

# GCC Immigration and Employment roundup

November 2021



## In brief

The UAE's five-year multi-entry visit visa category is now open to individuals from all nationalities, subject to meeting certain criteria.

The DIFC Authority has enacted amendments to the DIFC Employment Law and employment regulations which employers in the DIFC will need to consider.

Oman has announced the introduction of their Investment Residency Programme, which allows certain categories of investors to apply for a long-term five or ten year visa.

Saudi Arabia has unveiled further changes to its Saudisation programme, for which companies across several professions will need to plan ahead of implementation from April 2022.

## The detail

### United Arab Emirates (UAE)

#### Applications Open for Five-Year Tourist Visas

The UAE has announced the introduction of a five-year multiple entry visit visas for all nationalities. The application process is now open, and applicants can apply via the Federal Authority for Identity and Citizenship (ICA). If successful, individuals will be able to spend 90 days in the country, in one year. This can be extended for a further period of 90 days, via application to the ICA.

Applicants will need to submit evidence to the authorities as part of their application, including medical insurance, bank statements and a certain minimum level of funds in their account. This multi-entry visa will enable regular or frequent visitors from countries that are required to apply for a visa prior to travelling and entering the UAE, to re-enter the country freely and without submitting a visa application for each trip. The availability of a multi-entry tourist visa is an exciting opportunity especially at the start of Expo which is being held in Dubai, and will be running until April 2022.

### Digital Emirates IDs

The UAE Government unveiled a "new generation" of Emirates ID cards in August, containing enhanced data such as employment information, and an extended service life beyond ten years.

Electronic versions are available to download from the Federal Authority of Identity and Citizenship (ICA) app or smart services website, or the UAE Pass app, whilst individuals wait for their physical ID cards following the successful processing and stamping of their UAE residence visas. Expired Emirates ID cards will remain valid until individuals receive their new cards, and digital versions are valid for identification and employment purposes.

## DIFC Employment Law Amendments

Following consultation earlier this year in respect of proposed amendments to DIFC Law No. 2 of 2019 (as amended) (the **Law**) and associated Employment Regulations (the **Original Regulations**), the DIFC Authority has enacted:

- DIFC Law No. 4 of 2021 (the **Amendment**) which amends the Law; together with
- Employment Regulations 2021 (Qualifying Scheme requirements under Article 66 of the Law) (the **Regulations**),

both of which are effective as of 21 September 2021.

The key changes which employers in the DIFC should be aware of are set out below.

### Statutory limitation period

The Amendment has not changed the six month statutory limitation period during which employees may file claims following termination of employment. However, clarification has been provided in relation to the issuance of claims during service, particularly in respect of disputes over unlawful deductions and discrimination/victimisation.

### Short term working and probation

Where an employee is engaged on a short term basis (i.e. six months or less), probation may not exceed half of the agreed fixed term period. This impacts both termination considerations and entitlements for the DIFC Employee Workplace Savings Plan or equivalent qualifying scheme(s).

### Atypical working

Employers continue to be responsible for employees' health and safety in the workplace. However, the Amendment clarifies that all obligations in that regard do not extend to remote workers. Employers are however required to ensure that protections in respect of discrimination and victimisation extend to employees working remotely as well as those seconded to a DIFC employer whilst continuing to be employed by a non-DIFC entity and therefore not governed in entirety by the Law.

### "Additional Payments"

DEWS payments and contributions (for the purposes of equivalent qualifying schemes) must be calculated with reference to an employee's 'Basic Wage', excluding 'Additional Payments'. The definition of 'Additional Payments' has been amended to specifically include profit shares or drawings, thereby excluding any such amounts from DEWS contributions. Importantly, the Amendment specifically provides that employees who receive drawings or similar from an 'Affiliate' are exempt employees for the purposes of DEWS or equivalent. It is important to note that the changes under this part cannot be used to enable parties to reduce or otherwise manipulate an employee's basic wage by making regular payments appear to be discretionary and thereby excluding them from contribution calculations.

## DEWS and alternative qualifying schemes

Employees are still required to obtain a certificate of compliance for the purposes of an alternative qualifying scheme. However, a certificate will be issued only where the scheme meets certain requirements. Notably, the scheme must take the form of a DIFC Trust and it is not longer permissible for the operator and administrator of the trust to be established outside of the DIFC. Instead, both must be established in the DIFC and regulated by the DFSA.

