

WORKING ON EMPLOYMENT LAW

The global financial crisis encouraged regional legislators to review their employment legislation. **Nazanin Aleyaseen** of K&L Gates looks at the changes across the GCC, particularly in Bahrain where developments have been most dramatic.

WHAT'S HAPPENING?

“Collectively, the GCC hosts the world’s largest expatriate worker population, with expatriates comprising nearly 50% of the residents. In the UAE alone nearly 90% of the population is made up of expatriate workers. In recent years, the GCC labour markets have experienced a range of disruptions including layoffs and downsizing as a result of work stoppages following the global financial crisis and the Arab Spring.”

“What we have seen is, as a result, GCC law makers have responded with both long term measures aimed at protecting employees against future crises and measures to encourage the greater participation of the local population in the private sector job market,” Nazanin Aleyaseen explains.

RELATED STORY

Bahrain: Draft Domestic Worker Law Approved

LNB News 03/04/2014 83

Bahrain's National Assembly has approved a law outlining employment contracts for domestic workers and organising the relationship between employers and housemaids.

BAHRAIN'S RESPONSE

"One of the most sweeping changes came in Bahrain, with the introduction of the 2012 Labour Law (Bahrain Law No. 36/2012 regarding employment in the private sector). This replaced Bahrain Law No. 23/1976 which had governed and controlled employer - employee relations in the Kingdom for over 36 years. The aim of this law was to bring Bahrain's employment

relations up to international standards and provide benefits and rights to employees there, which more closely matched those offered to those in the private sector in other GCC states. Benefits available under the old 1976 Law have been increased and expanded. These include increasing annual leave to 30 calendar days, increasing sick leave to 55 days and increasing paid maternity leave to 60 days. Female workers with children under six are also allowed unpaid leave of up to six months. However, in some respects this new law is actually ahead of equivalent legislation in other GCC states. For example, unlike Federal Law No. 8/1980 in the UAE, the new Bahrain law also extends to domestic workers. Another interesting area is the way the law protects employees in Bahrain against discriminatory practices. There is a prohibition on payment of salaries based on sex, ethnic origin, language, religion or beliefs. In addition, if there are any delays in the payment of salaries to workers (whether the worker is a foreigner or a national) they will be entitled to a 6% penalty," Aleyaseen adds.

"The concept of redundancy pay has also been introduced and the scope of arbitrary dismissal has been expanded to include dismissal of an employee because they have taken their lawful vacation entitlement or have filed a labour complaint against the employer. Most importantly, foreign workers no longer require their former employer's consent to obtain employment in Bahrain with a new employer."

"Severance pay has also been increased to half a month's pay for each year in the first three years of service and a month for each year of subsequent service. An employee will still be entitled to severance-pay even if they were terminated for a legitimate cause. Where companies fail to comply with the new Law they can be jailed for up to three months and/or fined between 500 and 1000 Dinars. Jail sentences and fines will be doubled for repeat offences."

UAE CHANGES

"Like Bahrain, the Dubai International Financial Centre (DIFC) has also amended its employment legislation. The Free Zone's Authority issued DIFC Law No. 3/2012

amending the existing employment law, DIFC Law No. 4/2005. This has provided employees working for DIFC companies with greater clarity on their minimum entitlements including maternity leave entitlement, which is 65 working days, anti-discriminatory provisions and statutory compensation for work place injuries. There are also entitlements to carry over accrued but untaken annual leave."

"Meanwhile, on shore, in the UAE, the big change has been the announcement in December 2013 that a compulsory health insurance provision for employees will be issued in Dubai similar to the provision in Abu Dhabi and other free zones operating in Dubai. The Qatari authorities have also announced the implementation of compulsory private health insurance for workers in their country."



Nazanin Aleyaseen
Of Counsel
K&L Gates LLP

IN SAUDI, KUWAIT AND OMAN

"GCC lawmakers have been taking a more active role in encouraging and promoting the participation and hiring of their own nationals in the private sector. In 2011, Saudi Arabia introduced the Nitaqat system to encourage 'Saudisation' of the private

sector. This is essentially a points based system where employers obtain points from the Labour Ministry through various hiring and HR initiatives. The higher the points, the easier it is for employers to obtain 'premium' or 'green' status which allows them to obtain new visas and recruit more staff without needing prior approvals from the relevant authorities. Changes have been made to the Kingdom's Labour Law, in particular Article 39, to curb foreign workers being employed illegally. As a result, employers cannot now let their employees go and work for another employer. The Labour Ministry will carry out inspections and anyone found to be violating the law will be arrested, deported or have other measures taken against them by the Interior Ministry. Kuwait has also launched a crackdown to reduce its expatriate population by half by 2023 and a similar programme has been launched in Oman to promote the hiring of nationals there. The Manpower Ministry announced a freezing of employment of foreign workers between November 2013 and April 2014 in certain business sectors with the exception of foreign workers required for government projects," Aleyaseen explains.

WHAT'S NEXT?

"Amendments to policy and existing labour laws are expected to continue. In the UAE, for example, there is a proposal to review Federal Law No. 8/1980 and revise it. Similarly, in December 2013, the Saudi government approved further amendments to the Kingdom's Labour Law, including broadening employee benefits and compensation for arbitrary dismissal. However, the extent to which these policy and law changes will impact the number of foreign workers in the GCC remains to be seen," Aleyaseen concludes.