening examination is conditional upon receiving a residency visa and the right to employment in the UAE. Individuals are screened for covid-19, HIV, hepatitis B and C, leprosy and tuberculosis. It is therefore impossible for an employer to employ any candidate who either refuses to undertake or fails the medical examination.

The same rules apply to employees in the DIFC and ADGM.

Drug and alcohol testing

8 | Are there any restrictions or prohibitions against drug and alcohol testing of applicants?

There are no restrictions or prohibitions on employers requiring drug or alcohol testing of candidates or staff under UAE federal legislation, nor are there any under the DIFC Employment Law No. (2) of 2019 (DIFC Employment Law) or the ADGM Employment Regulations 2019 (ADGM Employment Regulations).

HIRING OF EMPLOYEES

Preference and discrimination

9 | Are there any legal requirements to give preference in hiring to, or not to discriminate against, particular people or groups of people?

Yes, there are legislative provisions that provide a positive obligation on some employers to employ a minimum number of United Arab Emirates (UAE) nationals. These include:

Legislation	Requirement
Ministerial Resolution No. (635) of 2008 on Public Relations Officers	Any company which employs more than 100 workers must employ a UAE national as a public relations officer.
Ministry of Human Resources and Emiratisation (MoHRE) Ministerial Orders 41, 42 and 43 of 2005	Every private sector company with more than 50 employees (100 employees for banks) is obliged to recruit and retain on the payroll a stipulated percentage of UAE nationals as follows: <ul style="list-style-type: none"> • 2 per cent for commercial entities; • 4 per cent for banks; and • 5 per cent for insurance companies. Companies that do not meet these requirements are required to file mandatory financial guarantees, the amount of which will depend on the category of the employer.

Legislation	Requirement
MoHRE Ministerial Orders 41, 42 and 43 of 2005	Expatriates may only be employed in the private and public sectors if there are no suitable UAE nationals available.
MoHRE Ministerial Orders 41, 42 and 43 of 2005	If there are no candidates who are UAE national, preference must be given to nationals of neighbouring Gulf Cooperation Countries (ie, Bahrain, Kuwait, Oman, Qatar and Saudi Arabia), over expatriates from other countries.
Article 32 of the Federal Decree Law No. (33) of 2021 regarding the Regulation of Labour Relations (Labour Law) and article 21 Cabinet Resolution No. (1) of 2022 on the Executive Regulations of Federal Decree Law No. (33) of 2021 (Executive Regulations)	As UAE national employees are required to undertake compulsory national service training, they are entitled to national military service leave with full pay pursuant to article 32 of the Labour Law and article 21 of the Executive Regulations.

In addition to the legislative provisions, the UAE government has implemented a number of Emiratisation programmes whereby the UAE encourages both public and private sectors to implement policies to actively recruit, train and employ UAE nationals.

10 | Must there be a written employment contract? If yes, what essential terms are required to be evidenced in writing?

Yes, all onshore, DIFC and ADGM employment agreements must be in writing and meet the requirements specified in each piece of legislation.

Onshore

Yes, pursuant to article 8(1) of the Labour Law, all employees in the UAE – whether in a free zone or onshore – must have written employment contracts.

To complete the UAE residency visa application, an employee must receive a written job offer from his or her prospective employer. The parties must enter into a standard bilingual employment contract, as provided by the MoHRE, which stipulates the minimum employment conditions as per the Labour Law.

Under the provisions of article 8 of the Labour Law and article 10 of the Executive Regulations, the MoHRE contract must specify the following:

- the start date and duration of the employment (which must be for a fixed period of up to three years);
- job title;
- place of employment;
- salary, including benefits and allowances;
- name and address of the employer;
- employee's name, nationality and date of birth;
- confirmation as to what is necessary to prove the employee's identity, qualification, or job or profession;
- work hours and rest days;
- probationary period;
- period of accrued annual leave;
- period of warning; and
- termination procedures.

The employer and employee may also enter a supplementary employment contract that provides for any allowances that are in excess of the minimums provided by the Labour Law.

DIFC

Pursuant to article 14 of the DIFC Employment Law, DIFC employers must provide their employees with a written contract which must specify the following:

- the parties' names;
- the start date;
- remuneration;
- applicable pay period;
- hours and days of work; and
- the terms and conditions relating to:
 - vacation leave and pay;
 - national holidays and pay;
 - sick leave and sick pay;
 - the notice period for termination of employment;
 - the employee's job title;
 - the term of employment;
 - the place of work;
 - applicable disciplinary rules and grievances procedures;
 - the probation period;
 - a reference to any applicable policies and procedures (including any codes of conduct) and where these can be accessed; and
 - any other matter that may be prescribed in any regulations issued under the DIFC Employment Law.

ADGM

Article 5(4) of the ADGM Employment Regulations stipulates that ADGM employment contracts must include:

- the parties' names;
- the start date;
- the remuneration;
- the applicable pay period;
- hours and days of work; and
- the employee's job title;
- the term of employment;
- the place of work;
- any disciplinary rules or grievance procedures applicable to the employee;
- any terms and conditions relating to:
 - vacation leave and vacation pay;
 - national holidays and pay for national holidays;
 - sick leave and sick pay;
 - the notice period for termination of employment; and
- any other matter that may be prescribed by the employer.

11 | To what extent are fixed-term employment contracts permissible?

Fixed-term contracts are permissible in every jurisdiction in the UAE. Most importantly, article 8(3) of the Labour Law has mandated that all onshore employment contracts shall revert to fixed-term contracts which do not exceed three years.

Onshore

Pursuant to article 8(3) of the Labour Law, limited 'fixed-term' contracts are the only form of employment contract permitted in the UAE. The contract tenure may not exceed three years but can be renewed for shorter or similar periods with the agreement of both parties.

Pursuant to article 68(2) of the Labour Law, any existing unlimited employment contracts must be updated by 2 February 2023.

