

The Ministry of Human Resources and Emiratisation (**MOHRE**) has announced the introduction of Federal Decree Law No. 33 of 2021 (the **New Labor Law**), that will regulate labor relations and employment practice in the private sector within the UAE. The New Labor Law is the most substantial change to the existing private sector Labor Law (UAE Federal Law No. 8 of 1980) (referred to here as the **Current Labor Law**) since its inception, and will replace the Current Labor Law in its entirety. The New Labor Law will come into effect on February 2, 2022.

With the introduction of new flexible and temporary working models, an overhaul in the contractual engagement of employees and the prohibition of various forms of discrimination, bullying and sexual harassment in the workplace, as well as protection for employees who make a complaint based on their treatment (i.e. in cases of victimization), the New Labor Law includes a number of measures that could be viewed as being “employee-friendly”. In light of this, we expect a material shift towards a much more competitive work environment for employers and employees in the UAE labor market post-pandemic and strongly recommend that UAE companies onshore and within the free zones (with the exception of the Dubai International Financial Centre and Abu Dhabi Global Market) should start preparing now.

### What Should Employers Do?

Employers need to act promptly to:

- Ensure that their policies and contracts are compliant.
- Review and closely assess where employees have certain rights and obligations embedded in their contracts, in accordance with the Current Labor Law (e.g., the scope of maternity leave, probationary periods, the scope of post-termination restrictions, etc.), as these will need to be amended and agreed with the employee to ensure compliance with the New Labor Law.
- Ensure that all employees and management are aware of the changes. In particular, this may be a good time to review policies and provide training on equality, diversity and dignity within the workplace.

We have set out below a comprehensive review of the key changes and a comparison between the Current Labor Law and the New Labor Law. However, please get in touch with our team if you require any assistance in reviewing your existing employment agreements and HR policies or any advice on your obligations under the New Labor Law. Our team is available to assist with practical implementation support of the New Labor Law, and to advise further on how the new law may affect your operations and the corresponding rights of employees in the UAE.





## Comparison of Key Changes Introduced to the Labor Law

We have set out below a side-by-side comparison of the key provisions the New Labor Law and the corresponding changes that have been made from the Current Labor Law.

	Current Position	Position Under the New Labor Law
<b>Equality and Prohibition of Discrimination</b>	<p>Discrimination in the workplace is referred to very loosely within the Current Labor Law and protection is limited to the following:</p> <ul style="list-style-type: none"> <li>• Equal pay for men and women for the same work.</li> <li>• Protection for discrimination in the event of dismissal due to an employee's pregnancy or maternity leave.</li> </ul> <p>In addition, while there is no explicit reference to forms of disability discrimination, there has been a separate resolution, Resolution No. (43) of 2018 Regarding Supporting Special Needs (People of Determination) Work (the <b>Resolution</b>), which requires employers to make reasonable accommodations to those with a disability during employment. There is, however, no express right under the Resolution for employees to bring disability discrimination-related claims or indeed any remedy/penalty stated for non-compliance within the Resolution itself.</p>	<p>The New Labor law expands on the grounds of discrimination in the workplace and provides the following:</p> <ul style="list-style-type: none"> <li>• It is prohibited to discriminate an individual on the basis of race, color, sex, religion, national origin, social origin, or disability that would impair equal opportunities for an employee or prejudice an employee from gaining employment and continuing such employment.</li> <li>• Employers are prohibited from discriminating between employees in relation to tasks carried out under the same job/role.</li> <li>• Employers are prohibited from terminating an employee (or threatening to terminate an employee) on the basis that she is pregnant or on maternity leave.</li> <li>• All provisions regulating the employment of workers are now explicitly stated as being applicable to women without discrimination. The law expressly states an equal pay right for women doing the same job, or other work of equal value, as men. The value of work is expected to be determined at a later date by the local cabinet.</li> <li>• The New Labor Law does not set out any specific penalties for acts of discrimination. It therefore remains to be seen how the courts will treat breaches of the law in this regard; however, as the various forms of discrimination are now explicitly prohibited, employers may be found liable for fines (for both individual acts and cumulative fines for multiple acts) for breaches of the law, starting from AED5,000 to AED1 million.</li> </ul>

