

## Termination of Labour Contracts and Entitled Pay

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Type	Practical Guidance
Document type	Practice Note
Date	10 Oct 2023
Jurisdiction	Dubai International Financial Centre
Copyright	LexisNexis

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Document link: [https://www.lexismiddleeast.com/pn/DubaiInternationalFinancialCentre/Termination\\_of\\_Labour\\_Contracts\\_and\\_Entitled\\_Pay](https://www.lexismiddleeast.com/pn/DubaiInternationalFinancialCentre/Termination_of_Labour_Contracts_and_Entitled_Pay)



## Overview

- This Practice Note discusses the ways in which employment contracts in the DIFC are terminated under DIFC Law No. 2 /2019 DIFC Employment Law.
- This Practice Note also looks at the entitlements of employees upon their termination, including payment of final dues and gratuity.

## Definitions

- *EOSG*: End of service gratuity.

## Practical Guidance

### Termination of employment contracts

#### *Minimum notice*

Article 62(2) of DIFC Law No. 2/2019 specifies the minimum notice requirements that need to be fulfilled when terminating employment contracts which are as follows:

- Seven days if the continuous employment is less than three months, including any period of secondment.
- 30 days if the continuous employment is more than three months but less than five years, including any period of secondment.
- 90 days if the continuous employment is five years or more, including any period of secondment.

Article 62(2) of DIFC Law No. 2/2019 notice requirements do not apply in the following circumstances:

- During any probationary period agreed in the employment contract.
- In the case of a fixed term employment contract which will expire at the end of the term.
- In respect of termination for excessive sick leave in accordance with article 36(1) of DIFC Law No. 2/2019.

Article 62(3) of DIFC Law No. 2/2019 permits the parties to contractually agree to a longer notice period.

An employer is able to pay the employee in lieu of notice for all or part of the notice period (article 62(4) of DIFC Law No. 2 /2019) or if the employee agrees to such a payment in an agreement entered into pursuant, that no false representations have been made prior to employment (article 11(2)(b) of DIFC Law No. 2/2019).

DIFC Law No. 2/2019 specifies a maximum probation period of up to six months (article 14(2)(l) of DIFC Law No. 2/2019). It is common practice for employers to have probationary provisions contained in the employment contracts. Such probationary periods tend to range from three to six months, depending on the position and the seniority of the employee. The maximum probationary period is six months.

Employers are entitled to stipulate the specific notice period during the probationary period. Article 62(6)(a) of DIFC Law No. 2 /2019 specifically states that the minimum notice period requirements do not apply during any probation period agreed in an employment contract. However, quite often employers opt for a week's notice requirement during the probationary period.

Contrary to the position under DIFC Law No. 2/2019, Federal Decree-Law No. 33/2021 On Regulation of Labour Relations sets out that employers need to give employees on probation 14 days' notice to terminate their employment. Similarly, an employee must serve 14 days termination notice. Article 9(3) of Federal Decree-Law No. 33/2021 states that should an employee secure alternative employment in the UAE within three months, the employee will notify the employer in writing with a minimum one month notice from the date they wish to terminate the contract. In the event an employee leaves the employer within the probationary period, the new employer must pay the old employer's recruitment costs.

If an employer chooses to place the employee on probation, it is best practice at the end of the probationary period to conduct an appraisal of the employee's performance prior to confirming the employee's permanent employment.

Article 63(1) of DIFC Law No. 2/2019 addresses termination for "cause". Pursuant to article 63(1) of DIFC Law No. 2/2019, either the employer or employee are entitled to terminate the employment with immediate effect in circumstances where the conduct of one party warrants termination and where a reasonable employer or employee would have terminated the employment as a consequence.

Article 63(1) of DIFC Law No. 2/2019 does not actually define "cause" or the circumstances in which termination without notice is justified. It is generally accepted that these circumstances are limited to cases of gross misconduct.

Article 63(2) of DIFC Law No. 2/2019 states that if an employee terminates their employment for causes pursuant to article 63 (1) of DIFC Law No. 2/2019, the employee will be entitled to:

- payment of their wages in lieu of their notice period;

- a gratuity payment, calculated to include the notice period that the employee would have been required to give to terminate their employment; and
- a payment in lieu of the employee's accrued untaken vacation leave, calculated to include the notice period that the employee would have been required to give to terminate their employment.