Pursuant to article 7 of the Labour Law, UAE employment contracts can include the following patterns of work:

- full-time employment;
- part-time employment;

- temporary employment; and
- flexible employment.

DIFC

Pursuant to article 14(2)(i) of the DIFC Employment Law fixed-term contracts are permitted. However, there is no specified maximum or minimum duration and contracts can be for less than six months (see article 14(2)(i)).

ADGM

Pursuant to article 5(4) of the ADGM Employment Regulations, fixed-term contracts are permitted; however, there is no specified maximum or minimum duration.

Probationary period

12 | What is the maximum probationary period permitted by law?

Onshore

Pursuant to article 9 of the Labour Law, probation periods in the UAE may not exceed six months and must be specifically referred to in the contract of employment.

DIFC

Pursuant to article 14(2) of the DIFC Employment Regulations, any applicable probation period must not exceed six months. Where the employee is on a fixed-term contract, the probation period must not be more than half the term of the contract

ADGM

Pursuant to article 9 of the ADGM Employment Regulations, probation periods in the ADGM may also not exceed six months.

Classification as contractor or employee

13 | What are the primary factors that distinguish an independent contractor from an employee?

The primary factors that distinguish an independent contractor from an employee under UAE law relate to the visa type, visa status and visa sponsor of the worker.

Pursuant to article 6(1) of the Executive Regulations, a work permit system has been established that allows for permits to be granted to individuals wishing to engage in self-employment:

- without the requirement of having the sponsorship of a specific employer or body in the country;
- without the requirement of a valid employment contract through which a worker achieves direct income; and
- allows for these workers to not be employees of individuals or facilities.

All other workers who do not hold such a permit will be considered employees, in line with article 1 of the Labour Law, and subject to the operation of the Labour Law.

Temporary agency staffing

14 | Is there any legislation governing temporary staffing through recruitment agencies?

Yes, the new Labour Law and the Executive Regulations provide a legislative regime to govern temporary staffing through recruitment agencies. Temporary staffing agencies are heavily regulated commercial operations in the UAE and can only be owned and operated by UAE nationals.

Pursuant to article 6 of the Labour Law, it is not permissible to carry out the activity of recruitment or employing workers without a

licence from the MoHRE, in accordance with the conditions and procedures specified in the Executive Regulations.

FOREIGN WORKERS

Visas

15 | Are there any numerical limitations on short-term visas? Are visas available for employees transferring from one corporate entity in one jurisdiction to a related entity in another jurisdiction?

Under some circumstances, employers are subject to numerical limitations on short-term visas, but these limitations depend on the employer's business activities and the size of the space they occupy. Separate visas are often obtained for staff in the Abu Dhabi Global Market (ADGM) and the Dubai International Financial Centre (DIFC), and employers have numerical limits based on the size of the premises.

There is no express ability for an employer to transfer employees into the UAE from a related corporate entity, as such a transfer requires the employer to seek a new UAE residence visa and labour permit for the transferee.

Visa transfers within the UAE are permissible where the transfer is from one corporate entity in one jurisdiction to a related entity in another jurisdiction. The specific requirements of the jurisdiction that the employee is transferring to must be complied with, which ordinarily involves obtaining a new residence visa and work permit.

Spouses

16 | Are spouses of authorised workers entitled to work?

Yes, so long as a work permit has been obtained by the spouse's prospective employer. article 6 of the Cabinet Resolution No. (1) of 2022 on the Executive Regulations of Federal Decree Law No. (33) of 2021 (Executive Regulations) specifically provides for work permits for individuals who are registered under the residency of their sponsored relatives.

General rules

17 | What are the rules for employing foreign workers and what are the sanctions for employing a foreign worker who does not have a right to work in the jurisdiction?

The rules for employing foreign workers are contained within Federal Decree Law No. (33) of 2021 regarding the Regulation of Labour Relations (Labour Law) and Federal Decree Law No. (29) of 2021 regarding Entry and Residence of Foreigners (Foreigners Law), which specify that an employee must:

- apply for approval to work from the Ministry of Human Resources and Emiratisation (MoHRE);
- obtain a work permit and then apply for an employment visa from the Immigration Authority;
- obtain a residence permit for the employee;
- hold a MoHRE-issued employment contract;
- have a valid and approved passport that authorises the employee to return to the country of issuance; and
- be sponsored by an employer and pass the medical check required pursuant to the provisions of article 4 of the Foreigners Law.

Pursuant to articles 25, 27 and 28 of the Foreigners Law, the following sanctions are applicable to an expatriate who is employed without adhering to the above requirements:

- Article 25: An employer who fails to arrange an employee's residency visa may be subject to a fine of up to 50,000 UAE dirhams,

and a custodial sentence in the case of reoffending. This fine is multiplied by the number of violations.

- Article 27: Where an employee fails to obtain a residency visa, that employee may be subject to a custodial sentence of up to three months and a fine of up to 10,000 dirhams, and may be subject to a deportation order, as may any family member sponsored by that employee.
- Article 28: Managers or employees who have contributed to the commission of any such contravention of items (1) to (6) are also subject to a fine of up to 50,000 dirhams, and the court may order the closure of the employer's office for a period of up to six months.

Resident labour market test

18 | Is a labour market test required as a precursor to a short or long-term visa?

Under the UAE's Emiratization initiative, UAE nationals are given priority over expatriate employees in filling vacant employment positions.

The DIFC Employment Law No. (2) of 2019 and ADGM Employment Regulations 2019 [ADGM Employment Regulations] do not require labour market tests.

TERMS OF EMPLOYMENT

Working hours

19 | Are there any restrictions or limitations on working hours and may an employee opt out of such restrictions or limitations?

In all jurisdictions in the United Arab Emirates (UAE) there are limits on the working hours an employee can undertake.

Onshore

UAE onshore private sector employees may work a maximum of eight hours per day or 48 hours per week, pursuant to the provisions of article 17 of the Federal Decree Law No. (33) of 2021 regarding the Regulation of Labour Relations (Labour Law). Article 15(2) of Cabinet Resolution No. (1) of 2022 on the Executive Regulations of Federal Decree Law No. (33) of 2021 (Executive Regulations) requires these hours are reduced by two hours a day during the holy month of Ramadan.

