GCC Roundup
Important Employment and Immigration Developments Across the GCC

Shift Toward Longer Term and Permanent Residence Programs

In an effort to attract foreign investment and promote growth, Qatar and KSA have introduced permanent residency programs and the UAE has introduced the option of five-year and 10-year residence visas for select individuals. It is hoped that the option of longer-term residency visas will attract and retain highly skilled foreign nationals.

Qatar became the first GCC country to allow permanent residency when it issued Law No. 10 of 2018 regulating the issuance of Permanent Residence Permits in September 2018. Under the new program, foreign nationals with 20 years or more of continuous residence in Qatar and individuals born in Qatar with 10 years or more of continuous residence can apply for permanent residency. However, the strict eligibility criteria and the small number of residence visas available each year (100) means that the impact of the permanent residency program overall is likely to be minimal.

In May 2019, the UAE authorities announced the introduction of a "Golden Residency" or "Gold Card" for certain eligible high-net-worth individuals. There was some confusion regarding the benefits of the Gold Card, with initial reports suggesting that holders of the Gold Card would be granted permanent residency in the UAE. However, the Gold Card is not a new residency program; it is a reference to the 10-year investor visa introduced by Cabinet Decision No.56 of 2018 (Cabinet Decision) in February 2019. Pursuant to the Cabinet Decision, investors and individuals with "specialised talents and research in the fields of science and knowledge" and their dependents are eligible to apply for a 10-year residence visa and eligible entrepreneurs and their dependents and exceptional students can apply for a five-year residence visa. Prior to the Cabinet Decision, the maximum duration of a residence visa was two years onshore and three years in the free zones.

Similarly, the KSA government has introduced a premium residency card, which will allow eligible expatriates to obtain permanent residency in KSA without the need for a local sponsor. There is also the option of a one-year premium residency card, which is renewable. Holders of the premium residence card will enjoy a number of benefits, including the ability to enter and exit KSA without restriction, the ability to own property (subject to some restrictions) and the right to work in KSA or to undertake commercial activities in accordance with the KSA Foreign Investment Law. The eligibility criteria include a requirement to prove "solvency", although it is unclear exactly what this will entail. The fees for obtaining a permanent residence visa are significant – SAR 800,000 for an unlimited duration premium residency card and SAR 100,000 for a one-year premium residence card – which means the premium residency card will not be an affordable option for many foreign nationals.

New DIFC Employment Law

On 12 June 2019, the Dubai International Financial Centre Authority (DIFCA) released the new DIFC Employment Law, DIFC Law No. 2 of 2019 (New Law), which will repeal and replace the current DIFC Employment Law, DIFC No 4. Of 2005 (Current Law).

The New Law will come into effect on 28 August 2019 and it introduces a number of significant changes, including introducing pregnancy, maternity and age as new discrimination grounds and provisions prohibiting victimisation in relation to discrimination complaints. The New Law also introduces significant remedies for discrimination and victimisation, which includes compensation of up to one year's pay or two years' pay in circumstances where an employer fails to comply with a recommendation of the court.

Employers in the DIFC need to take steps to review their employment contracts and policies and procedures to ensure they comply with the New Law prior to its introduction on 28 August 2019. In light of the significant remedies and vicarious liability provisions introduced for discrimination, employers should pay particular attention to any equal opportunity or discrimination policies and consider training employees on these important workplace issues.

Plan to Replace the End of Service Gratuity Payment With an Employee Workplace Savings Scheme in the DIFC

DIFCA has announced that it is replacing the entitlement to an end of service gratuity payment with a funded employee workplace savings scheme for expatriate employees in the DIFC.

The changes are expected to come into effect from 1 January 2020. Under the new scheme, employers will make monthly contributions to the employee savings fund on behalf of each employee and employees may make additional voluntary contributions into the fund if they wish to do so. The funds will be administered by a DIFC trust and managed by a scheme administrator, who will oversee an investment platform. Employees will have the ability to decide what underlying funds and risk profiles they wish to invest in, which will include sharia'a compliant options.

DIFCA has stated that the new scheme will be broadly cost neutral for employers, with contributions to be set at a rate equivalent to the current minimum end of service gratuity accrual. On the termination of an employee's employment, employees will have the choice of cashing out their savings in the fund or leaving their contributions in the fund, but they will not be able to make any further contributions. Any end of service gratuity entitlements accrued prior to 1 January 2020 will be paid out by the employer on the termination of employment calculated by reference to time served up to 31 December 2019, but at the employee's rate of pay at the time of termination.

