Conditions in the Workplace and Working Hours

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Overview

This Practice Note discusses working hours and key working conditions in the Dubai International Financial Centre, with a focus on health and safety duties, general employer obligations towards its employees, an employee's right to take time off, standard working hours and Ramadan working hours in accordance with DIFC Law No. 2/2019 DIFC Employment Law (Employment Law).

Definitions

- *HSE Department*: Health, Safety and Environmental Department.

Practical Guidance

Employer's obligations relating to work conditions

There are key work conditions that employers in the DIFC should adhere to in order to comply with DIFC Law No. 2/2019. Article 43(2) of DIFC Law No. 2/2019 states that an employer must provide and maintain a workplace that is safe and free from discrimination, victimisation, and without risks to an employee's health and safety.

Health and safety

Article 44(1)(a) of DIFC Law No. 2/2019 states that adequate systems need to be put in place to “minimise any risks to health concerning fire hazards and the use, handling, storage and transport of dangerous articles and substances”. In order to implement this duty, DIFC Law No. 2/2019 requires any safety information, instructions, training and supervision be provided to employees in English, or if necessary, another language understood by the employee (article 44(1)(b) of DIFC Law No. 2 /2019).

In practice, employers tend to ensure that any safety information/instructions are placed at a location where employees have easy access to such information.

Article 44(1)(c) of DIFC Law No. 2/2019 provides that at the point of hiring, the employer must inform the employee, in writing, of any dangers (if any) associated with the employment and protective measures that the employee must take. The applicability of this article would vary depending on the specific nature of the employer’s business.

In practice, particularly, in more hazardous work environments, employers may employ a dedicated health and safety officer to implement suitable health and safety policies and ensure compliance with article 44 of DIFC Law No. 2/2019.

Workstations and seating

Article 50 of DIFC Law No. 2/2019 places an obligation on the employer to ensure that suitable workstations are provided for employees. In practice, employers will undertake a workplace assessment and implement reasonable adjustments depending on the requirements of employees which for example may include provision of tailored work stations or easy access to the office or work station, depending on the employees' specific health requirements.

Employers that contravene article 50 of DIFC Law No. 2/2019 may be exposed to a maximum fine of USD 2,000.

Drinking water

Article 52 of DIFC Law No. 2/2019 requires employers to provide a sufficient supply of clean drinking water for its employees. Employers that do not comply with this provision may be liable to a maximum fine of USD 2,000.

Employment accidents and illnesses

Under article 55 of DIFC Law No. 2/2019, where an employee sustains an injury or dies due to an accident or illness arising out of or in the course of the employee's employment and such an injury or illness is due to the employer's negligence, the employee may be entitled to claim damages of up to two years' annual wage.

Comments on working conditions

In order to maintain an employee’s welfare, engagement and productivity, it is very important that employers take health and safety in the workplace seriously. Employers have a fundamental duty to protect their employees' health and safety. Non-compliance with DIFC Law No. 2/2019 exposes employers to a potential risk of complaints, high level of sickness, disrepute and consequently high penalties imposed by the DIFC Authorities for such non-compliance.

Pursuant to article 53 of the DIFC Law No. 2/2019, an employer is not permitted to dismiss or otherwise penalise an employee who takes steps to either prevent or reduce risks to health and safety in the workplace or to avert serious and imminent danger. Should an employer contravene this article, they may be liable to a maximum fine of USD 2,000.

The DIFC Authority has set up its own HSE department which has the key responsibility of monitoring and enforcing the health and safety provisions within the DIFC.

Working hours

Normal working hours

According to article 22 of DIFC Law No. 2/2019, an employee's maximum work hours must not exceed 48 hours per week, unless the employer has first obtained the employee's written consent to opt out of this provision.

It is well recognised that depending on the level of the employee's seniority and the nature of the employer's business, an employee may be required to work more than 48 hours per week. In order for employers to ensure that they are complying with DIFC Law No. 2/2019, where necessary, the employer can ask for the employee's consent either:

- by way of a declaration from the employee that they recognise that the nature of the employee's role requires the employee to work more than 48 hours a week and as such, the employee opts out of the maximum 48-hour weekly provision; or
- by inserting a provision into the employment contract, which states that the employee agrees to opt out of this provision.

Any such consent should be obtained from the employee, prior to the employee starting their employment with the employer.

Given the above, it is important for employers to ensure that even if an employee is working overtime hours, these should be reasonable. In practice, an employer's staff handbook can refer to the normal working hours of the organisation but also state that employees may be required to work reasonable hours in excess of their usual working hours, in order to ensure that any client or operational requirements are met.

Although DIFC Law No. 2/2019 does not contain any provision on overtime, it is common practice for employers to have a provision in the employee's contract expressly stating that the employee acknowledges that their role may entail working overtime hours and no additional pay or time off in lieu would be awarded for the additional hours worked.

Alternatively, if the employer intends on paying the employee for the overtime, the employer can refer to this in the contract and set out the method of calculating any overtime.