In addition, exemption certificates will be issued in limited circumstances. Broadly, an employer must be able to show that there is a statutory duty to make pension, retirement or similar contributions in respect of a particular employee to a scheme in another country or that the employer makes contributions to a "Group Scheme" (available in at least 4 countries) on behalf of the employee. Such contributions must exceed the Core Benefits payable pursuant to the Amendment (exclusive of any employer related costs of the "Group Scheme").

Employers holding existing exemption or compliance certificates issued under the Original Regulations which would not meet the new requirements brought about by the Regulations have a 12 month grace period to put in place arrangements which will satisfy the new requirements.

Finally, a fee of USD 500 shall be payable for applications for a certificate of compliance or exemption.

### Investment Residency Programme

In an exciting development, Oman's Ministry of Commerce, Industry and Investment Promotion has announced that a long-stay residency visa will be available for individuals who make an investment in the country. Applicants must be at least twenty-one years old. Five and ten year visas will be offered, and it is expected that individuals will be able to apply via the MCIIP portal.

#### Ten-year visas

The following categories of persons are eligible for a ten-year visa:

- Investors who set up a limited liability /closed joint stock company will be eligible for a ten-year visa. They must prove ownership of shares with a market value of at least OMR 500,000;
- Individuals who have purchased government bonds worth at least OMR 500,000;
- Ownership of a company that employs at least 50 Omani nationals;
- Individuals who have purchased personal property worth at least OMR 500,000.

#### Five-year visas

The following categories of persons are eligible for a five-year visa:

- Investors who set up a limited liability /closed joint stock company will be eligible for a ten-year visa. They must prove ownership of shares with a market value of at least OMR 250,000;
- Individuals who have purchased government bonds worth at least OMR 250,000;
- Individuals who have purchased personal property worth at least OMR 250,000;
- Retirees, after being employed in Oman for at least two years, demonstrating a monthly income of at least OMR 4,000 and evidencing a place of residence in the country.

Other points to note:

- If an individual is successful in their application for a five or ten year residence permit based on their investment, they will be issued with an entry visa that is valid for up to one year to facilitate securing residency inside the country. This initial visa will allow multiple trips, but individuals will only be able to remain in the country for up to 90 days per visit. Entry to Oman will need to be made within one year of the visa originally being issued;

- It is expected that an individual's eligibility under the Investment Residency Programme will be reviewed every three years. If they no longer meet the criteria, visas for the main investor and their family members will be cancelled;
- Immediate dependent family members of an eligible investor will also qualify under the Programme, although it remains to be seen whether dependent parents will be considered.

This is the first long-term residency that has been offered to expatriates in Oman, and the first visa category that is not tied to sponsorship through employment. At present, investors under the Investment Residency Programme are not expected to be eligible for citizenship. We will publish further news on the ability of investors to be able to work in the UAE, once the process has been clarified.

### **Amendments to Residency Cards**

Residency cards will now be a mandatory requirement for persons aged ten years and above, and will now be issued for up to a period of three years. This is up from a maximum of two years' validity. Residence cards should be issued within thirty days on entry into Oman, and must also be renewed within thirty days from the date of expiry. A fee of OMR 5 applies to the issuance of a Residency card, and OMR 20 for a lost replacement card.

## **Saudi Arabia**

### **Extension of Visit Visas until 30 November**

Saudi Arabia's Ministry of Foreign Affairs has announced the extension of visit visas until 30 November 2021. This only applies to individuals who were in the country when their visit visas expired, during the period that a travel ban from their home country to the Kingdom was in place.

Visas will be extended free of charge. Those countries facing a travel ban at present are: India, Pakistan, Indonesia, Egypt, Turkey, Brazil, Ethiopia, Vietnam, Afghanistan and Lebanon.

### **Saudisation Update**

Saudi Arabia's Minister of Human Resources and Social Development, has issued several decisions to saudise jobs in the following sectors, in an aim to create further employment for Saudi nationals. Minimum salary levels have been set, along with dates that these changes will come into effect:

## Marketing and Administrative Support Jobs

Thirty percent of jobs in the marketing and administrative support sectors will be saudised from 8 April 2022, and it is expected that this decision and implementation will lead to the creation of 12,000 positions for Saudi nationals. A minimum of SAR 5,500 will also apply to calculate hiring one national under the Nitaqat programme. This change will apply to companies that employ five or more employees in marketing professions. The professions that are captured by the MHRSD's decision are: Manager, marketing specialist, advertising and public relations manager, marketing sales expert, advertising designer, and commercial advertising photographer.

