5 Key Employment Law Considerations for Business in the Middle East

Employment and Labor

In-house legal teams and human resources departments have had to be more agile, flexible, and innovative in their approach to people management and HR policies over the last year and a half. Here are five top tips for GCs and HR directors to consider implementing as the way we work continues to evolve.

1. A flexible COVID-19 policy

Many companies have benefited from a flexible COVID-19 policy, which can be updated and amended as often as necessary. The key to doing this successfully is making sure the workforce is included in the decision-making process and understands why the business needs to take a flexible approach. And, of course, the COVID-19 policy needs to align with any laws or regulations promulgated in its jurisdiction.

The policy must achieve the balance of prioritizing employee sentiment, health and safety of the workforce, and commercial requirements of the business. Companies are discussing key aspects of their COVID-19 policies, like employee attendance at the office, the approach to vaccines, and whether and to what extent third parties are allowed to attend the office for meetings. As with all policies, the approach will vary depending on the business sectors and workforce culture. It's pertinent to note that companies' COVID-19 policies are designed to tackle the near future once everyone takes the vaccine, resumes traveling, and returns to work.

2. Flexible and agile working arrangements

We recommend employers consider are part-time working, working remotely, engaging consultants, and working across jurisdictions. Companies should keep in mind that apart from complying with

the local laws, employees should be guided to tackle the complex tax environment if companies are allowing them to work from their home countries.

In the UAE, authorities have developed regulation relating to flexible working, such as the Part Time Working Law. The past 12 months have resulted in clients turning to flexible and agile working arrangements in a much more enthusiastic and effective way.

3. Secondment arrangements

Secondment is an effective way for international businesses to respond to the areas of the world where their market is recovering quickest from the pandemic and the commercial opportunities are higher. It allows companies to protect jobs, relocate staff, and avoid having to recruit on external staff.

Employee secondments have traditionally been common in the UAE given the global footprint of many businesses operating in the region. As we see the restrictions on movement ease and borders re-open, secondment arrangements will likely prove to be a useful strategy resource for businesses.

However, with all secondment arrangements, it is extremely important that companies are aware of the inherent risk. For example, an employee may have dual employment rights under the law in both the UAE and their host country. There are also certain tax considerations depending on the tax laws of the host country.

The best way to mitigate this risk is for the employer to put in place a secondment agreement with the employee clearly setting out the arrangements of the secondment. For example, any holiday taken during the secondment will also be deducted from the UAE holiday balance. Key for any secondment arrangement is that the parties (i.e., the employee and the host and home country employers) are all clear on the working arrangements respective obligations from the get-go.

4. International travel policies

International travel is one of the sectors that has been affected most by the pandemic. From a Middle East workforce perspective, which includes many expat employees, there will be challenges in relation to travel, both personal leave and business travel.

Therefore, it is extremely important that companies focus on and develop their travel policies depending on the impact of the pandemic. There are many considerations that GCs and HR directors should take into consideration when reviewing their travel policies, such as economics, technology, internal cultural approach, environmental considerations, health and safety of the workforce, and the internal and external market and reputational impact that travel can have in the current climate. Companies should review their international travel insurance plan to tackle to current situation of pandemic.

5. Annual leave

Due to the restrictions on movement that we have seen in the last year or so, many employees have built up large annual leave accruals. It will be in the employer's interest that staff are taking regular holidays and breaks away from work to avoid burnout.

Setting holiday dates helps employers ensure that staff are taking necessary breaks and reduce the financial liability that would otherwise arise with increased holiday accrual. One tool that is proving helpful for employers is the reliance on Article 76 of the UAE Labour Law, which permits employers to set the date(s) on which employees will take paid holidays.

Depending on the sector within which the business operates, there may be a natural shutdown or quiet period in the year that would present a good and viable opportunity to place employees on paid leave. Companies should review their Annual Leave policy and communicate with employees to ensure that everyone is aware of the new policy.

The past year and a half has been an incredibly challenging time for international and regional businesses. However, as we move into 2021, there is growing optimism for an economic recovery. It is important that employees are engaged and taking responsibility for the success of your business.

If you would like to be put in touch with the authors to discuss implementing the above recommendations, please contact the *Docket*.

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