Further, in accordance with article 15(3) of Cabinet Resolution No. (1) of 2022 on the Executive Regulations of Federal Decree Law No. (33) of 2021 (Executive Regulations), the employer may only require a worker to work for an additional two hours per day, unless the work is necessary to prevent the occurrence of a serious loss or accident. However, in all cases, total working hours must not exceed 144 every three weeks.

Pursuant to article 15(4) of the Executive Regulations, the following categories are excluded from the working-hour provisions:

- chairmen of boards of directors and board members;
- persons occupying supervisory positions;
- workers at sea;
- businesses whose technical nature requires continuation of work through successive shifts provided that the average working hours do not exceed 56 per week; and
- preparatory or complementary works that must be carried out outside of time limits generally established for work in the facility.

DIFC

Pursuant to article 22 of the DIFC Employment Law No. (2) of 2019 (DIFC Employment Law), an employee's weekly hours must not exceed

48 hours unless the employer has received the employee's prior express written consent. However, the employee is entitled to at least one rest day a week.

ADGM Employment Regulations 2019 (ADGM Employment Regulations)

Pursuant to article 16 of the ADGM Employment Regulations, weekly working hours must not exceed an average of 48 hours. An employee is entitled to at least one rest day per week.

Overtime pay

20 | What categories of workers are entitled to overtime pay and how is it calculated?

Onshore

The majority of onshore private-sector employees are entitled to overtime hours. However, pursuant to article 15(4) of the Executive Regulations, overtime is not payable for the following categories:

- chairmen of boards of directors, and members of these boards;
- persons occupying supervisory positions, if such positions would enable their occupants to enjoy the powers of the employer;
- workers who make up the crew of naval vessels, and workers who work at sea and enjoy special conditions of service due to the nature of their work;
- businesses whose technical nature requires continuation of work through successive shifts or tours provided that the average working hours do not exceed 56 hours per week; and
- preparatory or complementary works that must necessarily be carried out outside the time limits generally established for work in the facility.

Pursuant to article 19 of the Labour Law, overtime is calculated as follows:

- working between 4am and 10pm: a minimum increase of 25 per cent of the employee's basic salary;
- working between 10pm and 4am: a minimum increase of 50 per cent of the employee's basic salary; and
- working on a rest day: the employee is entitled to a day off in lieu or a 50 per cent increase to his or her basic salary.

DIFC

In the Dubai International Financial Centre (DIFC), there are no express overtime provisions. However, pursuant to article 22 of the DIFC Employment Laws, the working hours of an employee must not exceed 48 in one week, unless the employee has given their written consent.

ADGM

In the Abu Dhabi Global Market (ADGM), pursuant to article 16 of the ADGM Employment Law, where an employee works in excess of a 48-hour working week (save for those employees in managerial or supervisory positions), overtime must be paid in monetary compensation or compensated by time off in lieu (to be decided by the employer). Overtime compensation rates are either 25 per cent or 50 per cent of an employee's hourly rate, depending upon when the overtime occurs).

21 | Can employees contractually waive the right to overtime pay?

There is no ability in any of the three UAE jurisdictions to waive the right to overtime. However, there are statutory exclusions that limit the circumstances in which employees can claim overtime.

Onshore

Under the Labour Law, there is no ability for employees to contractually waive the right to overtime pay.

ADGM and DIFC

There are no provisions that allow for overtime payments to be contractually waived under the ADGM Employment Regulations or the DIFC Employment Regulations.

Vacation and holidays

22 | Is there any legislation establishing the right to annual vacation and holidays?

In all jurisdictions in the UAE, employees hold a statutory right to annual vacation and holidays.

Onshore

Pursuant to article 29 of the Labour Law, employees are entitled to 30 calendar days of annual leave in addition to any official UAE public holidays.

Pursuant to article 19 of the Executive Regulations, an employee is entitled to carry over up to half of his or her annual leave into the following year, or the parties can mutually agree to the payment of cash in lieu of the employee's annual leave entitlement.

DIFC

Pursuant to article 27(1) of the DIFC Employment Regulations, employees are entitled to 20 days of annual leave per year. And pursuant to article 27(3), they are entitled to carry over five of these vacation days into the following year.

ADGM

Pursuant to article 22(1) of the ADGM Labour Law, employees are entitled to a minimum of 20 days' vacation leave each year. And pursuant to article 22(2), they are is entitled to carry over five of these vacation days into the following year.

Sick leave and sick pay

23 | Is there any legislation establishing the right to sick leave or sick pay?

In all jurisdictions in the UAE, an employee has a right to sick leave and sick pay after the conclusion of the employee's probation period.

Onshore

Pursuant to article 31(2) of the Labour Law, during a probation period, employees are not entitled to paid sick leave. Employers may grant sick leave during the employee's probation, without pay, upon the issuance of a medical report.

Pursuant to article 31(3), following the probationary period, employees are entitled to sick leave as follows:

- first 15 days with full pay;
- following 30 days with half pay; and
- any subsequent period without pay.

Where an employee takes in excess of 90 consecutive or intermittent days if sick leave per year, an employer is entitled to terminate the employee pursuant to the provisions of article 31 of the Labour Law.

Where sick leave is the result of an employee's consumption of alcohol or drugs (and there is a report from authorities to confirm consumption of the same), or the violation of safety instructions in accordance with UAE legislation, the employee is not entitled to paid sick leave in accordance with the provisions of article 20 of the Executive Regulations.

ADGM

Pursuant to article 29 of the ADGM Employment Regulations, employees are entitled to a maximum of 60 days' sick leave per year. Pursuant to

article 30 of the ADGM Employment Regulations, employees are entitled to sick pay as follows:

- first 10 days with full pay;
- following 20 days with half pay; and
- 30 days without pay.

