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Client Alert: Egypt's New Social Insurance and Pensions Law

By Hend Zaghloul

On 19th August 2019, Law No. 148 of 2019 on Social Insurance and Pensions (the "Law") was published in the Official Gazette, with its effective date set for 1st January 2020, and certain provisions regarding the State Treasury's obligations, entering into force on 20th August 2019. The Law's Executive Regulations (the "ER") are expected to be issued within six months from the Law's issuance, in accordance with Article 1 of the Law's Promulgating Articles. Until then, the previously applicable regulations and decrees shall remain in force to the extent they do not contradict with the Law's provisions.

The Law's Scope of Application

Under Article 2, and in conjunction with Article 6 of the Promulgating Articles, the Law introduces three major changes regarding to whom it applies, including:

(1) **Employees, employers, business owners, and Egyptians working abroad.** The Law unifies the social insurance provision under one umbrella as opposed to the previously scattered regulations for employees (Law 79/1975), for employers, business owners and the like (Law 108/1976), and Egyptians working abroad (Law 50/1978). However, the latter group may opt not to subscribe to insurance under the Law.

(2) **All foreigners working in Egypt with local employment contracts.** More specifically, the Law applies to all employees who have a regular employment relationship with their employer as per the Egyptian Labour Law No. 12 of 2003. As opposed to the old social insurance law 79/1975, the new Law does not expressly provide that its provisions shall only apply to foreign employees from countries with whom Egypt has a reciprocity agreement.

Note: The ER may further define "regular employment relationship." Until then, it can be expected that contracts exceeding six months will meet this requirement, which is the current understanding under the Labour Law.

(3) **Previously unaddressed groups.** The Law extends social insurance coverage to groups the previous regulations neglected to address, including, *inter alia*, owners of sole-owner companies, irregular and seasonal employees (including migrant employees), domestic workers, self-employed craftsmen, merchants and farmers, employees of a family member, freelancers of specific trades, real estate and farm land owners, and owners of environmental, rural and familial industries. These groups are self-insured, which means no contribution or involvement by their employers (when applicable) is required.

Regarding the scope of insurance coverage, the Law covers: (1) Old-age, disability and death which also includes an "end-of-service bonus"; (2) Work injuries; (3) Disease; and (4) Unemployment.

Private sector employees under the age of 18, technical and vocational interns and students, summer interns, public service workers, and employees above the retirement age are subject to work injury insurance only.

Basis for Subscription Amounts

The subscription amounts are calculated based on the so-called "social insurance salary," which is set using the minimum and maximum thresholds upon which the social insurance contributions are calculated. The ER will determine these thresholds. Meanwhile, it has been reported that the thresholds for 2020 will be set at EGP 1,000 (minimum) to EGP 7,000 (maximum).

As opposed to the previous social insurance law, the subscription amounts under the Law are now calculated based on a lump sum amount, regardless of the fixed and variable portions of the salary.

That said, variable salary amounts, *e.g.*, profit share, which is excluded, and certain allowances, which may be subject to partial exemptions, will still be of relevance, particularly with respect to smaller salaries. Based on our initial calculations using the above-mentioned reported thresholds, variable portions of the salary become relevant for salaries below EGP 9000.

For private sector employees, the lump sum amounts are calculated based on the annual social insurance salary. That salary is calculated using the salary applicable on the first of January of each year (or the first month of employment, as the case may be).

The subscription amounts are free of any applicable tax, as well as any taxes that may be imposed in the future.

<u>Optional Additional Pension:</u>

The Law foresees that actual salaries may exceed the maximum social insurance salary threshold. Accordingly, it introduces a so-called "Additional Pension" scheme to which the insured persons, at their discretion, may choose to subscribe.

Upon an insured's request, the Social Insurance Authority will open an individual account to which the insured can contribute additional monthly subscriptions not to exceed 100% of the maximum social insurance salary threshold.

The ER shall determine the contribution amounts and regulations for the Additional Pension.

