

Midde East Employment considerations in light of Covid-19 – Part 2

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What are we covering today?

- **Implementing cost saving measures**
 - Readjustment of salaries / benefits and how to implement these changes
 - Modifications to measures already implemented
 - Making longer term changes to employment contracts
- **Managing reductions in workforce**
 - Redundancy/Termination procedures and issues

Employment Cost Saving Measures

- Forced Annual Leave
- Unpaid Leave
- Reduced Hours
- Reduced Salary
- Reduced Benefits
- Deferral of bonus payments



	UAE	Saudi	Qatar	Oman
Forced Annual Leave	<ul style="list-style-type: none"> In accordance with the UAE Labour Law, the employer can specify when leave should be taken No consent or notice required ADGM – 7 days’ notice DIFC – 5 days’ notice No process required to be followed 	<ul style="list-style-type: none"> The employer has the general right under the KSA Labor Law to choose when the employee would be eligible to use his/her leave balance No consent or notice required and no process required to be followed 	<ul style="list-style-type: none"> In accordance with Qatar Labour Law the employer can specify when leave should be taken No consent or notice required No process required to be followed 	<ul style="list-style-type: none"> Indication in Labour Law that employer can specify when leave can be taken in line with work requirements In sectors that have been shut down/where employers have been “affected”, employers can place employees on paid annual leave without consent No specific process
Unpaid Leave	<ul style="list-style-type: none"> Employee consent required MOHRE – Template Process? Changes frequently Free Zones – different process e.g. DDA (different form, JAFZA, ADAFZ) DIFC – Unpaid 	<ul style="list-style-type: none"> Article 116 of the KSA Labour Law – unpaid leave can be agreed upon with consent No prescribed form or applicable length of time 	<ul style="list-style-type: none"> Employee consent required No prescribed form Bank will need to be informed for WPS purposes (and the bank then informs the labour authorities) 	<ul style="list-style-type: none"> If an employer is “affected” by the pandemic, for expatriate employees consent is required No prescribed form Unlikely to be accepted for Omani nationals

	UAE	Saudi	Qatar	Oman
Reduction in Hours and Salary or just Salary reduction/ Removal or Reduction in Benefits	<ul style="list-style-type: none"> • Written consent required • Process as with unpaid leave depends on location in the UAE – whether MOHRE or in a free zone • DIFC Presidential Directive “Emergency Period” – cost saving measures could be taken without consent on 5 days’ notice but this is not to be extended beyond 31 July 2020 	<ul style="list-style-type: none"> • Reduction in salary has to have corresponding reduction in hours • Reduction cannot exceed 40% of base salary • Not clear from the ministerial decision whether consent is required – safer to obtain written consent but there is no prescribed form or process 	<ul style="list-style-type: none"> • Written consent required but no prescribed form or filing requirements • No distinction between short term and long term changes • Mandatory allowances (housing, transport) can be reduced but not waived • Employers notify its Bank of the Reductions for Purposes of WPS (bank will notify the Labour Authorities) • Employers are not required to amend the registered Employment Contract but would recommend doing so for permanent reductions /modifications 	<ul style="list-style-type: none"> • Written consent required but no prescribed form or filing requirements to the MOMP • From 1 May, “affected” private sector employers may negotiate a reduction in the wages of Omani nationals for a period of 3 months in exchange for a reduction in working hours if the employee’s annual leave has been exhausted • If no agreement reached can be referred to a special committee for consideration



Additional Temporary Annex

Work contract No: MB.....AE

ملحق إضافي مؤقت

رقم عقد العمل : MB.....AE

It is on _____ Corresponding to _____ in UAE	إنه في يوم _____ الموافق _____ في دولة الإمارات
Establishment Name: _____	اسم المنشأة: _____
Establishment No: _____ Emirate: _____	رقم المنشأة: _____ الإمارة: _____
Represented by	ويمثلها
Name : _____ Title: _____	الاسم: _____ الصفة: _____
Hereinafter referred to as "The First Party"	ويشار إليه بـ "الطرف الأول"
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Name : _____	الاسم: _____
Nationality : _____ Work permit number: _____	الجنسية: _____ رقم تصريح العمل: _____
Hereinafter referred to as "The Second Party"	ويشار إليه بـ "الطرف الثاني"

Preamble

تمهيد

Where the First Party expressed their desire to sign an Additional Temporary Annex to the work contract No: _____ with the Second Party and agreed to one of the following options:

حيث أبدى الطرف الأول رغبته في التوقيع على ملحق إضافي مؤقت لعقد العمل رقم _____ مع الطرف الثاني ووافق على أحد الخيارات:

- Paid leave
- Early leave (Unpaid Salary)
- Temporary reducing the wages by the amount of _____ Dirhams, so that the value of the wage after the reduction is _____ Dirhams

- إجازة مدفوعة الأجر
- إجازة مبكرة (بدون راتب)
- خفض الأجر بشكل مؤقت بقيمة _____ درهم، وتكون قيمة الأجر بعد التخفيض درهم

From the date of --- / --- / ----- to --- / --- / -----

اعتباراً من تاريخ --- / --- / ----- إلى --- / --- / -----

Other :

أخرى:

Process for implementing changes – UAE onshore

The process can be handled via the MOHRE mobile application or the Tas’heel e-services portal (<https://eservices.mohre.gov.ae/smarrantasheel/home/index?lang=en-gb>).