Pursuant to article 31 of the ADGM Employment Regulations, where an employee takes in excess of 60 working days' sick leave in a 12-month period, an employer is entitled to terminate that employee.

DIFC

Pursuant to article 34 of the DIFC Employment Regulations, employees are entitled to a maximum of 60 days' sick leave per year. Pursuant to article 35 of the DIFC Employment Regulations, employees are entitled to sick pay as follows:

- first 10 days with full pay;
- following 20 days with half pay; and
- 30 days without pay.

Pursuant to article 36 of the DIFC Employment Regulations, where an employee takes in excess of 60 working days' sick leave in a 12-month period, an employer is entitled to terminate that employee.

Leave of absence

24 | In what circumstances may an employee take a leave of absence? What is the maximum duration of such leave and does an employee receive pay during the leave?

There is no statutory right for an employee to take a leave of absence, and any such leave would need to be negotiated with the employer in all jurisdictions in the UAE.

Mandatory employee benefits

25 | What employee benefits are prescribed by law?

Onshore

The Labour Law sets out the minimum employee benefits, which include:

- remuneration paid on time;
- right to paid medical insurance;
- maintenance of sponsorship and residency;
- termination benefits when service has been longer than one year;
- protection from the dangers of occupational injuries at the workplace;
- protection of privacy;
- protection from discrimination;
- right to a harassment-free workplace;
- right to overtime (subject to certain exempted classes of workers);
- right to certain paid leave;
- right to annual leave;
- repatriation benefits; and
- access to a grievance procedure in which fees are waived for employees.

DIFC and ADGM

Similar benefits are prescribed in DIFC and ADGM legislation. Employees in the DIFC are also entitled to obtain a written notice explaining the rationale behind any termination.

Part-time and fixed-term employees

26 | Are there any special rules relating to part-time or fixed-term employees?

All jurisdictions in the UAE have specific provisions in place for fixed-term employment contracts, and the Labour Law has mandated that all

employment contracts revert to fixed-term agreements not exceeding three years.

Onshore

Article 8(3) of the Labour Law only allows for fixed-term employment contracts for UAE onshore employees. These fixed-term contracts are subject to a maximum term of three years and may be renewed.

The Labour Law and Executive Regulations provide for additional flexible working options within fixed-term employment contracts, which include:

- full-time employment;
- part-time employment;
- temporary employment;
- flexible employment;
- remote employment; and
- job-sharing employment.

Part-time and fixed-term employees are required to obtain work permits in accordance with the provisions of article 6 of the Executive Regulations.

Part-time employees in the UAE are entitled to annual leave based on their total working hours converted to working days, divided by the number of working days in a year and multiplied by the legally prescribed leave. All part-time employees enjoy a minimum of five working days per year.

DIFC and ADGM

Employment contracts in the DIFC and ADGM can be either limited or unlimited in duration.

In the ADGM, part-time employees are given their leave entitlement on a pro-rata basis.

Part-time employees in the DIFC are entitled to annual leave on a pro-rata basis and are not entitled to a written contract or an itemised pay statement if the employment is less than 30 days.

Public disclosures

27 | Must employers publish information on pay or other details about employees or the general workforce?

There are no requirements in the UAE, DIFC or ADGM for any employer to publish any information about its workforce.

POST-EMPLOYMENT RESTRICTIVE COVENANTS

Validity and enforceability

28 | To what extent are post-termination covenants not to compete, solicit or deal valid and enforceable?

Post-termination restrictions which are valid may not be enforceable without consideration in the United Arab Emirates (UAE).

Onshore

Pursuant to article 10 of the Labour Law and article 12 of the Cabinet Resolution No. (1) of 2022 on the Executive Regulations of Federal Decree Law No. (33) of 2021 (Executive Regulations), non-compete restrictions are valid. However, they must be limited in terms of geographic scope, length of time (a maximum of two years), and type of work, so that they can be said to only go so far as necessary so as to protect an employer's legitimate business interests.

Non-compete restrictions will not be enforced where:

- compensation of up to three months of the employee's wage in his or her last contract is paid by the employee or the employee's new employer, and the previous employer gives prior written approval;

- a contract is terminated during a probationary period; or
- the role falls within any occupational category pursuant to the needs of the labour market in the country is based on a decision from the Ministry of Human Resources and Emiratisation (MoHRE).

ADGM and DIFC

Injunctive relief may be available in the Dubai International Financial Centre (DIFC) and Abu Dhabi Global Market (ADGM). Note that enforcement would be limited to within the respective free zones.

Post-employment payments

29 | Must an employer continue to pay the former employee while they are subject to post-employment restrictive covenants?

While employment laws are silent on payment, for a restrictive covenant to be enforceable, consideration should be paid by employers that enforce restrictive covenants on employees and prevent so their ability to earn.

Onshore

An employer may be required to continue to pay a former employee while they are subject to post-employment restrictive covenants. It is common for employers to consider additional measures to ensure that employees are properly restricted (eg, gardening leave is commonly used so as to require an employee to spend all or part of the notice period at home while continuing to receive his or her usual remuneration).

DIFC and ADGM

Enforcement of restrictive covenants is limited in the DIFC and ADGM free zones, so where there is a risk that an employee will seek to take up employment with a competitor in the UAE, employers may still wish to consider additional measures such as gardening leave. However, employees will need to be paid throughout such a period.

LIABILITY FOR ACTS OF EMPLOYEES

Extent of liability

30 | In which circumstances may an employer be held liable for the acts or conduct of its employees?

Onshore

In the United Arab Emirates (UAE) there are certain instances where an employer may be held vicariously liable for the acts of its employees. For example, pursuant to the provisions of Federal Law No. (5) of 1985 concerning the issuance of the Civil Transactions Law of the UAE (the Civil Code), employees are sponsored by the employers; therefore, unless the employee acts in a way that is ultra vires, as the employer effectively controls the actions of the employee, the employer can be held liable for employees' acts.