Article 63(3) of DIFC Law No. 2/2019 states if an employer terminates the employment of an employee for causes pursuant to article 63(1) of DIFC Law No. 2/2019:

- the employee will not be entitled to receive any payment of wages in lieu of their notice period; and
- the employee's gratuity payment and outstanding vacation leave will be calculated up to the termination date.

Article 64(1) of DIFC Law No. 2/2019 gives the employee the right to request a written statement of reasons for termination if such termination was for cause under article 63(1) of DIFC Law No. 2/2019. The employee has up to 30 days from their termination date to make this request. The employer needs to provide a written statement of reasons within 14 days from the receipt of such a request.

Article 64(2) of DIFC Law No. 2/2019 states that there must be sufficient detail included in any written statement of reasons under article 64(1) of DIFC Law No. 2/2019, in order for a reasonable person to understand the reasons for the termination of the employee's employment for cause under article 63(1) of DIFC Law No. 2/2019.

#### *Procedures for termination for gross misconduct*

Although DIFC Law No. 2/2019 does not specify any particular procedure that needs to be followed prior to the termination of an employee's contract under article 63(1) of DIFC Law No. 2/2019, most employers in the DIFC have adopted corporate disciplinary and grievance procedures in order to follow a fair procedure when dismissing employees for gross misconduct under article 63(1) of DIFC Law No. 2/2019.

In comparison, article 39 of Federal Decree-Law No. 33/2021 sets out the various disciplinary sanctions that an employer may impose which are as follows:

- Written notice.
- Written warning.
- Deduction from remuneration without exceeding the remuneration of five days per month.
- Deprivation of the periodical increment for a period not exceeding one year.
- Denial of promotion.
- Dismissal from service while preserving the worker's right to an EOSG.

Article 24 of Cabinet Decision No. 1/2022 On the Implementing Regulation of Federal Decree-Law No. 33/2021 Regarding the Regulation of Employment Relationships clearly sets out the guidelines and process for conducting investigations for gross misconduct allegations and for any necessary imposing disciplinary sanctions.

In addition to the above, it is recommended, as a matter of good practice for the employer, to provide minutes of any investigation/disciplinary meeting to the employee and in serious cases offer a right of appeal.

#### *Sick leave and termination*

Pursuant to article 36(1) of DIFC Law No. 2/2019, an employer is entitled to terminate an employee who takes more than 60 working days of sick leave in a 12-month period. In such circumstances, the employer is entitled to terminate the employment contract with immediate effect on written notice to the employee.

Article 36(2) of DIFC Law No. 2/2019 states that article 36(1) of DIFC Law No. 2/2019 does not apply where an employee has taken sick leave due to a disability, as defined in article 59(8)(a) of DIFC Law No. 2/2019.

Article 31(3) of Federal Decree-Law No. 33/2021 states the worker may, after the end of his probation period, have sick leave of not more than 90 consecutive or intermittent days per year, provided that it is calculated as follows:

- the first 15 days with full pay;
- the following 30 days with half pay;
- the subsequent period without pay.

Article 31(5) of Federal Decree-Law No. 33/2021 states that the employer may terminate the worker's service after exhausting their sick leave, if they are unable to return to work, provided that the worker receives all their financial entitlements in accordance with the provisions of Federal Decree-Law No. 33/2021 and Cabinet Decision No. 1/2022.

## **Entitlements upon termination**

### *Gratuity payment*

In accordance with article 66 of DIFC Law No. 2/2019, an employee who completes continuous employment of one year is entitled to receive EOSG upon the termination of employment.

Article 66(2)(a) of DIFC Law No. 2/2019 states that entitlement to gratuity is 21 days basic wage for the first five years of continuous service and 30 days' basic wage for each year after the first five years of continuous service (article 66(2)(b) of the DIFC Law No. 2/2019). Such gratuity should not exceed twice the employee's annual salary.

Employees are only entitled to the gratuity payment in line with the above regime up until 31 January 2020 following which the DIFC Employee Workplace Savings Scheme regime is applicable.

#### *DIFC Employee Workplace Saving Scheme*

The DIFC introduced the DIFC Employee Workplace Savings Scheme (DEWS) which came into effect on 1 February 2020. The DEWS regime has superseded the end of service gratuity scheme and employees working with the DIFC entities must be registered onto either the workplace savings or pensions plan.

In accordance with clause 66(7), an employer must, on a monthly basis, pay a percentage of an employee's monthly basic wage into DEWS with 5.83% payable for the first five years of service and 8.33% for each additional year thereafter.

