

International protection

Global economic hubs need stability for their employees. Michael Kortbawi explains the law that protects staff at the Dubai International Financial Centre

On 21 June 2005, Dubai's ruler issued DIFC Law No 4 of 2005, known also as the DIFC employment law of 2005.

According to article 3, the legislation's purpose is to: ensure that employees in the Dubai International Financial Centre (DIFC) receive the minimum international standard conditions of employment; promote the fair treatment of employees and employers; provide fair and efficient procedures for resolving disputes over the application and interpretation of the law; foster employment practices that will contribute to the prosperity of the DIFC.

The law applies to employees: of establishments having a place of business within the DIFC; of an entity that is treated by Law No 4 of 2004; and who are based within or ordinarily working from or within the DIFC.

In relation to conditions of work, the law provides a statement of working details. On engaging an employee, the employer is required to provide the employee with a statement including:

- the names of the employer and the employee
- the date when the employment began
- the scale or rate of remuneration or the method of calculating remuneration
- the intervals over which remuneration is paid (namely, weekly, monthly or other specified)
- any terms or conditions relating to hours of work
- any terms or conditions relating to annual holiday leave and pay, and national holidays and holiday pay
- the length of notice that the employee is obliged to give and is entitled to receive to terminate the employment
- the title of the employee's job or a brief description of the employee's work
- the period of employment (whether limited or not)
- the place of work
- any disciplinary rules and/or grievance procedures applicable to the employees
- a general summary of the rights of employees under the law
- any other matter that may be prescribed under the law

Any change to those particulars should be communicated to the employee at least 10

working days before the change takes place except in cases where the change has effect of increasing the employee's compensations and/or benefits.

The statement does not constitute an employment contract and is not required to be provided if the employer and the employee have already executed an employment contract covering the issues cited.

Wages

An employer shall pay to an employee all wages earned by the employee in a pay period, including holiday pay at least monthly and within seven days after the end of the pay period. No deduction is applicable to the employee's wages unless:

- the deduction is required or authorised under a statutory provision or the employee's employment contract
- the employee has previously agreed in writing to the deduction
- the deduction is a reimbursement of an overpayment of wages or expenses
- the deduction has been ordered by the director or the court

An employee's working time shall not exceed an average of 48 hours for each seven-day period unless the employer has first obtained the employee's consent in writing. However, an employer shall not require from an employee, whether directly or indirectly, to work excessive hours, or hours detrimental to the employee's health and safety.

An employee is entitled to a rest period of no fewer than 11 consecutive hours in each 24-hour period. And an employee is entitled to a rest period of no fewer than 24 consecutive hours in each seven-day work period.

During the holy month of Ramadan, employees who fast shall not be required to work in excess of six hours each day and the employer is not allowed to implement any reduction in the employee's wages as a result.

Annual leave

An employee is entitled to 20 working days' annual leave to be accrued pro rata for employees who have been employed for at least a period of one year. For an employee who has completed three months in service but less than one year, the annual leave is calculated at the rate of one-



twelfth of the 20 days specified, on the first day of each month, which is almost 1.7 working days per month.

An employer must ensure that the employee takes an annual holiday leave within 12 months after completing the year of employment. Annual leave can be taken in periods of one or more weeks.

Furthermore, employers may ask employees to take holiday leave on specified days by giving written notice to the employee.

Leave cannot be cashed except if employment is terminated, or if the employer agrees otherwise.

If the employment is terminated, the employer shall pay an amount in lieu of holiday for days accrued but not taken.

In the case of an employee having taken more holidays than accrued at the termination date, the employee shall repay the employer the corresponding sum.

According to the law, the maximum annual sick leave entitlement is 90 days per annum fully paid. The employer shall pay the employee sick pay at the employee's normal weekly rate provided that the employee notifies the employer of his sickness, provides a medical report on the



employer's instructions and notifies the employer at least once every seven days during the period of absence.

Maternity rights

An employee shall be entitled to a minimum maternity leave of three months if she:

- has been continuously employed for at least 12 months preceding the eighth week before the expected week of childbirth
- notifies her employer in writing that she is pregnant at least eight weeks before the expected week of childbirth
- provides a medical certificate stating the expected or actual birth date (if required by the employer)
- notifies her employer in writing at least 21 days before the day the employee proposes to begin the maternity leave

The maternity rights granted under the law also apply to female employees who are adopting children younger than three months. In those cases, references to childbirth are treated as references to the date of adoption.

During the maternity leave, the employee will be entitled to her normal weekly rate for the first

45 days of maternity leave and to a 50 per cent of her normal weekly rate for the last 45 days of her maternity leave.

An employee cannot receive compensation in lieu of maternity leave.

Termination

The notice period required by both the employer and the employee to terminate the employment shall not be less than:

- one week, if the period of continuous employment is fewer than three months
- one month, if the period of continuous employment is between three months and five years
- three months, if the period of continuous employment is five years or more

The employer and employee may agree to longer or shorter periods of notice and may waive notice or accept a payment in lieu of notice.

The employer and the employee may terminate employment without notice where there is cause.

Employees completing continuous employment of one year or more are entitled to gratuity payments at the termination of employment as per the following terms:

- 21 days' wages for each year of the first five years of service;

- 30 days' wages for each additional year of service, provided the total of the gratuity do not exceed the wages of two years' service.

An employee shall not be entitled to gratuity pay if his employment is terminated for misbehaviour. The gratuity pay shall be calculated on the basis of the last basic salary received by the employee excluding all additional allowances (such as housing and transport).

An employer shall pay all wages owing to an employee within seven days from the date of the termination of the employment.

Jurisdiction

Any dispute arising from the application of the law or from any employment dispute between employer and employee shall be referred to the DIFC courts.

The provisions of the law are minimal and employers and employees may include in their relevant employment contracts provisions that are more favorable to the employee. No employer in the DIFC may employ a child younger than 15 years old, and no employer should misrepresent any of the conditions of employment for the purpose of hiring an employee.

An employer should ensure employees are working in the best possible conditions as well as ensuring the safety and welfare at work of all its employees. And an employer shall not discriminate against a person in relation to employment matters.

By having international standards of employment applicable in the DIFC, its authority ensured that suitable employment provisions appropriate to the nature of financial services business are available to those institutions and individuals establishing themselves within the centre.

UAE Federal Law No 8 of 1980 (also known as the UAE Labour Law) is not applicable in the DIFC. However, it will remain a guideline to be referred to whenever the law is vague or fails to cover any employment related matter. ●

CONTRIBUTOR

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