DIFC

Article 54 of the DIFC Employment Law No. (2) of 2019 (DIFC Employment Law) prescribes that an employer is liable for the acts of an employee during the course of the employee's employment unless it can show that it took reasonable steps to prevent the employee from carrying out the act or omission (eg, in cases of discrimination).

Where vicarious liability relates to a claim for compensation, it must be established that the employee's act was sufficiently connected to the employee's employment.

ADGM

The ADGM Employment Regulations 2019 (ADGM Employment Regulations) do not contain provisions specifically dealing with the

vicarious liability of an employer. However, vicarious liability would arise under the common law of England and Wales, depending on the circumstance.

TAXATION OF EMPLOYEES

Applicable taxes

31 | What employment-related taxes are prescribed by law?

There is no payment or withholding of employment-related taxes prescribed by United Arab Emirates (UAE) law. However, the UAE has recently announced plans to impose a new 9 per cent federal corporation tax, starting 1 June 2023, which may also lead to the introduction of potential personal income taxation in the future.

EMPLOYEE-CREATED IP

Ownership rights

32 | Is there any legislation addressing the parties' rights with respect to employee inventions?

Ownership of copyright in a work product lies with the creator, who remains the default owner of the copyright in the work created, in the absence of any agreement between the parties to the contrary. This default right remains throughout the duration of any employment, where:

- the work product is not related to the scope of the creator's employment;
- the work is not related to the business or activities of the employer; and
- the work is created or achieved without utilising the employer's documents, experience and resources.

Unless the parties have agreed otherwise, an employer has the right to apply to patent any invention created by an employee pursuant to the provisions of article 10 of Federal Law No. (11) of 2021 (Patents Law). The employee has the right to compensation if the economic value of the invention was not anticipated when the employment contract was entered into, a factor which may be determined by a court in the absence of any agreement between the parties.

DIFC

Pursuant to the provisions of DIFC Law No. (4) of 2019 (DIFC IP Law), ownership of copyright is presumed in favour of the employer when it comes to works created by an employee within the scope of his or her employment or while using the employer's resources. The DIFC IP Law also provides for employer ownership of patents subject to the invention being created within the scope of the employee's employment. If the invention is created outside of the scope of employment, but relates to the employer's business and is created using the employer's resources, the invention still belongs to the employer.

The employee is entitled to fair compensation for the invention, taking into consideration the employee's salary, the economic value of the invention and the economic benefits gained by the employer from the invention.

Trade secrets and confidential information

33 | Is there any legislation protecting trade secrets and other confidential business information?

Article 16 of the Federal Decree Law No. (33) of 2021 regarding the Regulation of Labour Relations (Labour Law) obliges employees to protect trade secrets and other confidential business, a position

that is supported by the Patents Law. The Labour Law now specifically provides for the enforceability of post-employment restrictive covenants.

Article 432 of the Federal Decree Law No. (30) of 2021 (UAE Penal Code) Provides an express penalty for any employee that breaches the trade secrets of his or her employer.

In addition, article 62 of the Patents Law protects confidential information, or 'undisclosed information', that:

- is secret in that it is not generally known among or readily accessible to persons within the circles that normally deal with that kind of information;
- has commercial value because it is secret; and
- has been subject to reasonable steps by the person lawfully in control thereof to keep it secret.

DIFC

The DIFC IP Law protects trade secrets. It recognises UAE-registered IP rights in the DIFC, which extend to trade secrets.

ADGM

Pursuant to article 10(g) of the ADGM Employment Regulations 2019 (ADGM Employment Regulations), an employee holds an express duty not to disclose confidential information of the employer to a third party both during and after employment. Any breach would allow for civil action to be taken by the employer.

DATA PROTECTION

Rules and obligations

34 | Is there any legislation protecting employee privacy or personnel data? If so, what are an employer's obligations under the legislation?

Federal Decree Law No. (45) of 2021 (Data Privacy Law) protects employees' personal data in the United Arab Emirates (UAE). The Data Privacy Law applies to all data subjects who reside in or work in the UAE and seeks to protect personal data.

The Data Privacy Law prohibits the processing of employees' personal data without their specific, clear and unambiguous consent in the form of a positive statement of action. Exceptions to this need for consent exist where, for example, the processing relates to personal data which is necessary for the performance of a contract to which the employee is a party, where it relates to the processing of personal data which has already been made public by the employee, or where it is necessary for the fulfilment of the employer's obligations under applicable UAE laws.

The Data Privacy Law provides that personal data must be processed for specific purposes, and any processing must be adequate and limited to what is necessary in relation to the purposes for which the employer is processing that data.

Under the Data Privacy Law, data subjects will have a number of rights, including:

- the right to access their personal data from a controller;
- the right to request the transfer of their personal data;
- the right to restrict the processing of personal data in certain cases;
- the right to have their personal data corrected or erased (ie, the right to be forgotten);
- the right to object to certain types of data processing (eg, if it is for the purpose of direct marketing or scientific and statistical research); and
- the right to object to automated processing of their personal data.

As data controllers, employers must:

- implement necessary standards for the protection and security of personal data;
- preserve the confidentiality and privacy of personal data;
- ensure that personal data is not breached, damaged, altered or tampered with; and
- maintain a record of personal data.

The DIFC Data Protection Law No. 5 of 2020 (DIFC Data Protection Law) and the ADGM Data Protection Regulations 2021 (ADGM Data Protection Regulations) contain similar provisions for the protection of employees' personal data in each of the respective financial free zones.

35 | Do employers need to provide privacy notices or similar information notices to employees and candidates?

Under the Data Privacy Law, employers have an obligation to process data in a transparent manner. As data controllers, employers are required in all cases, and prior to the commencement of processing, to provide employees with information regarding:

- the purposes of the processing;
- the targeted sectors or establishments with which the personal data will be shared, both within and outside the UAE; and
- the protection measures in cases of cross-border processing.

