



NEW AMENDMENTS MADE IN SAUDI ARABIA- LABOUR LAWS

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Abstract--This research paper is to examine the new amendments made in Saudi Arabia on labour laws. Introduction will shortly describe the last labor laws in Saudi Arabia and the body of the research paper will define the laws and end it with conclusion. Under Saudi Arabian law, the employment relationship between employer and employee is governed comprehensively by the Labor and Workmen's Law (the Labor Law). In early 2015, the Saudi Arabian Ministry of Labor announced an overhaul of the Labor Law that would include 38 amendments (the Amendments) to its statutory provisions. The Amendments were approved by HRH King Salman by Royal Decree no. D/46 dated 5/6/1436H., corresponding to 25/3/2015G. and comes into force on 18 October 2015 when they will be published in the Umm Al-Qura, the Saudi Arabian Official Gazette. As a whole, the Amendments purport to boost Saudization and increase workers' rights in general, while a small number of provisions fall in favor of employers. The below description summarizes 10 noteworthy changes to the Labor Law out of the 38 total Amendments.

INTRODUCTION

In Saudi Arabia there are no specific statutes or laws to govern by. The sole constitution that is used is the Quran, which all judges have to interpret conservatively. Many actions that are considered illegal have no actual written laws to ban them – a lot of them are not even addressed in the Quran.

Some of these bans also occur in other countries, but this list is specifically about Saudi Arabia since I was born there and I grew up (along with millions of others) shackled by these laws. The general rule in regards to the legality of something is that if it is suspected to be “haram” (forbidden or clashing with Islamic law or may lead people astray from Islam) then suspicion alone is grounds for banning it.

NUMBER OF CHANGES HAVE MADE

We set out below a summary of some of the key areas that have undergone amendments:

Probationary periods The probationary period can now be extended up to 180 days. An employee however may not be placed on probation more than once by the same employer, unless the employee is placed in a new position or was not engaged by the same employer in the last six months.

Relocation The employee's written consent is required before any geographic relocation which would entail the relocation of the employee's place of residence. Temporary relocations of up to 30 days per annum are permitted however.

Notice periods Open-ended contracts are now subject to 60 days' termination notice for employees who are engaged and paid on a monthly basis. A minimum of 30 days' is required for those engaged on other terms.

Leave Employees serving their notice periods are now entitled to eight fully paid hours per week or a full day per week to look for alternative employment.

Compensation Unless the parties agree in advance and in writing on the amount of compensation payable upon termination without “valid reason”, the party terminating the contract will have to compensate the other with either:

- A wage equivalent to 15 days for each completed year of employment, in indefinite term contracts.
- The balance of wages for the remaining employment term, in the fixed-term contract.

In each case, the minimum amount of compensation may not be less than two months' wages.

Unauthorised leave Employers may terminate the employee's contract without compensation in the event the employee is absent from work “without a valid reason” for either:

- More than 30 non-consecutive days a year.
- For more than 15 consecutive days within a year.



In the first case, a prior written warning must be delivered to the employee after 20 days of non-consecutive absence and in the second case the warning must be delivered after 10 days of consecutive absence.

Renewability Fixed term contracts that are renewed more than three times (or upon the employee accruing four years of continuous service, whichever comes sooner) will automatically convert into indefinite term contracts.

References and sanctions Departing employees have the right to request upon termination a service certificate setting out details of their employment. The employers are prohibited from giving negative references which could hinder the employee's chances of securing alternative employment.

Employers are also required to maintain written records of any fines imposed on their employees. The information required includes the worker's name, their remuneration, the date, the reason for and the amount of the fine imposed.

Leave A number of amendments increasing short-term leave have been introduced.

- Maternity leave: female workers are now entitled to 10 weeks' maternity leave fully paid, to commence maximum four weeks before the expected date of delivery. The leave can also be extended for an additional month on an unpaid basis.
- Marriage and bereavement leave: leave due to marriage or death of an immediate family member has been increased from three to five days.
- Paternity leave: leave has been increased from one to three days.

Training requirements An employer with more than 50 employees is required to provide training to at least 12% of its total number of Saudi Arabian employees. Employer must be able to provide documentary evidence of the training.

Working hours Employees' daily working hour limit has been increased from 11 to 12 hours provided that the employees do not work for more than five consecutive hours.

Company policies and employment contracts

All companies are now required to establish written internal by-laws as per the standard form applied by the Ministry of Labor. Companies are also required to follow the form of employment contract prepared by the Ministry of Labor.

Work injuries Employers must provide financial aid to employees temporarily unable to work due to injuries suffered at work at the rate of 75% of the employees' wage. In the event of non-recovery, the employer will need to compensate the employee for such injury.

Enforcement The Ministry of Labor inspectors are no longer authorised to close businesses "on the spot". All potential violations must be reviewed by the Ministry of Labor.

Depending on its severity, any violation of the law may be subject to monetary fines or business suspension or closure.

Finally, the new amendments provide the Minister of Labor with a discretionary right to grant a financial reward of up to 25% of the total amount of collected penalties against any information that assists inspectors or others in revealing violations of the Labor Law.

Unlawful termination Where the employer failed to observe the requirements for termination the employee could – under the previous labor law regime – petition the Commission for the Settlement of Labor Disputes for reinstatement (Article 78 KSA Lab L). This remedy was abandoned with the 2015 amendment. Under the current law an unlawful termination effectively ends the employment. The only remedy available to the employee is monetary compensation.

Where an employee was employed for an undetermined period of time he may claim compensation calculated based on his salary and the remaining notice period (Article 76 KSA Lab L). Thus, where the contract was terminated by giving 10 days notice, the employer shall compensate the employee by paying him 50 day's salary. In addition, pursuant to Article 77 KSA Lab L the employee is entitled to a severance payment in the amount of 15 day's salary per year of employment. In case of a fixed term contract compensation for unlawful termination shall be the salary owed for the remaining contract term but not less than two month pay. For advise on Saudi Arabian business law please consult Nicolas Bremer, attorney and partner with the law firm Alexander & Partner Rechtsanwälte.



CONCLUSION

As well as a general increase in rights of employees, the amendments were intended to narrow the gap between employment in the private and public sectors. An increase in Saudization and rights of employers to manage employees, particularly when dealing with employment termination, have been well received. It remains to be seen as to how the Ministry of Labor will enforce these new laws and carry out its terms in practice, however the transparency these amendments provide to both employees and employers no doubt offer a better foundation for working relationships going forward.

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