

Client Alert

Labor & Employment Practice Group

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Dubai Poised to Revamp Employment Law to Match International Best Practice

Companies operating in the Dubai International Financial Centre (DIFC) are facing an overhaul in the management of the workforce with plans to replace local employment law

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The Dubai International Financial Centre Authority (DIFCA) recently launched a [consultation paper](#) that is seeking comments on the proposal to replace DIFC Law No. 4 of 2005 (the “Current Law”).

The reforms proposed are particularly pertinent to officers and employees of organizations with business or operations in the DIFC – as well as their advisers – because they echo many of the complex and sensitive issues that have recently been facing both employers and employees in jurisdictions such as the UK and the US. Examples include gig economy workers, paternity leave for male employees, whistle-blowing and discrimination on grounds of pregnancy and age.

Key proposals

DIFCA undertook a comprehensive review of existing employment law to consider reforms to follow international best practice, in line with comparable models in other jurisdictions. A key consideration was specific developments in employment law under English law and how these developments could apply in the UAE and what example the DIFC should set.

According to the body, the proposed law attempts to “balance the needs of employers and employees” in the DIFC by providing a framework of minimum employment standards and fair treatment of employees while enabling businesses to thrive and attract the best talent to the DIFC.

One key proposal is clarifying the application of the DIFC’s employment regime in respect of which employers and employees qualify for protection, as well as in respect of part-time employees and short term employees, and excluding the application of the DIFC employment law regime to certain categories of employees.

This proposal raises similar issues to those around gig economy workers, which is currently a hot topic, especially in the UK. A number of court

cases have been launched with workers claiming additional rights from gig economy employers. It has proven to be a source of concern for many business operators, especially those that utilize technology.

Other proposed reforms in the consultation include:

- introducing a fines and penalties regime to ensure adherence to basic conditions of employment and the visa and residency sponsorship requirements of employees and inspection powers;
- allowing for the waiver of rights under the proposed law in certain circumstances;
- removing the mandatory nature of penalties on employers for late payment of amounts due to employees at termination;
- removing the restriction placed in respect of maximum weekly working time;
- reducing the amount of sick leave pay;
- introducing paternity leave for male employees;
- clarification of an employer's vicarious liability in respect of acts, attempted acts or omissions of employees acting in the course of employment;
- introducing requirements for visas and permits;
- introducing the principle of contributory negligence in compensation claims arising out of injury or death during the course of employment;
- expanding the definitions relating to discrimination and the grounds for discrimination to include pregnancy and age;
- introducing remedies for discrimination claims;
- removing the forfeiture of gratuity payments in cases of termination for cause;
- clarifying the rights of employees and employers employment is terminated for cause;
- adding whistle-blower protection in line with what is provided for in the newly proposed DIFC Companies Law;

What next?

The DIFCA stresses that the proposed laws are in draft form only and have yet to be enacted. Stakeholders have until 22 March, 2018 to respond to the consultation.

This alert is a very brief summary of the paper. Full details of the proposals indicate that employers are facing a host of changes that may dramatically reshape their HR operations and policies. Wrestling with topics such as appropriate paternity leave, discrimination, termination of contracts, whistle-blowing and the rights of workers is

something international organizations have spent years, if not decades, grappling with. Many have yet to reach a satisfactory solution.

As such, any organization operating in the DIFC should be thinking of trying to establish internal structures in advance of any changes to minimize the potential impact. Employers should act now to undertake a review of all the recent English law and English case law updates, covering the gig economy, workers' rights, discrimination and so on, to see where the potential problems – and potential claims if the problems are not rectified – may lie.

Whilst it is important for organizations to be fully-prepared for the possible employment law overhaul, implementing proactive, fair and positive changes to HR policies has benefits beyond merely complying with applicable legislation and regulations. It can also foster enthusiasm and engagement from within the market of talent in the region as well as the existing workforce.

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