Executive regulations to the Data Privacy Law are expected to be published in March 2022, and it is hoped that these will contain further details as to what should be included in any data privacy notice. We expect that these executive regulations will include the express provision that employees be given a detailed right of access (without charge) to certain types of information that an employer holds (namely, information that contains their personal data).

Both the DIFC Data Protection Law and the ADGM Data Protection Regulations require employees to form a privacy notice or policy setting out the purposes for which data is collected and making it publicly accessible. It is good practice to make this policy available in simple terms as part of the information provided to an individual when seeking their agreement to process their personal data for specific purposes in a contract or otherwise.

36 | What data privacy rights can employees exercise against employers?

As data subjects, employees have the following rights, and are not required to pay for any of them to be honoured:

- to receive information from their employers on personal data held (ie, a right to access);
- to request the transfer of their personal data;
- to have their personal data corrected or erased;
- to restrict the processing of their personal data in certain cases; and
- to object to certain types of data processing, and object to automated processing.

BUSINESS TRANSFERS

Employee protections

37 | Is there any legislation to protect employees in the event of a business transfer?

Employees are not automatically transferred within an internal transfer with a company. Instead, the original company would need to treat each individual's employment contract as being terminated and cancel all of their employee's visas in accordance with the Federal Decree Law

No. (33) of 2021 regarding the Regulation of Labour Relations (Labour Law). The company receiving the transferee(s) would need to process new visas and enter into new employment contracts.

Upon termination of employment prior to a transfer, employees must be paid any end-of-service gratuity accrued up until the date of termination. Given that end-of-service gratuities are based on length of service, some companies agree with their employees that transferees will not receive their end-of-service gratuities at the time of transfer, but liability for the gratuity will move to the new employer and will be included in the new contract, allowing their continuity of service remains intact. This can only be done with the consent of the employee.

Employees are entitled to receive notice prior to termination in accordance with the provisions of their employment contract unless they have agreed to waive such notice in acknowledgement of the transfer and new employment. Employees are also entitled to be paid for accrued but untaken benefits at the time of termination, such as accrued annual leave (although this can be rolled into the new employment contract), or opt to receive a payment in lieu of these benefits.

TERMINATION OF EMPLOYMENT

Grounds for termination

38 | May an employer dismiss an employee for any reason or must there be 'cause'? How is cause defined under the applicable statute or regulation?

To dismiss an employee in the United Arab Emirates (UAE), there must be a legitimate reason. If an employer does not have a legitimate reason, compensation must be paid.

Onshore

To terminate an employment contract under the Federal Decree Law No. (33) of 2021 regarding the Regulation of Labour Relations (Labour Law), pursuant to article 43(1) there must be a legitimate reason. Article 42 of the Labour Law sets out that UAE employment contracts may be terminated for the following reasons:

- by mutual agreement of the parties;
- through the expiration of the fixed term of the employment contract;
- by written notice (served by either party);
- upon the death of the employer;
- upon the death or permanent disability of the employee;
- where the employee is convicted of a custodial sentence of longer than three months;
- upon the permanent closure of the employer; or
- where the employer becomes bankrupt or insolvent, or is unable to continue business for economic or other reasons.

DIFC

Pursuant to article 63 of the DIFC Employment Law No. (2) of 2019 (DIFC Employment Law), an employee can only be terminated for cause in circumstances where the conduct of the employee warrants termination, and where a reasonable employer would have terminated the employment.

ADGM

Pursuant to article 56 of the ADGM Employment Regulations 2019 (ADGM Employment Regulations), an employment contract can only be terminated for cause.

Notice**39** | Must notice of termination be given prior to dismissal? May an employer provide pay in lieu of notice?

Yes, in all jurisdictions in the UAE notice of termination must be provided, except in those circumstances where there has been a material breach of the employment agreement.

Onshore

Unless dismissal takes place in accordance with the limited provisions set out in article 44 of the Labour Law, a notice of termination, including a valid reason, must be given to an employee prior to dismissal. Pursuant to article 43(1) of the Labour Law, parties can agree to any notice period if it is between one month and three months.

Parties can agree to waive the notice period with pay in lieu of notice.

DIFC

Pursuant to article 62 of the DIFC Employment Law, the minimum notice period an employee is entitled depends on their length of service with their employer:

- less than three months: seven days;
- between three months and five years: 30 days;
- more than five years: 90 days.

All notices of termination must be supplied in writing.

Employers and employees in the DIFC both parties can agree to longer or shorter periods of notice, for notice periods to be waived, and for payments to be made in lieu of notice.

ADGM

Pursuant to article 55 of the ADGM Employment Regulations, in the Abu Dhabi Global Market (ADGM), an employee who has completed less than three months of service is entitled to at least seven days' notice, and employees who complete more than three months of service are entitled to at least 30 days. All notices of termination must be supplied in writing.

40 | In which circumstances may an employer dismiss an employee without notice or payment in lieu of notice?**Onshore**

Pursuant to the provisions of article 44 of the Labour Law, an employer may only dismiss an employee without notice if that employee

- impersonated another person or submitted forged documentation;
- committed a mistake that resulted in a serious material loss to the employer;
- damaged the employer's property and acknowledged the same;
- violated the employer's safety instructions;
- continued to fail to perform his or her basic duties according to their employment contract, and:
 - the employer previously conducted a written investigation; and
 - issued at least two warnings to the employee;
- disclosed an employer's secret related to industrial or intellectual property which resulted in:
 - losses to the employer;
 - the loss of an opportunity for the employer; or
 - brought about a personal benefit to the employee;
- during working hours:
 - was in a state of drunkenness; or
 - was under the influence of a narcotic or psychotropic substance
- committed an act against public morals in the workplace;
- assaulted the employer, the employee's manager, a superior or colleagues at the workplace;

- is absent without a legitimate reason or excuse accepted by the employer for more than 20 days in one year, or for more than seven consecutive days;
- illegally exploited his or her position to obtain results and personal gains; or
- began work with another company, without complying with the rules and procedures prescribed under law.