The steps on the e-services/mobile application are as follows:

1. Log into the e-services portal/MOHRE mobile application (app seems easier).
2. On the homepage, select “services”.
3. Under the “services” page, select “temporary annex contract”.
4. The employer must complete the temporary annex contract form online
5. Once the employer has completed the form, the employer can choose to send the temporary annex contract via email (a link will be generated and you enter the employee’s email address)
6. The transaction then goes into a “pending transaction queue”
7. The employee can then sign the temporary annex contract electronically
8. Once the employee has electronically signed the temporary annex contract, the employer should be notified and will be registered with MOHRE automatically.

Or can be done in person at a Tas’heel centre

❑ **Further changes needed?**

❑ **Process**

❑ **Long term changes to salary and benefits**

Changes to employment contracts filed with authorities

Changes to policies

What if changes are not accepted

– termination and reengagement?

- redundancy?



Unlimited Term Contracts

	Statutory Notice period	Termination by Employer	Arbitrary Dismissal Risk
UAE	30 days	Article 117 with notice and end of service gratuity or under Article 120	Up to 3 months' pay
KSA	60 days (Saudi nationals)	Articles 74 and 75 with notice and end of service gratuity or under Article 80	15 days' pay per year of service (minimum 2 months' pay) unless the contract provides specific compensation which must not be less than 2 months' pay (Article 77)
Bahrain	30 days	On notice with end of service gratuity under Article 99 or under Article 107	2 or 3 working days' compensation per month of service, minimum 1 month, maximum 12 months
Kuwait	3 months	Article 44 and 47 with notice and end of service gratuity or under Article 41	Low risk provided notice and termination payments made
Oman	30 days	On notice with end of service gratuity under Article 37 or under Article 40	Uncapped compensation
Qatar	1 month or 2 months if service exceeds 5 years	On notice with end of service gratuity under Article 49 or under Article 61	Low risk provided notice and termination payments made

Fixed Term Contracts

	Length of contract	Compensation for early termination
UAE	2 years (3 years in some free zones)	Salary and benefits to the end of the fixed term or 3 months' compensation (whichever is the lesser of the two) – for a renewed MOHRE contract can specify a minimum of 1 month's compensation.
KSA	Maximum of four years	Wages for the remaining period of the contract unless the contract provides specific compensation which must not be less than 2 months' pay (Article 77)
Bahrain	No more than 5 years	If terminated for no reason or for an illegitimate reason, employee entitled to wages for the remaining period of the contract or a lesser amount if agreed between the parties (minimum 3 months)
Kuwait	Minimum of 1 year and maximum of 5 years	Based on damage incurred by the employee, up to a maximum of the wage payable for the balance of the contract (Article 47)
Oman	Maximum of 5 years	Uncapped compensation (minimum of three months' pay) or reinstatement
Qatar	Maximum of 5 years	Wages and other benefits owing for the remainder of the unexpired term

General Redundancy Across the GCC

UAE

No mention in the Labour Law

Case Law

Compensation – up to 3 months' pay

Oman

No mention in the Oman Labour Law

Full closure likely to be fair

Minimum compensation – 3 months' pay

Bahrain

Articles 110 and 111 Bahrain Labour Law

Specific compensation

Notification to the MOL 30 days in advance of issuing notice

Saudi Arabia

Article 74 KSA Labour Law

Compensation – end of fixed term

KSA Nationals – min 2 months

Qatar

No mention in the Labour Law

Compensation/Reinstatement unlikely

Kuwait

Article 50 Kuwait Labour Law – full closure

3 month minimum notice period for monthly paid employees



COVID-19 CHANGES TO REDUNDANCY POSITION?

UAE

Recognition of redundancy as a valid reason – increased acceptance?

Protection for UAE Nationals

Oman

Protection for Omani Nationals in the private sector

Termination of expatriates permitted provided permanently repatriated and all dues paid (although flights currently suspended)

Qatar

No impact as a result of Covid-19 as no arbitrary dismissal claims



Saudi Arabia

Force majeure – wait 6 months?

KSA Nationals – subsidy extended

Risk if benefited from subsidies in any way

Bahrain

No change to redundancy provisions

Specific compensation

Notification to the MOL

Kuwait

No change to redundancy position as a result of Covid-19

3 month minimum notice period for monthly paid employees

REDUNDANCY PROCESS

- Selection process
- Invitation to a redundancy meeting
- Opportunity for employee to make representations
- Termination letter/Settlement Agreement
- Payment of entitlements
- Visa cancellation



Questions ???

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