

Client Alert: The DIFC Employment Law 2019

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On 30 May 2019, DIFC Law No. 2 of 2019 on Employment (New Employment Law) was enacted, replacing the previous DIFC Law No. 4 of 2005 on Employment. Overall, the provisions regarding key matters such as working hours, overtime, vacation, maternity leave, and other topics are largely unchanged. The changes are set out below.

End-of-Service Gratuity Calculation Rules

The calculation for gratuity now sets conditions on the basic wage that is used for the calculation. Where the previous employment law was silent on this matter, the New Employment Law clarifies that for the purpose of calculating an employee's end-of-service gratuity, the basic salary shall not be less than fifty percent (50%) of their overall annual wage (such as including allowances and other benefits).

End of Service Gratuity even for Termination for Cause

Even employees terminated for cause will now be entitled to end-of-service gratuity.

Resignation within the first 6 months

The New Employment Law provides that an employee that resigns within the first six months of employment must compensate the employer for reasonable costs of recruitment. In addition, this introduces a limitation period of six months from the date of termination of employment within which a claim must be filed if it is to be heard by court.

Reduction in Paid Sick Leave

The New Employment Law has reduced the number of days that are paid, as follows:

	Days 1-10	Days 10-30	Days 30-60
Old Employment Law	Full Pay		
New Employment Law	Full Pay	Half Pay	Unpaid

Paternity Leave

The New Employment Law introduces paternity leave. A male employee is now entitled to take a paid leave of up to five working days within the month of his wife giving birth. In order to avail of the paternity leave, the male employee must have been employed for no less than a year immediately preceding the expected or actual week of birth. The employee is expected to notify the employer of his wife's pregnancy at least eight weeks prior to her due date.

DIFC has always provide maternity leave, not just for birth, but also for adoption. Similarly, the newly introduced paternity leave also extends to adoption.

Anti-Discrimination

The New Employment Law has further expanded upon existing provisions prohibiting employer discrimination. Now, discrimination based on age and maternity is also considered discriminatory behavior and is forbidden.

Moreover, the New Employment Law introduces the concept of “victimization” which is essentially “whistleblower protection.” An employer is forbidden to dismiss an employee, or subject them to adverse treatment, on the grounds that the employee-initiated proceedings against the employer for discrimination.

Previous Unrecognized Employees

For the first time, employees that work on a secondment, part-time or short-term basis have specific provisions in relation to employer administrative obligations, working hours as well as leave.

The entitlements of part-time and short-term employees to annual, maternity, paternity, special and sick leave as well as the amount of sick leave are now calculated on a pro rata basis.

Part Time Employees

A part time employee is defined as an employee that works under an employment agreement stipulating that (i) they work less than eight working hours per day; (ii) less than five days a week; or (iii) the terms of employment do not constitute full time employment. In this case, all forms of leave are provided in proportion to their working hours.

Short Term Employees

A short-term employee’s services may not exceed an aggregate of thirty days of work a year, and such Short-term employees have no entitlement to vacation, sick leave, or rights upon termination.

Secondees

For the most part the New Employment Law treats secondees in the same way as full-time employees. A secondment is defined as a period during which an employee works for an employer in the DIFC under a secondment card whilst employed by another outside the DIFC. A secondment card is issued by the DIFC Authority to permit employees to work in the DIFC on a temporary basis for no longer than one year.

Vacation Leave

Vacation remains the same, but employees are only entitled to carry forward five days of unused annual leave forward to the subsequent year. Previously, employees could carry over up to twenty days.

The New Employment Law comes in to force on Wednesday, 28 August 2019.

If you would like more information about this topic then please contact us.

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