

UAE: Out with the old, in with the new – New Labour Law and weekend change

In brief

The long-awaited Decree-Law No. 33 of 2021 on Regulation of Labour Relations (the “**New Labour Law**”) is among a number of new legal developments introduced recently in the UAE. Over the course of the last few weeks we have also seen significant changes to the **Data Protection** and e-Transactions Laws, and of course, the change to the UAE weekend which has attracted significant attention worldwide.

On Tuesday, 7 December 2021, the UAE Government announced that effective 1 January 2022, Federal Government entities shall operate on a 4-and-a-half day working week, with the weekend set to start on Friday afternoon and include Saturday and Sunday.

Which companies does the New Labour Law apply to?

The New Labour Law, which will come into force on 2 February 2022, is applicable to employers and employees in the UAE's private sector. This includes companies incorporated in the UAE mainland and regulated by the Ministry of Human Resources and Emiratization (“**MoHRE**”) as well as companies in the free zones (except for those based in the Abu Dhabi Global Market (ADGM) and the Dubai International Financial Centre (DIFC)). The New Labour Law also applies to companies wholly or partly owned by federal or local government unless their establishing laws state otherwise. Companies will need to understand the impact and adapt their operations in compliance with the changes arising from the New Labour Law.

What has changed with the New Labour Law?

The New Labour Law has introduced welcome changes. We have set out in the Annex a high-level summary comparison of the key provisions of the New Labour Law vis-à-vis the old Labour Law. Note that the implementing regulations are expected to be issued in 2022 which will supplement and expand on the key provisions.

How does the weekend change impact the private sector?

At the moment, the new working week and weekend apply to the public sector only. The private sector is not required to align their working week with the public sector (although it has been encouraged by the UAE authorities).

Private sector companies have the flexibility to determine their working days/hours (in compliance with the minimum requirements of the New Labour Law). Private companies can choose to operate on the days that best fit the particular needs of their businesses and statements have been released to this effect by the UAE authorities.

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Under the New Labour Law, employees are entitled to at least one day off per week and this off day does not necessarily need to be on a Friday.

While we would expect most companies to move to a Saturday/Sunday weekend to align with schools and government operations (and this is what we are seeing in the market), it remains to be seen whether this will be adopted universally or whether the move to a 4-and-a-half day working week will be embraced by private sector companies.

Our UAE Employment team is well versed with the New Labour Law and would be delighted to support you in updating your employment contracts and policies in preparation for the upcoming changes. We shall also be rolling out training sessions and workshops in 2022.

We are also currently working with a number of companies who are exploring the impact on their businesses of the recent announcement of the weekend change and creating practical action plans to facilitate a smooth transition to a Monday-Friday working week. Please reach out to our Employment team if you require assistance.

To speak to us in relation to the New Labour Law, the weekend change, or any labour and employment related matters, please feel free to contact our UAE Employment team.

For future updates, you can visit and subscribe to our Middle East Insights blog: me-insights.bakermckenzie.com/