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<b>Forced Labor, Bullying and Sexual Harassment</b>	There are no provisions under the Current Labor Law that relate to forced labor, bullying or sexual harassment in the workplace.	<p>The New Labor Law provides that an employer shall not use any method to coerce or force an employee to work against his/her own will and prevents an employer from threatening to impose any sanction on the employee to force him/her to perform certain work or service against his/her own will.</p> <p>In a significant change, the New Labor Law also prohibits sexual harassment and/or any verbal, physical or psychological form of bullying against an employee, by the employer or the employee's supervisor/colleagues.</p> <p>The New Labor Law does not set out any specific penalties for acts of discrimination; however, as acts of bullying and sexual harassments are now explicitly prohibited, employers may be found liable for fines (for both individual acts and cumulative fines for multiple acts) for such acts under the new law, starting from AED5,000 to AED1 million.</p>
<b>Work Categories</b>	The Current Labor Law does not specify different work categories.	<p>The New Labor Law introduces a number of different work categories, including:</p> <ul style="list-style-type: none"> <li>• Full-time work: Working for only one employer for the full working day/week (as per the working hour limits prescribed under the New Labor Law).</li> <li>• Part-time work: Working for one or more employers for a specific number of hours or days. Part-time workers shall be entitled to vacation leave on a pro-rated basis.</li> <li>• Temporary work: Work that shall be completed within a specific period of time (i.e. a fixed-term arrangement for a specific project).</li> <li>• Flexible work: This category shall be entered into where working hours or days shall vary depending on the work volume or on the economic and operational circumstances of the employer.</li> </ul> <p>It is unclear how employers will be expected to implement these new employment arrangements and the implications of this, for example, how this may impact employees' entitlement to end of service gratuity payments. The New Labor Law provides that the implementing regulations, shall determine the conditions and controls of the work models, as well as the obligations of both the employee and the employer depending on each corresponding work model/category. We will provide further updates in this regard as and when further information is made available.</p>

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<b>Term of Employment Contract</b>	Employment contracts must either be for an unlimited or fixed term. For fixed term contracts, the term of the agreement must not exceed four years (unless subsequently renewed by the parties).	<p>Under the New Labor Law, all employees shall be required to enter into fixed term employment contracts, which should not exceed three years (renewable by mutual agreement). If the term of an agreement is extended or renewed, the new term shall be treated as an extension of the original term length and shall be added to it when calculating the employee's overall length of continuous service. The New Labor Law also confirms that where parties continue to perform the contract after the expiration of its original term or after the completion of the work agreed upon without any explicit agreement, the contract shall be treated as having been renewed on the same terms and conditions as were set out in the original contract.</p> <p>For employees currently contracted under unlimited term contracts, the New Labor Law will automatically apply from 2 February 2022. However, employers have been afforded a grace period of one year from the New Labor Law's implementation date, to convert any existing unlimited term contracts into fixed term contracts (i.e. by February 1, 2023).</p>
<b>Minimum Wage</b>	There is no statutory minimum wage; however, the Current Labor Law broadly mentions that the salary must cover basic needs of the employee.	The New Labor Law shall set a minimum wage for employees in the private sector. The UAE Cabinet will determine the minimum wage following a proposal by the MOHRE in coordination with the relevant local authorities.
<b>Currency of Salary Payments</b>	Under the Current Labor Law, wages must be paid in UAE Dirhams.	Wages can be paid either in UAE Dirhams or in another currency if the parties mutually agree on this within the terms of the applicable employment contract. We are raising enquiries with the authorities as to how provision of a foreign salary payment will be reconciled with obligations for certain employers to make salary payments through the Wage Protection System.
<b>Probation Period</b>	An employer may terminate an individual's employment during the probation period without any advance notice (i.e. termination is effective immediately) being given or any notice pay being due.	<p>Employers may only terminate an individual's employment during the probation period by providing advance notice of at least 14 days before the termination date.</p> <p>The New Labor Law further provides that employees wishing to change jobs during their respective probation period must provide the employer with at least one month's notice. If the employee wishes to leave the UAE during their probation period, he/she must provide the employer with at least 14 days' notice. The New Labor Law also provides that where an employee leaves the country without providing notice during their probation period, this individual will be subject to a one-year ban from obtaining a UAE work permit from the date they leave the country (subject to exemptions from MOHRE).</p> <p>Please note, if either the employer or employee is found to have violated these rules, the breaching party shall be required to financially compensate the other with pay equivalent to the remaining notice period.</p>