The proposal to replace the end of service gratuity is likely to be a positive move for both employers and employees. For employers, the changes are likely to help manage cash flows and provide them with more certainty over their liabilities because they will make regular payments in satisfaction of their end of service obligations instead of having to pay out a lump sum on the termination of an employee's employment, as is currently the case. For employees, the new system will provide them with greater security over their end of service benefits as there is currently no obligation for employers to set aside funds for end of service gratuity entitlements. The new scheme will also potentially provide employees with the ability to earn a return on their contributions.

We understand that a similar scheme may eventually be introduced onshore in the UAE, following the UAE government's comments in February 2019 that it was planning to "enhance" the end of service gratuity payment and move to a defined contribution scheme. However, no further details have been provided about the proposed changes.

Stricter Emiratisation Requirements in the UAE

As part of the UAE government's policy to provide job opportunities to UAE nationals in the private sector, representatives from Tas'heel have confirmed the Ministry of Human Resources and Emiratisation (MOHRE) has introduced a requirement for all onshore employers to interview any suitably skilled local nationals before proceeding to hire an expatriate in that role.

Under the new system, employers will receive a notification when applying for an offer letter for a new employee if there are qualified local national job seekers available for the new role. The notification will inform the employer that they need to interview a qualified local national candidate and may require the employer to register and attend a job open day before they can proceed with the new hire. If the employer decides not to hire the local national candidate, it will be required to provide reasons to MOHRE as to why the candidate was not suitable for the role. Tas'heel advised that this requirement applies to approximately 70% of skill level 1 and 2 roles and to a number of level 3 roles. However, it does not apply to lower level unskilled roles in skill levels 4 and 5. This new process is expected to extend the period of time it takes for onshore employers to recruit for new skilled roles.

Oman Continues With Its Strict Omanisation Policy

The Oman Ministry of Manpower is continuing its strict Omanisation policy. In May 2019, the Ministry of Manpower announced an immediate ban on hiring foreign nationals in certain senior roles, including assistant general manager, managing director, human resources manager, personnel manager or officer, public relations manager and assistant director.

No end date has been announced for these hiring restrictions and they could continue indefinitely. Foreign nationals currently working in these positions will be able to continue in their roles until their work visas expire. However, once the work visa expires, they will not be able to renew their visa in the designated role.

The most recent announcement is in addition to the ban on hiring expatriates that has been in place since January 2018 for 87 occupations across a number of industries, including but not limited to IT, accounting and finance and engineering. This ban remains in effect until 1 August 2019, although it is likely that the ban will be extended. There is also a ban on the recruitment of foreign nationals in the construction and cleaning services sector in effect until 25 October 2019.

The Omanisation measures are likely to become even more stringent going forward. Employers operating in Oman, therefore, need to make the employment of Omani nationals a priority and consider ways to attract and retain Omani nationals in the long term.

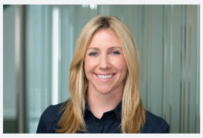
Bahrain – Data Protection Law to Come Into Effect and Proposal to Introduce WPS

Bahrain's much anticipated data protection law, Law No 30 of 2018, with respect to Personal Data Protection (Data Protection Law) comes into effect on 1 August 2019. The Data Protection Law imposes a number of obligations on data managers, including the requirement to process personal data fairly and legally. There are number of exemptions in the Data Protection Law with respect to processing employees' personal and sensitive data. However, if they have not already done so, employers need to review their data processing arrangements and policies to make sure they are consistent with requirements of the Data Protection Law prior to 1 August 2019.

There are a number of reports that the Labour Market Regulatory Authority (LMRA) will introduce a wage protection system in September, which will require employers to pay employees' wages into their bank accounts rather than with cash. In June 2019, the *Gulf Daily News* website quoted Ausamah Al Absi, chief executive of the LMRA as saying " We are now in the administrative phase and expect the WPS to be rolled out by the end of summer." However, no official announcement has been made. The WPS system is likely to be introduced in phases, with the first phase of the scheme covering "big companies", although it is not yet clear what will qualify as a big company.

For further information on any of the changes outlined in this article, please contact a member of our Labour & Employment team.

Contacts



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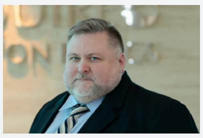

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