Annex: New vis-à-vis Old Labour Law - comparison of key provisions

Key Provision	Old Labour Law Summary	New Labour Law Summary
1. Equality and Non Discrimination	The Old Labour Law contains a general prohibition on discrimination among persons, which may weaken equal opportunities or prejudice equal access to jobs, continuity of employment and enjoyment of rights.	Building on the discrimination provisions contained in the old law, the New Labour Law makes clear that discrimination on the following grounds is prohibited: race, colour, sex, religion, national or social origin or disability that reduces equal opportunity, prejudice equal access to or continuation of employment and enjoyment of rights. Employers should ensure their current equal opportunities policies are robust.
2. Bullying and Harassment	The Old Labour Law is silent with regards to bullying and harassment (although the victim of such behaviour would likely have some redress under the UAE's criminal laws).	The New Labour Law expressly prohibits sexual harassment and bullying in all forms. Employers should review their current policies and grievance mechanisms to ensure that they are fit for purposes.
3. New work models	The Old Labour Law assumes all employees work in a traditional full time capacity. While work permits allowing for part time and temporary work are available, there was a lack of legal guidance with regards to the rights and benefits of each party participating in such alternative arrangements.	The New Labour Law recognises different work models separated into four categories: <ul style="list-style-type: none"> a) full time work b) part time work c) temporary work d) flexible work (where working hours vary depending on volume of work and circumstances of the employer). <p>There is little further information available at present on the different types of work models set out in the New Labour Law.</p> <p>Further guidance is expected to be introduced through the implementing regulations.</p>
4. Employment contracts	Unlimited and fixed term contracts are recognised.	Unlimited contracts will no longer be recognised. All employees under the New Labour Law must be employed on fixed term (renewable) contracts of not more than three years in length. The contract can be renewed an unlimited number of times for either the same length period or a shorter period. Employers have until 1 February 2023 to convert all existing unlimited employment contracts to fixed term.

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<p>5. Probation</p>	<p>A 6-month probation period is permitted during which time the employee's employment may be terminated without notice.</p>	<p>A 6-month probation period is permitted during which time the employer and employee are required to provide 14 days' notice of termination.</p> <p>The employee is required to provide 30 days' notice if they wish to take up new employment with another employer in the UAE. In these circumstances the new employer is also obliged under the New Labour Law to compensate the current employer in respect of the costs of recruiting the employee.</p> <p>In the event that an employee on probation resigns and then returns to the UAE within three months from the date of leaving, the New Labour Law indicates that the new employer is responsible for reimbursing the original employer in respect of the costs incurred in recruiting the employee.</p> <p>It remains to be seen how these provisions will work in practice, however, employers may wish to build in processes into their hiring and termination practices to help determine whether they could be entitled to recoup recruitments cost from a new employer (or be liable to pay them).</p>
<p>6. Death of employee</p>	<p>Little specific guidance contained in the Old Labour Law save for a reference that end of service benefits to be paid to the employee's "beneficiaries".</p>	<p>Employers are obliged to pay outstanding wages and other dues owed to the employee, to the employee's family.</p> <p>Employers are also obliged to pay the costs of sending the employee's body back to their home country.</p>

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<p>7. Working hours</p>	<p>Maximum working hours are 8 hours per day or a total of 48 hours per week. Two hours of overtime per day are permitted.</p> <p>Different overtime rates apply depending on the nature of overtime worked. Normal overtime is paid at the rate of 125% of the employee's full wage while overtime worked at night is calculated at the rate of 150% of full wage.</p> <p>Employees who occupy a managerial or supervisory role with the authority of an employer over employees are exempt from the working time/overtime requirements.</p>	<p>Maximum "normal" working hours remain the same.</p> <p>Overtime hours remain capped at two per day. However, maximum working hours inclusive of overtime are capped at 144 hours every three weeks.</p> <p>Reference to the entitlement to work reduced hours during Ramadan has been removed and further guidance is expected in the implementing regulations.</p> <p>Employees are entitled to be paid their full salary for working overtime hours in addition to a supplement of 25% of basic salary. Where the overtime is worked between the hours of 10 pm and 4 am, the overtime supplement is increased to 50% of basic wage.</p> <p>The New Labour Law states that the implementing regulations will provide further details with regards to the categories of employees who are exempt from overtime. There are no specific exemptions at present.</p>
<p>8. Remote working</p>	<p>The Old Labour Law does not address remote working.</p>	<p>In case the employee desires to work remotely, whether from inside or outside the State, and the employer approves, then the employer may determine certain working hours.</p>
<p>9. Weekly rest day</p>	<p>Friday is the weekly rest day. Where the employee works on a Friday they are entitled to time off in lieu or overtime at the rate of basic wage for the time worked plus a supplement equal to 50% of the full wage.</p>	<p>Employees are entitled to at least one day off per week (exact day not specified). Where the employee works on their day off, they are entitled to (a) time off in lieu or (b) paid for the time worked in addition to a supplement of 50% of basic salary.</p>
<p>10. Payment of wages</p>	<p>Payable in UAE dirhams.</p>	<p>Wages can be paid in UAE Dirhams or any agreed currency.</p>
<p>11. Records and files</p>	<p>Employers are under an obligation to keep certain specific information regarding each member of the workforce such as basic identification details, leave records and register of work related injuries</p>	<p>The New Labour Law indicates that a further resolution regulating the employee records shall be issued.</p> <p>Employers are legally required to maintain employee records for a minimum period of two years post termination of employment.</p>