DIFC

Pursuant to article 63(1) of the DIFC Employment Law, employers in the DIFC may terminate an employee with immediate effect for cause in circumstances 'where the conduct of the employee warrants termination'.

ADGM

Pursuant to article 56(1) of the ADGM Employment Regulations, employers in the ADGM may terminate an employee with immediate effect for cause in circumstances 'where a reasonable employer would consider immediate termination to be warranted'.

Severance pay**41** | Is there any legislation establishing the right to severance pay upon termination of employment? How is severance pay calculated?**Onshore**

Pursuant to article 51 of the Labour Law, all UAE private employees, regardless of the reasons for termination, are entitled to an end-of-service gratuity (severance pay) which must be paid to the employee within 14 days of termination. The method of calculation is as follows:

- 21 days' basic wages for each of the first five years of service; and
- 30 days' basic wages for each subsequent year of service.

UAE nationals

UAE and Gulf Cooperative Council nationals are entitled to state pensions and are therefore not entitled to end-of-service gratuities on termination.

ADGM

In accordance with article 59 of the ADGM Employment Regulations, employees are entitled to end-of-service gratuities, calculated as follows:

- 21 days' basic wages for each of the first five years of service; and
- 30 days' basic wages for each year of service thereafter.

DIFC

Pursuant to article 66 of the DIFC Employment Regulations, DIFC employees are entitled to a mandatory workplace savings scheme whereby the end-of-service gratuities for employees are calculated and paid monthly by employers into a workplace savings fund. The rates for these contributions are set out in the Labour Law. Upon termination or resignation of employment, employees may choose to cash out their benefits or leave them to remain invested in the fund, regardless of whether they leave the UAE.

Procedure**42** | Are there any procedural requirements for dismissing an employee?**Onshore**

Article 44 of the Labour Law provides for the dismissal of an employee without notice after an employer has conducted a written investigation with the employee, and the dismissal is justified and is made in writing.

The decision must be based on one of the 10 justifications set out in article 44 of the Labour Law.

If an employee is being terminated without cause, pursuant to the provisions of article 43 of the Labour Law, the employee must be provided with the minimum notice period as stipulated by the Labour Law, and, pursuant to article 43(3) of the Labour Law, compensation would need to be paid.

ADGM

Upon termination of an employee, employers must cancel or transfer sponsorship of that employee's residence visa and labour card (or identity card if the employee is employed in the DIFC, ADGM or another UAE free zone) within 30 days.

Employees are required to sign a final settlement form confirming that they have received all due legal entitlements before the authorities cancel their residence visa and labour card (or identity card if the employee is employed in the DIFC, ADGM or other UAE free zone).

UAE nationals

Ministerial Decree No. 212 of 2018 on the Regulation Employing Nationals in the Private Sector prohibits the termination of UAE nationals from their private sector roles, without the prior approval of the Ministry of Human Resources and Emiratization (MoHRE), unless they have committed one of the actions prescribed in article 44 of the Labour Law.

Employee protections

43 | In what circumstances are employees protected from dismissal?

Onshore

All employment contracts in onshore UAE are now fixed-term employment contracts for a maximum of three years. At the expiration of the fixed-term agreement, there is no protection for the employee. However, the employee is protected from termination prior to the expiration of the fixed term unless there is a legitimate reason and the notice period is adhered to.

Pursuant to article 30 of the Labour Law, it is not permissible to terminate the service of a female worker or to give her notice because of pregnancy, eligibility for maternity leave, or because she is absent from work in accordance with the provisions of article 30.

DIFC and ADGM

Pursuant to article 63 of the DIFC Employment Law and article 57 of the ADGM Employment Regulations, employment contracts cannot be terminated without cause.

Mass terminations and collective dismissals

44 | Are there special rules for mass terminations or collective dismissals?

Termination of employment must take place on an individual basis in the UAE, as there are no specific provisions in the Labour Law, the DIFC Employment Law or the ADGM Employment Regulations which allow for mass terminations or collective dismissals.

When a company is being sold, each employee must be terminated individually by the seller and then provided with a new contract of employment by the purchaser. There is no automatic provision for transfer.

Class and collective actions

45 | Are class or collective actions allowed or may employees only assert labour and employment claims on an individual basis?

Class actions are not permitted under UAE law. However, there are different dispute resolution provisions in each jurisdiction that allow for collective complaints and group litigation.

Onshore

Pursuant to the provisions of articles 54 and 56 of the Labour Law, in the case of a dispute between the employer and a group of employees where amicable settlement is not possible, the employer or the collective employees are entitled to file a complaint with the MoHRE for resolution.

ADGM and DIFC

Neither the DIFC Employment Law nor the ADGM Employment Regulations provide for class or collective employment actions. However, both the DIFC and the ADGM courts can make group litigation orders where claims can be said to relate to common issues of fact or law.

Mandatory retirement age

46 | Does the law in your jurisdiction allow employers to impose a mandatory retirement age? If so, at what age and under what limitations?

Onshore

Neither the UAE Labour Law nor the Executive Regulations specify a particular age at which to terminate the employment contract. However, the MoHRE charges additional fees for approval of a work permit for employees over the age of 65.

DIFC and ADGM

There are no mandatory retirement ages in the DIFC or ADGM.

DISPUTE RESOLUTION

Arbitration

47 | May the parties agree to private arbitration of employment disputes?

Private arbitration of employment disputes is not provided for by the Federal Decree Law No. (33) of 2021 regarding the Regulation of Labour Relations (Labour Law), the DIFC Employment Law No. (2) of 2019 (DIFC Employment Law) or the ADGM Employment Regulations 2019 (ADGM Employment Regulations).

Employee waiver of rights

48 | May an employee agree to waive statutory and contractual rights to potential employment claims?

An employee in the UAE, DIFC and ADGM can agree to waive statutory rights to a potential claim by entering a settlement agreement or settlement deed. However, a consideration must be paid by the employer.

Limitation period

49 | What are the limitation periods for bringing employment claims?