	Current Position	Position Under the New Labor Law
<b>Weekly Rest Day</b>	Fridays are specified as the ordinary weekly rest day for all employees.	The New Labor Law no longer specifies a particular rest day. Employees have the right to at least one rest day per working week.
<b>Maternity, Parental and Other Forms of Leave</b>	<p>A female employee who has completed one year of continuous service is entitled to 45 days' maternity leave, which includes the period prior to and after childbirth and is subject to one year's continuous service. Additional unpaid maternity leave for up to 100 consecutive or non-consecutive days is possible, provided the employee can prove the existence of a medical condition related to the pregnancy/birth, evidenced by a medical certificate, preventing her from returning to work. In addition, employees returning from maternity leave are entitled to two additional nursing breaks per day (not exceeding one hour in aggregate), until the child reaches 18 months of age.</p> <p>There are no provisions under the Current Labor Law relating to compassionate leave or study leave.</p>	<p><b>Maternity Leave</b></p> <p>A female employee shall be entitled to a maternity leave of 60 days as follows:</p> <ol style="list-style-type: none"> <li>a. The first 45 days with full pay; and</li> <li>b. The next 15 days with half pay</li> </ol> <p>The New Labor Law provides that where a new mother has exhausted her maternity leave and is suffering from a disease resulting from pregnancy or delivery or in case her infant is suffering from a disease resulting from pregnancy or delivery, the individual shall be entitled to an additional unpaid 45 days to care for herself or her new child (subject to a medical certificate being presented as a supporting document). In addition, if a baby is born with a disability or is sick to the extent their health conditions require a "constant companion", the new mother shall be entitled to a further 30-day paid leave on top of the basic maternity leave, which can be extended by an additional 30 days with no pay.</p> <p>The new law also reduces an employee's entitlement to nursing breaks from 18 months to six months from the date of delivery.</p> <p>Please note, under the New Labor Law, maternity pay cannot be reduced in the event that the employee has not completed one full year of employment at the time of undertaking their respective maternity leave.</p> <p><b>Parental Leave</b></p> <p>Both male and female employees shall receive a five-day parental leave to be taken up to six months following the child's birth concurrently or intermittently (this was previously introduced under Federal Decree Law No. 6 of 2020 and is now formalized under the New Labor Law).</p> <p><b>Other Forms of Leave</b></p> <p>Compassionate leave – Employees shall be entitled to five days of mourning leave upon the death of a spouse, and three days upon the death of a parent, child, sibling, grandchild or grandparent.</p> <p>Study leave – Employees with more than two years of service shall be entitled to a 10-day study leave period if they are enrolled in an accredited institution inside the UAE.</p>