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	<p>The nature of the information retained differs depending on the size of the workforce.</p> <p>There is no minimum length of time employers are required to retain the information for.</p>	
<p>12. Deductions</p>	<p>Deductions from salary are permitted in certain circumstances including with regards to recovery of advances or sums paid to the employee in excess of their entitlements. With regards to recovery or loans or excess entitlements, deductions are capped at 10% of the regular wage.</p>	<p>Similar to the old law, the New Labour Law permits deduction from salary on certain grounds. Notably, deductions in respect of recovery or loan amounts or excess amounts paid to the employee are capped at 20% of salary per month.</p> <p>In the event that multiple deductions are made from the employee's salary on numerous grounds, total deductions must not exceed 50% of the wage.</p>
<p>13. Annual Leave</p>	<p>Generally speaking annual leave entitlement is 30 calendar days per year. There is no special provision for part time employees.</p> <p>Employees are entitled to receive basic wage plus housing allowance during annual leave (although in practice most employers pay (and most employees expect) full wage.</p> <p>Employees are entitled to be paid out or carry unused days to the following year if they are unable to take leave due to workload.</p> <p>Entitlement to annual leave pay is paid out in advance of starting leave.</p> <p>The Old Labour Law provides that payment in lieu of accrued but untaken leave is based on full wage (although in practice the courts tend to make the calculation on a basic wage basis).</p>	<p>Annual leave entitlement remains the same under the New Labour Law. However, the law expressly states that leave shall be prorated for part time employees.</p> <p>Employees are entitled to full wage during periods of annual leave (which is reflective of market practice).</p> <p>Employers remain entitled to choose the dates of leave but must give employees at least 30 days' notice.</p> <p>The New Labour Law states that the employee must take their annual leave in the year of entitlement. However, the employee may carry forward unused days forward to the next year with the employer's approval.</p> <p>Employees no longer have a right to be paid out annual leave pay prior to starting their leave.</p> <p>On termination of employment, payment in lieu of accrued but untaken annual leave is based on basic wage.</p>