## Medical Laboratories, Radiology, and others

The Minister of Human Resources and Social Development has also announced a decision to localise jobs in medical laboratories, radiology, physiotherapy, and therapeutic nutrition departments in all medical facilities in Saudi Arabia. The target Saudisation rate in speciality health care areas is sixty-percent, and this will take effect on 11 April 2022. The minimum salary will be set at SR 7,000 for a specialist and SAR 5,000 for a technician in this space.

## Private Medical Equipment and Appliances Sector

Sales and Advertising positions in the private medical equipment and appliances sector, will also be subject to Saudisation from 11 April 2022. The Saudisation rate will start at forty-percent, increasing to eighty-percent by way of a phased approach. Engineering and technical professions with respect to medical appliances in the private sector, will be subject to a thirty-percent Saudisation rate initially, increasing to fifty-percent in a second phase. In calculating ratios, the minimum salary level for engineers, specialists and degree holders will be SAR 7,000, and SAR 5,000 for technicians and diploma holders

## Dentists and Pharmacists

Minimum salary levels for dentists and pharmacists have also been announced, and will take effect on 11 April 2022. In order to be counted in the Nitaqat programme, dentists and pharmacists must be earning at least SAR 7,000. This decision will apply to all private sector organisations - for the dental profession this is organisations employing three or more dental workers. Organisations employing five or more individuals in the pharmaceutical profession. Individuals who are not accredited by Saudi Commission for Health Specialties, will not be considered as part of the Saudisation calculations.

The MHRSD has emphasised that any violation of Nitaqat programme will lead to penalties, and therefore it is crucial that companies understand and adhere to the requirements when they take effect next year. The Kingdom has stressed that support and incentives will be given to organisations that comply with regulations with respect to employing Saudi nationals in specialised healthcare.

## **Relaxation on Transfers of Employment**

There has been a further announcement in relation to the ability of expatriate employees to transfer from one employer to another. Earlier this year, we reported that employees would be able to transfer sponsorship to another company after spending twelve months with their employer, subject to meeting certain criteria. Amendments to labour law mean that expatriates no longer need to wait for a year, before applying to transfer their employment to another company, provided that consent is obtained from their present employer. More details should be published in due course, but this is a further step towards allowing flexibility for expatriates and companies in Saudi Arabia sourcing foreign talent.

## **Qatar**

### **Mandatory Health Insurance**

Employers will shortly be required to provide their expatriate employees with health insurance, along with their family members. This is expected to take effect in the beginning of December, but we await further details as to the exact date of implementation.

This is a significant change from the current position, where employers are not required to provide health insurance coverage for their expatriate workforce. The move will also include visitors, who will be required to purchase medical cover while they are in Qatar.

## Key takeaway

The UAE continues to attract visitors to the country with the roll-out of its five-year multi-entry tourist visa, making the process simpler for nationalities who would normally be required to apply for permission to enter the UAE before each visit. There are key changes to Employment law in the DIFC, that employers must be aware of and ensure that they follow the regulations that are now in place.

Oman's Investment Residency Programme is a sign of the government's aim to attract more foreign investment into the country, and recognise and reward those individuals who do so. Companies in Saudi Arabia employing individuals in marketing, administrative support, speciality healthcare, dentistry and pharmacy, will need to plan for applying salary rates and ensuring that they meet minimum Saudisation rates, before these changes take effect in 2022.

## How can we help?

We understand that this is a challenging and unpredictable time for many companies and their employees. We can help to:

- Advise on changes highlighted in this round-up, from the introduction of an investor residency programme in Oman, to the impact of Saudisation measures;
- Assist with advising stakeholders and drafting communication to employees on travel and visa requirements as they change in the region (in compliance with Government announcements and immigration requirements);
- Provide detailed support and advice to plan for new Saudisation calculations that have already been introduced, and are due to take effect in 2022;
- Provide advice with respect to Employment law changes in the DIFC.

## Let's talk

For a deeper discussion of how these issues might affect your business, please contact:

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