#### *Payment of wages upon termination*

Article 19(1) of DIFC Law No. 2/2019 specifies that an employer must pay employees all remuneration, the gratuity payment, all accrued but untaken annual leave, and all outstanding amounts due in respect of the employee under article 66(7) of DIFC Law No. 2/2019, within 14 days of the employee's termination. An identical timeframe is provided under article 53 of Federal Decree-Law No. 33/2021.

If an employer fails to comply with article 19(1) of DIFC Law No. 2/2019, the employee is able to claim a penalty under article 19(2) of DIFC Law No. 2/2019, which is equivalent to the employee's daily wage for each day the employer is in arrears of its payment obligations under article 19(1) of DIFC Law No. 2/2019. Employers need to be mindful of article 20 of DIFC Law No. 2/2019, which stipulates that no unauthorised deductions will be made from an employee's wages, unless:

- the deduction is permitted under DIFC Law No. 2/2019, or agreed to in an employment contract;
- the employee has given prior written consent to such deductions, provided that such deductions is not prohibited under DIFC Law No. 2/2019;
- the deduction is a reimbursement for an overpayment of wages, or expenses or to recoup benefits utilised by an employee in excess of their accrued entitlement under their employment contract; or
- the deduction has been ordered by the court.

In practice, if an employer needs to deduct an amount from the final payment given to the employee, such deductions should clearly be outlined in the statement of final dues given to the employee. It is best practice to ensure that any such statements are signed by both the employee and the employer.

## **Related Content**

### **Legislation**

- DIFC Law No. 2/2019 DIFC Employment Law
- Federal Decree-Law No. 33/2021 On Regulation of Labour Relations
- Cabinet Decision No. 1/2022 On the Implementing Regulation of Federal Decree-Law No. 33/2021 Regarding the Regulation of Employment Relationships

## Authors



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### **Areas of expertise**

- Tech Law
- Dispute Resolution
- Employment Law
- Sports Law
- Entertainment and Fashion Law

### **Memberships**

- Barrister in England & Wales
- Fellow of Chartered Institute of Arbitrators

### **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.



**Lina Bukhari**  
*Trainee Solicitor, SOL International Ltd*  
[LinkedIn](#)<sup>[1 p.7]</sup>

### **Biography**

Lina is a Trainee Solicitor at SOL International Ltd, holding an LLB from Manchester Metropolitan University. She completed the Legal Practice Course and a Master of Laws at the University of Law, Manchester. Currently, she is on track to qualify as a Solicitor of England and Wales by September 2025.

Lina has gained significant legal experience, including working on a complex multi-jurisdictional case at the DIFC Courts and the Dubai Courts, which was heard before the Joint Judicial Committee. She is also assisting on a multi-million dispute with 13 defendants at the ADGM Courts, representing the interest of one defendant.

Lina's practice spans several legal areas, including dispute resolution, litigation, commercial, employment, fashion, and private client law. She has experience in the corporate sector at both local law firms and international law firms. Lina has experience in reviewing, assisting and drafting various agreements.

Lina also has experience setting up companies at the ADGM. She has advised on the selection of appropriate legal structures, compliance with ADGM's company regulations, and liaising with the Registration Authority to facilitate a smooth incorporation process.

A fluent speaker in both English and Arabic, Lina frequently contributes to legal articles. She has co-authored legal articles titled:

- Tradition to Technology: The Impact of AI on UAE Arbitration
- Stitching the Legal Fabric: Exploring the Interplay of Fashion and Law in the UAE
- Lights, Camera, Legal: The Law Behind the UAE's Entertainment Boom

Lina is an active participant in the ADGM Pro Bono Programme, where she provides legal assistance to individuals in need who would otherwise not have access to justice.

Lina has a strong interest in entertainment law, particularly in the legal and commercial aspects of the film, music, fashion, and art industries. She follows emerging trends and regulatory developments affecting creative professionals, production companies, and rights holders. Her interest extends to contract negotiation, talent agreements, licensing, and dispute resolution within the entertainment sector.

*"Working at SOL is an invaluable experience, allowing me to refine my legal expertise in a dynamic and collaborative environment. Under the guidance of Sarah Malik and the SOL team, I have grown significantly as a legal professional and continue to develop my skills while contributing meaningfully to our clients and the firm."*

## Notes

1. <sup>^ [p.6]</sup> <https://ae.linkedin.com/in/lina-bukhari-706b62195>