Onshore

Pursuant to article 54(7) of the Labour Law, the time limitation for bringing employment claims is one year.

DIFC

Pursuant to article 10 of the DIFC Employment Regulations, the time limitation for bringing employment claims is six months. This can be extended at a courts' discretion in cases of discrimination and victimisation.

ADGM

Under the ADGM Employment Regulations, there is no limitation period imposed on the courts. However, the ADGM has adopted English legislation regarding limitation periods that would be applied.

UPDATE AND TRENDS

Key developments of the past year

50 | Are there any emerging trends or hot topics in labour and employment regulation in your jurisdiction? Are there current proposals to change the legislation?

Legislative changes

Quarter 1 of 2022 has seen the most substantive changes to the labour laws of the United Arab Emirates (UAE) since 1980, with:

- the introduction of the Federal Decree Law No. (33) of 2021 regarding the Regulation of Labour Relations (Labour Law);
- the introduction of the new Cabinet Resolution No. (1) of 2022 on the Executive Regulations of Federal Decree Law No. (33) of 2021 (Executive Regulations);
- amendments to the working week (which now runs Monday to Friday); and
- the public sector moving to a 4.5-day working week.

Emerging trends

The primary identifiable trend with the new labour laws in the UAE is the move towards affording greater flexibility for both employers and employees in the UAE, with this being achieved by:

- implementing regulations that allow for a 'green visa' for skilled professionals, entrepreneurs and investors to sponsor their own visas to work in the UAE;
- the introduction of a visa for freelance workers; and
- increased guidance regarding labour-hire and temporary work arrangements.

Morgan Lewis

Rebecca Kelly

rebecca.kelly@morganlewis.com

Christopher Brinley

christopher.brinley@morganlewis.com

Emirates Towers Offices
Office No. C, 10th Floor
PO Box 504903, Sheikh Zayed Rd
Dubai
United Arab Emirates
Tel: +971 4 312 1800
Fax +971 4 312 1801
www.morganlewis.com

Morgan Lewis



GLOBAL REACH

We help employers successfully navigate evolving workforce challenges and the steady stream of new regulatory guidance from governments around the world.

Our international team of labour, employment, immigration, and benefits lawyers advise clients on cross-border projects involving employees and workplace laws across North America, Asia, Europe, the Middle East, and Latin America. With resources spanning the globe, we partner with clients to effectively and efficiently manage their workforce needs.

Connect with us:      @MLWorkforce

www.morganlewis.com/labourandemployment

© 2022 Morgan, Lewis & Bockius LLP
© 2022 Morgan Lewis Stamford LLC
© 2022 Morgan, Lewis & Bockius UK LLP

Morgan, Lewis & Bockius UK LLP is a limited liability partnership registered in England and Wales under number OC378797 and is a law firm authorised and regulated by the Solicitors Regulation Authority. The SRA authorisation number is 615176.

Our Beijing and Shanghai offices operate as representative offices of Morgan, Lewis & Bockius LLP. In Hong Kong, Morgan, Lewis & Bockius is a separate Hong Kong general partnership registered with The Law Society of Hong Kong. Morgan Lewis Stamford LLC is a Singapore law corporation affiliated with Morgan, Lewis & Bockius LLP.

This material is provided for your convenience and does not constitute legal advice or create an attorney-client relationship. Prior results do not guarantee similar outcomes. Attorney Advertising.

Other titles available in this series

Acquisition Finance	Distribution & Agency	Islamic Finance & Markets	Rail Transport
Advertising & Marketing	Domains & Domain Names	Joint Ventures	Real Estate
Agribusiness	Dominance	Labour & Employment	Real Estate M&A
Air Transport	Drone Regulation	Legal Privilege & Professional Secrecy	Renewable Energy
Anti-Corruption Regulation	Electricity Regulation	Licensing	Restructuring & Insolvency
Anti-Money Laundering	Energy Disputes	Life Sciences	Right of Publicity
Appeals	Enforcement of Foreign Judgments	Litigation Funding	Risk & Compliance Management
Arbitration	Environment & Climate Regulation	Loans & Secured Financing	Securities Finance
Art Law	Equity Derivatives	Luxury & Fashion	Securities Litigation
Asset Recovery	Executive Compensation & Employee Benefits	M&A Litigation	Shareholder Activism & Engagement
Automotive	Financial Services Compliance	Mediation	Ship Finance
Aviation Finance & Leasing	Financial Services Litigation	Merger Control	Shipbuilding
Aviation Liability	Fintech	Mining	Shipping
Banking Regulation	Foreign Investment Review	Oil Regulation	Sovereign Immunity
Business & Human Rights	Franchise	Partnerships	Sports Law
Cartel Regulation	Fund Management	Patents	State Aid
Class Actions	Gaming	Pensions & Retirement Plans	Structured Finance & Securitisation
Cloud Computing	Gas Regulation	Pharma & Medical Device Regulation	Tax Controversy
Commercial Contracts	Government Investigations	Pharmaceutical Antitrust	Tax on Inbound Investment
Competition Compliance	Government Relations	Ports & Terminals	Technology M&A
Complex Commercial Litigation	Healthcare Enforcement & Litigation	Private Antitrust Litigation	Telecoms & Media
Construction	Healthcare M&A	Private Banking & Wealth Management	Trade & Customs
Copyright	High-Yield Debt	Private Client	Trademarks
Corporate Governance	Initial Public Offerings	Private Equity	Transfer Pricing
Corporate Immigration	Insurance & Reinsurance	Private M&A	Vertical Agreements
Corporate Reorganisations	Insurance Litigation	Product Liability	
Cybersecurity	Intellectual Property & Antitrust	Product Recall	
Data Protection & Privacy	Investment Treaty Arbitration	Project Finance	
Debt Capital Markets		Public M&A	
Defence & Security		Public Procurement	
Procurement		Public-Private Partnerships	
Digital Business			
Dispute Resolution			

Also available digitally

[lexology.com/gtdt](https://www.lexology.com/gtdt)