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<p>14. Maternity Leave</p>	<p>Maternity leave is 45 calendar days. This is reduced to half pay where the employee has less than one year of service.</p> <p>An additional 100 calendar days (unpaid) leave is granted where the employee suffers a medical condition as a result of pregnancy or birth following the expiry of the maternity leave.</p> <p>Employees are also entitled to one or two breastfeeding breaks per day (total duration of one hour) for a period of 18 months after returning to work.</p>	<p>Maternity leave and related benefits are enhanced.</p> <p>60 days paid maternity leave (45 days full pay + 15 half-pay). Eligibility for maternity leave and pay is not dependent on length of service.</p> <p>An additional 45 calendar days (unpaid) leave is granted where the employee (or her baby) suffers a medical condition as a result of pregnancy or birth following the expiry of the maternity leave.</p> <p>An additional 30 days paid leave is also granted after the end of maternity leave if the employee delivers a child of determination that requires a permanent escort. 30 additional days of unpaid leave may be subsequently taken.</p> <p>Maternity leave is also available to employees who deliver a still born child.</p> <p>Employees are also entitled to one or two breastfeeding breaks per day (total duration of one hour) for a period of six months after returning to work.</p>
<p>15. Public Holiday</p>	<p>If required to work on a public holiday, the employee is entitled to:</p> <ul style="list-style-type: none"> • time off in lieu and a supplement of 50% of the wage for the time worked • (if no time off in lieu granted) the employee is entitled to a supplement equal to 150% of the wage for time worked 	<p>If required to work on a public holiday, the employee is entitled to:</p> <ul style="list-style-type: none"> • time off in lieu; or • receive payment for the time worked plus a supplement equal to 50% of basic wage.
<p>16. Bereavement Leave</p>	<p>The Old Labour Law does not have any provision for bereavement leave.</p>	<p>Paid bereavement leave is granted, ranging from 3 -5 days depending on nature of the relationship between the employee and the deceased.</p>
<p>17. Paid Paternity Leave</p>	<p>5 working day paternity leave entitlement introduced in late 2020 (although did not specify whether leave was to be taken consecutively or non-consecutively).</p>	<p>5 paid working days to be taken consecutively or non-consecutively within the first six months of birth (available to mother and father).</p>
<p>18. Paid Study Leave</p>	<p>The Old Labour Law does not have a provision for study leave.</p>	<p>An employee who is studying at an accredited UAE educational institution will be entitled to paid leave of 10 working days for the purpose of taking their exams, subject to conditions.</p>

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19. Paid Sabbatical Leave	The Old Labour Law does not provide for sabbatical leave but employers are, nevertheless required to provide UAE national employees with paid time off for performing national or reserve service.	Available to UAE national employees only for the purposes of performing national or reserve service.
20. Health and Safety	The Old Labour Law contains several provisions regarding the employer's health and safety obligations.	<p>The New Labour Law imposes a general obligation to provide a safe and suitable working environment. However, little specific guidance regarding health and safety obligations is included.</p> <p>The implementing regulations are expected to contain further guidance including with regards to the employer's obligation to perform regular health and safety assessments.</p>
21. Temporary suspension from work pending investigation	The Old Labour Law is silent with regards to suspension pending outcome of a disciplinary investigation (although does permit unpaid suspension in narrow circumstances where the employee is suspected of committing a criminal offence).	<p>The New Labour Law introduces the concept of temporary suspension from work (for a maximum period of 30 days) on half pay pending the outcome of a disciplinary investigation.</p> <p>If allegations are not substantiated or the disciplinary sanction imposed is limited to a warning letter, the employee is entitled to be reimbursed the remainder of their salary.</p> <p>The previous provisions allowing for unpaid suspension where the employee is accused of a serious crime which is reported to the authorities remain.</p>
22. Termination of contract	<p>Employment contracts can be terminated for the following reasons:</p> <ul style="list-style-type: none"> • written mutual agreement • expiry of contract term where the parties do not agree to renew • upon notice for a legitimate reason • death or disability 	<p>Employment contracts can be terminated for the following reasons:</p> <ul style="list-style-type: none"> • written mutual agreement • expiry of the contract's term where the parties do not agree to renew • upon notice (subject to conditions required under the New Labour Law) • employee death or permanent disability • employer's death • where the employee is convicted of a crime and imprisoned for a period of three months or more • permanent closure of the employer's business