Contributions

The contributions are divided as follows:

1) With respect to private sector employees:

   a) The **<u>employer shall bear 18.75%</u>** of the total monthly social insurance salary, which includes the following:

      - 12% for old-age, disability and death, in addition to 1% to fund the end-of-service bonus;
      - 3.25% for disease;

- 1.5% for work injuries (1% of which applies only to employees not covered under the Health Insurance Law); and
- 1% for unemployment.

b) The **<u>employee shall bear 11%</u>** of the total monthly social insurance salary, which includes the following:

- 9% for old-age, disability and death, in addition to 1% to fund the end-of-service bonus; and
- 1% for disease.

Contributions for old-age, disability and death insurance (but excluding the end-of-service bonus) will increase by 1% every seven years (divided equally between employer and employee), provided that the aggregate contribution shall not exceed 26%.

<u>Note</u>: The above rates apply to, *inter alia*, Greater Cairo. For the Qanal Cities and Sinai Peninsula, where the insurance schemes under Health Insurance Law No. 2 of 2018 are already applicable, the disease insurance contributions do not apply. In these areas, the employer's and employee's aggregate contributions are reduced to 15.50% and 10%, respectively.

2) With respect to employers and business owners (including JSC shareholders, JSC Board Members, LLC partners, and LLC managers):

a) The contribution shall be **25%** of the social insurance subscription amount chosen by them within the minimum and maximum thresholds to be determined in the ER and is divided as follows:

- 21% for old-age, disability and death, in addition to 1% to fund the end-of-service bonus; and
- 4% for disease.

Remittance and Delay

Employers will continue to remit contributions on behalf of themselves and their employees on the first of the month following the month for which the contributions are due.

If there is a delay, an additional amount will be applied until full payment is made. This delay payment will amount to the average treasury bills and bonds of the month prior to the month of payment, plus 2%.

The delay payment will not apply when the contributions are remitted by the 15th day of the month following the month for which the contributions are due, at the latest.

Sanctions

The Law has harshened penalties for violation of its provisions as opposed to the old law. Penalties introduced under the Law include:

1) A fine of EGP 30,000 to EGP 100,000 for denying the Social Insurance Authority Officers access to the work premises or records, or providing incorrect information;

2) A fine of EGP 20,000 to EGP 50,000 to be inflicted on the actual manager who fails to:

    a) remit the social insurance contributions;

    b) provide the Social Insurance Authority with the names and social insurance salaries of the employees;

    c) provide the Social Insurance Authority with the names of employees who have reached retirement age; and/or

    d) provide the social insurance file of an employee upon request.

3) A fine of EGP 20,000 to EGP 100,000 to be imposed on the actual manager who fails to subscribe employees with social insurance or subscribes them on the basis of false salaries.

4) **Detention for a period not exceeding one year and/or a fine of EGP 50,000 to EGP 100,000 imposed on the actual manager** who fails to report an accident to the police within 48 hours from the day on which the employee is absent from work.

5) **Detention for a period not exceeding one year and/or a fine of EGP 50,000 to EGP 100,000 imposed on the actual manager** who fails to transfer an employee who suffered an injury to a treatment facility. **Note:** In the event of death or disability by 50% as a result of such failure, the sanction is increased to imprisonment for a period not exceeding three years and a fine not exceeding EGP one million.

The ER may provide a definition of the “actual manager.” Until then, employers are advised to ensure that there is a “levels of authority” guide in place determining relevant responsibilities.

Other Issues of General Relevance

Retirement Age: The old-age, *i.e.*, retirement age, is currently set at 60 years for private sector employees and 65 years for, *inter alia*, employers and business owners. The retirement age for private sector employees will increase gradually to 65 years by 1st July 2040, in accordance with a decree to be issued by the Prime Minister.

Pension: On 30th July of each year, pensions will increase in accordance with the inflation rate, as defined in the Law, but will not exceed 15%. A person’s pension entitlement is subject to an actual subscription period of not less than 120 months, which will increase to 180 months by 2025.

One-Time-Pay: Subscribers who reach the retirement age, or can otherwise not continue their subscription before satisfying the subscription period requirement due to death, total disability, permanent immigration, *etc.*, will only be eligible for a one-time payment upon retirement. This payment represents 15% of the annual social insurance salary for each year of the subscription period.

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

Hend Zaghloul
Senior Associate
Cairo
zaghloul@amereller.com

CAIRO | MENA Associates in association with Amereller | GIC Tower | 21 Soliman Abaza St. | Mohandessin | Giza | Egypt
t: +20 2 376 26 201