Reduced hours during Ramadan

Article 23 of DIFC Law No. 2/2019, sets out that during the month of Ramadan, a fasting Muslim employee is entitled to not work in excess of six hours each day and there will be no reduction in the employee’s wage as a result from the reduced hours.

This means that in practice, most employers would have in place a policy addressing Ramadan working hours. It is recommended that prior to the commencement of Ramadan, employers send a notification to all employees confirming the hours that will apply to fasting Muslim employees.

Weekly rest period

Article 25 of DIFC Law No. 2/2019 stipulates that an employee is entitled to at least 24 hours of rest period every week. However, it is usual market practice for employers to give their employees two days of weekly rest, Saturday and Sunday.

Rest breaks

Where an employee's daily working time is more than six hours, article 26 of DIFC Law No. 2/2019 entitles the employee to rest and prayer breaks of a total of at least one hour. In practice, most employers have policies in place that clearly state their usual lunch breaks, which may vary between 12:00-1:00 pm or 1:00-2:00 pm. The employer should encourage employees to take these lunch breaks.

Article 26(2) of DIFC Law No. 2/2019 states that a female employee returning from maternity leave, whose daily working hours exceed six hours is entitled to nursing breaks of at least one hour per day, for a period of six months following the actual date of childbirth.

Time off work

Pursuant to article 41(1) of DIFC Law No. 2/2019, a pregnant employee or a male employee whose wife is pregnant, is entitled to take a reasonable period of time off work during their working hours, in order to attend ante-natal appointments, provided that the employee has complied with the requirements of article 41(2) of DIFC Law No. 2/2019.

The requirements set out in article 41(2) of DIFC Law No. 2/2019 are as follows:

- The employee must provide their employer with:

  a) reasonable notice of an ante-natal appointment;

  b) a certificate from a medical practitioner confirming the pregnancy, if requested to do so by the employer; and

  c) written confirmation from a medical practitioner of the ante-natal appointment, if requested to do so by their employer.

In accordance with article 42 of DIFC Law No. 2/2019, an employee is entitled to be paid their normal hourly rate for any time taken off under article 41 of DIFC Law No. 2/2019.

In practice, employers will have a policy on working hours and time off work which will set out the actual length of the time off work and subject to the operational needs of the business.

Related Content

Legislation

- DIFC Law No. 2/2019 DIFC Employment Law as amended

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Areas of expertise

- Tech Law
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Biography

Sarah Malik is an award-winning lawyer who founded SOL International Ltd, a boutique legal consultancy registered at the ADGM in 2018. Sarah achieved 'Litigator of the Year' (2022) at the first GCC Women in Law Awards and received an honourable mention as 'Law Firm Leader of the Year' category at the same awards. In March 2022, SOL was named by Legal 500 EMEA as 'A Firm to Watch in Dispute Resolution: Arbitration and International Litigation'. Sarah was a finalist at the First Middle East Blockchain Awards 2022 for 'Most Influential Woman in Blockchain and Crypto'. In 2023 Sarah was listed as a 'leading practitioner' in The Arbitration Powerlist: Middle East Legal 500 EMEA.

Prior to founding SOL she practiced as a Barrister at a leading set of Commercial Chambers in London for fifteen years, was employed Counsel at a leading UK law firm for two years and headed the Advocacy and Investigations team of an international law firm in Dubai for three and a half years.

Sarah was featured in the special edition of the UAE Managing Partners Report for two consecutive years published by LexisNexis for International Women's Day.

Sarah advises clients in the UAE and internationally on all aspects of employment and labour law issues. Sarah undertakes all aspects of employment work and has a busy employment law practice, both contentious and non-contentious, at the DIFC and the ADGM Courts as well as undertaking cross border employment matters. In addition, she runs high-level disputes and negotiates senior level severance packages.

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Biography

Swetha Sivaram is Consultant Counsel at SOL International Ltd, specialising in dispute resolution and employment law. As a newly qualified solicitor from England and Wales and a registered practitioner at the DIFC Courts, Swetha brings a strong background in law to her role. Swetha is featured by Legal 500 EMEA in the Arbitration Powerlist Middle East 2023 as part of the SOL team.

In her role at SOL International Ltd, Swetha handles various responsibilities related to arbitration, commercial litigation and employment cases. She has assisted Counsel as the sole junior on the first race discrimination/harassment claim in the DIFC Courts and had diverse responsibilities including preparing the first drafts of pleadings, organising case bundles, facilitating communication with witnesses and the opposing party, and preparing points for cross-examination. She was also a junior on two multi-million construction arbitrations.

Beyond her casework, Swetha contributes to legal publications and regularly authors articles for LexisNexis Middle East Law and HR Alert.

Swetha has volunteered for the ADGM Pro Bono Programme since 2021 and she is also a member of the DIFC Pro Bono Programme.

Swetha actively participates in the Dubai Arbitration Week events and other legal events organised annually by SOL International Ltd contributing to the growth and knowledge-sharing within the legal community.