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<b>Accrual of Annual Leave Balance</b>	<p>Untaken annual leave must either be carried forward to the following leave year, or must otherwise be paid out in lieu upon termination of employment. Although explicitly not referred to in the Current Labor Law, it is generally accepted by the courts that employees may only carry over leave for up to two years.</p>	<p>Employees are required to avail their annual leave in the same holiday year.</p> <p>Employees are entitled to a payment in lieu of unused leave upon the termination of employment calculated, and such payment shall be based on the employees' basic salary only.</p>
<b>Termination of Employment Contract</b>	<p>The Current Labor Law allows for the termination of employment under the following circumstances:</p> <ul style="list-style-type: none"> <li>• If the employer and employee mutually agree to the termination.</li> <li>• If the employment is subject to a fixed-term contract, upon the expiry of the agreed term. Early termination of a fixed term contract shall guarantee the employee a right to a fixed amount of three months' full pay unless there is less than three months left until the expiry of the contract, in which case the compensation will be the balance of the contract (unless otherwise agreed contractually).</li> <li>• The termination of employment may be without notice if the reason for dismissal is based on one of the grounds listed under Article 120 of the UAE Labor Law. Under the Current Labor Law, employees are not entitled to an end-of-service gratuity payment where their employment is terminated in accordance with Article 120.</li> <li>• The termination of employment may be effected with notice provided such termination is due to a reason connected to an employee's work performance or conduct in the workplace. Where the reason is unrelated to work, the dismissal will be considered "arbitrary," which may attract compensation of up to three months' gross pay.</li> </ul> <p>The Current Labor Law, under Article 121, also provides employees with the right to terminate their employment without notice where:</p> <ul style="list-style-type: none"> <li>• The employer breaches his/her obligations towards the employee, as provided for under the corresponding employment contract or under the law.</li> <li>• Where the employer or the legal representative of the employer has assaulted the employee.</li> </ul> <p>The Current Labor Law is silent on the concept of redundancy and is therefore generally not a valid reason for termination of employment.</p>	<p><b>Termination With Notice</b></p> <p>Accounting for the fact that all employment contracts shall be subject to a fixed term under the New Labor Law, contracts can be terminated on notice during the course of the employment term for a "legitimate reason" (as agreed in the employment contract), provided that the period of notice shall not be less than 30 days and not exceeding 90 days.</p> <p>Where a notice period is not adhered to (by virtue of either the employee or employer's actions), the party terminating the contract shall pay a "compensation in lieu of notice" to the other party, even if there was no harm resulting from such failure. The compensation shall be equal to the employee's wage for the entire notice period, or the remainder thereof.</p> <p>Please note, there is no definition around the meaning of the term "legitimate reason," which will very much be subject to the particular facts of the case and the interpretation of the Labor courts should no further guidance be forthcoming in this regard.</p> <p>The New Labor Law also expands on the grounds in which an employer is permitted to terminate an employment contract without notice (please see our comments on this further below).</p> <p><b>Compensation for Unlawful Termination?</b></p> <p>In terms of what constitutes an unlawful termination of employment, interestingly the New Labor Law no longer refers to the concept of "arbitrary dismissal." Article 47 of the New Labor Law states that an employee's termination shall be unlawful:</p> <ul style="list-style-type: none"> <li>• If the termination is due to a serious complaint submitted by the employee to the Ministry; or</li> <li>• Where the employee has filed a case against the employer, which is upheld.</li> </ul> <p>The provisions around unlawful termination are in effect, a means for employees to issue a claim on the basis of victimization (a concept that exists in other jurisdictions) and it will be interesting to see how the courts interpret these provisions and any associated fact pattern invoking these new unlawful termination rights.</p>

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		<p>Compensation for unlawful termination under the New Labor Law is stated as being determined based on the type of work, the amount of damage sustained by the employee and the term of his/her service and shall attract up to three months' total remuneration (basic salary and allowances, calculated based on the latest wage that the employee was receiving). There are no other bases cited in the New Labor Law for compensation for unlawful termination and it is unclear whether the implementing regulations, which are not yet published, will supplement the new law in this regard or clarify additional compensation for employees who are terminated for reasons other than those referred to in Article 47 of the New Labor Law.</p> <p><b>Redundancy</b></p> <p>The New Labor Law now includes explicit provision for redundancy-type dismissals where the employer is subject to bankruptcy or insolvency or any "economic or exceptional reasons that prevent the continuation of a project." Termination is also now permitted where the employee is found to have not satisfied the work permit renewal requirements for any reason that is beyond the employer's control.</p> <p><b>Termination Without Notice</b></p> <p>The New Labor Law includes the following additional grounds in which an individual may be summarily dismissed (the grounds for which termination can be undertaken on this basis are now set out in a new Article 44, currently Article 120):</p> <ul style="list-style-type: none"> <li>• Where an employee misuses his/her position for private gain.</li> <li>• Where an employee commences work for another employer without complying with the business' applicable controls and procedures.</li> </ul> <p>Interestingly, there is no explicit forfeiture to end-of-service gratuity entitlement where summary dismissals as per Article 44 are effected and, in the absence of further clarification from the implementing regulations, such individuals that have been terminated on this basis appear to now be entitled to their end of service gratuity.</p>