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		<ul style="list-style-type: none"> • bankruptcy or insolvency of the employer or where the employer is unable to conduct business for economic reasons • the employee no longer holds valid permission to work
23. Notice of Termination	Minimum notice period of 30 days (unlimited contracts).	<p>Similar to the Old Labour Law, the employment contract can be terminated on notice for a legitimate reason. Minimum and maximum notice period of 30 and 90 days remain.</p> <p>For unlimited term contracts that remain in place pending conversion to a fixed term employment contract, the New Labour Law introduces notice periods based on service of:</p> <ul style="list-style-type: none"> • 30 days' notice for employees who have five years of service or less; • 60 days' notice for employees who have between 5-10 years' service; and • 90 days' notice for employees with 10 years or more of service
24. Right for time off to look for alternative employment during notice period	The Old Labour Law is silent in this regard.	During the notice period, the employee is entitled to one day off per week without pay to search for alternative employment.
25. Termination without notice	The Old Labour Law contains an exhaustive list of grounds where employees may be terminated without notice and end of service gratuity.	<p>Similar to the old law, the New Labour Law contains an exhaustive list of grounds where the employer may terminate employment without notice. The grounds are similar to those contained in the old law with some adjustments including the addition of two new grounds, namely:</p> <ol style="list-style-type: none"> a) where the employee misuses their position for private gain; and b) where the employee joins another employer without complying with the required termination processes and requirements.
26. Constructive dismissal	Employees may resign without notice where the employer breaches its legal obligations towards the employee or the employee is assaulted by the	<p>Employees may resign without notice for expanded reasons.</p> <ul style="list-style-type: none"> • Employer's breach of legal obligations (subject to the employee notifying the MoHRE 14 days in

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	<p>employer (or the employer's legal representative).</p>	<p>advance and the employer failing to rectify the breach);</p> <ul style="list-style-type: none"> if the employee is subject to assault or harassment in the workplace (subject to the employee notifying the MoHRE within 5 working days of the incident); in response to a serious health and safety risk (subject to the employer being notified of the risk and failing to take remedial action); or where the employee is instructed to perform work which substantially differs from the contracted job role and does not consent to do so.
<p>27. Unlawful termination</p>	<p>The Old Labour Law provides that a termination will be deemed unlawful where the reasons for termination are unrelated to the work. Compensation is capped at three months' salary.</p> <p>Automatic compensation is due in the event that a fixed term contract is terminated prior to the end of the fixed term. Compensation is capped at three months' salary.</p>	<p>There is no longer a requirement to pay automatic compensation for early termination of a fixed term contract.</p> <p>Definition of arbitrary dismissal is removed.</p> <p>A termination will be considered unlawful where the employee is terminated due to submitting a complaint to the MoHRE or files a claim and the lawsuit is proven to be valid.</p> <p>However, compensation for successful claims remains capped at three months' (full) salary where the court considers the termination unfair/unlawful.</p>
<p>28. End of Service Gratuity</p>	<p>An employee who has accrued at least one year of service is entitled to an end of service gratuity payment calculated as follows:</p> <ul style="list-style-type: none"> 21 days basic salary per each year of service in respect of the first five years of service; and 30 days basic pay for each year of service thereafter. <p>Entitlement potentially reduced or forfeited where the employee resigns depending on the length of service and nature of contract.</p> <p>End of service gratuity forfeited where the employee is terminated without notice on specific gross</p>	<p>End of service gratuity calculation remains the same.</p> <p>No reduction where the employee resigns.</p> <p>No forfeiture where the employee is terminated without notice for specific gross misconduct reasons.</p> <p>Further regulations governing payment and calculation of end of service gratuity are expected to be introduced through the implementing regulations.</p>

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	misconduct grounds under Article 120.	
29. Payment of termination dues	No specific provisions.	All payments due to the employee should be paid within 14 days of the termination date.
30. Penalties	The Old Labour Law provides for a number of penalties in the event of various instances of non-compliance.	<p>The New Labour Law updates the existing penalty regime and provides for additional penalties. Generally speaking penalties for non-compliance are more harsh under the new regime. For example, employing an employee without the requisite work permissions will attract a fine of between AED 50,000 to AED 200,000. More broadly speaking anyone who breaches the provisions of the New Labour Law risks being subject to a fine of between AED 5,000 to AED 1 million.</p> <p>Interestingly, the New Labour Law also attaches a penalty of between AED 50,000 to AED 200,000 where a work permit is used "for purposes other than those designated for their issuance". This could catch, for example, instances where work permits are applied for which do not reflect the employee's actual role to avoid Tawteen requirements.</p>

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