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		<p><b>Additional Grounds for Termination by Employee</b></p> <p>Employees retain their rights under the Current Labor Law, however, are now afforded additional grounds under the new Article 45 (currently Article 121 of the Current Labor Law), upon which they may terminate their employment immediately, where:</p> <ul style="list-style-type: none"> <li>• There is a serious danger in the workplace threatening the safety of the employee or his/her health condition.</li> <li>• The employer assigns the employee to perform work that is different from what was agreed upon in the contract (and proceeds with any such assignment without the written consent of the employee).</li> </ul>
<b>Disciplinary Rules – Right to Suspend</b>	Employers are entitled to suspend employees without pay during disciplinary proceedings for a period of up to 10 days.	Under the New Labor Law, employers retain the same right of suspension; however, the length of this suspension and any corresponding reduction/ withdrawal of salary is permissible for a period of up to 14 days.
<b>End-of-Service Gratuity</b>	<p>End-of-service gratuity is calculated as 21 calendar days’ basic salary for each of the first five years of service, increasing to 30 calendar days’ basic salary for each subsequent year of service.</p> <p>Where an employee resigns under a fixed-term contract without having accrued at least five complete years of service, he/she will forego, in its entirety, his/her entitlement to gratuity.</p> <p>The Current Labor Law also states that where an establishment has a retirement or insurance scheme, or any similar scheme, an employee who is entitled to a retirement pension may opt between it and the prescribed severance pay or whatever he/she is entitled to receive from the pension or insurance fund, whichever of the two is more to his/her advantage.</p>	<p>The New Labor Law states that end of service gratuity shall be calculated based on working days as opposed to calendar days (as currently provided). This revision could have significant financial implications for employers.</p> <p>The New Labor Law no longer includes provisions around reducing entitlement to end of service payments where employees have resigned, therein implying that resigning employees will be entitled to a full end of service gratuity payment subject to them having attained one year of service.</p> <p>Provisions around alternative pension/savings schemes also appear to have been removed from the New Labor Law. It remains unclear whether MOHRE will recognize retirement, insurance or any other applicable schemes in lieu of an end of service gratuity entitlement. We are raising further enquiries with the authorities for clarification around this point.</p>
<b>End-of-Service Payments – Timescales</b>	The Current Labor Law is silent on the timescales for which an employer is required to pay all termination-related payments owed to an employee (both under any applicable contract and the law).	The New Labor Law requires employers to pay an employee all end-of-service entitlements within 14 days of the employment termination date (failure to do so may result in a fine being imposed by the authorities between AED5,000 and AED1 million).



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<b>Non-compete Restrictions</b>	Employers are permitted to include non-compete provisions within the terms of an employment contract provided the restrictions are reasonably limited in terms of time, location and the type of work to the extent necessary to protect the legal interests of the employer.	The New Labor Law mirrors the existing provisions around non-compete provisions, stating that they should be specific in terms of the time and place and the type of work to the extent necessary to protect the legal or legitimate business interests of the employer. However, the New Labor Law now explicitly states that the restrictive term of any such non-compete clause should not exceed two years from the termination date. In addition, the New Labor Law states that where an employer has terminated an individual's employment, and the termination is not in accordance with the New Labor Law, any such non-compete clause shall be rendered automatically void.

Please get in touch with any member of our team if you require any assistance in reviewing any of your existing employment agreements and HR policies, or any advice on your obligations under the New Labor Law.

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