

Employment law in Bahrain

Statutory responsibilities and obligations

Briefing note

Date: July 2010

Key things to consider

- **General**

- Recruitment
- Employment contract
- Registration and compulsory insurance
- Wages
- Holidays and weekly days of rest
- Annual leave
- Sick leave
- Pilgrimage
- Maternity leave
- Disciplinary measures
- Statutory dispute resolution procedure
- Termination

- **Non-Bahraini Employees**

- Registration
 - Leaving indemnity and return travel expenses
-

INTRODUCTION

Anyone operating a business which employs staff in the Kingdom of Bahrain needs to be aware of the statutory responsibilities and obligations relating to:

- Recruitment;
- Terms of employment; and
- Termination

GENERAL Recruitment

An employer is required to give priority of employment to Bahraini nationals and thereafter to other Arab nationals, wherever they are available and possess the requisite skills and competence for the role.

For some businesses, there is a mandatory minimum ratio of the number of Bahraini nationals to the number of non-Bahraini nationals.

Employers are under a statutory duty not to discriminate between Bahraini and non-Bahraini nationals in particular with regard to pay (except to the extent necessary to attract foreign employees); or subject any employee to any other form of detrimental treatment.

Employment contract

The employment contract should include the terms of employment agreed by the parties and may be entered into for a fixed term, or for an indefinite duration terminable on notice; or for the execution of a specific project.

The employment contract outlining the terms and conditions of employment must be in writing.

It must comply with the Bahrain Labour Law for the Private Sector of 1967 as amended and any relevant laws, regulations and orders. Any term or condition in the contract which does not conform to the Bahraini law will be deemed null and void except to the extent it is more favorable to the employee.

Registration and compulsory insurance

Employers must register their employees in the Kingdom of Bahrain with the Ministry of Labour and Social Affairs and receive a certificate of registration.

It must also register its employees with the General Organization for Social Insurance (GOSI) and contributions must be paid monthly for compulsory insurances against old age, disability and death (for Bahraini employees only), and against work-related injuries including death (for all employees).

Employers may also want to consider non-compulsory insurances such as private medical or life insurance.

Wages

Wages are defined as total remuneration payable in cash or in kind to an employee under an employment contract and will include additional increments, gratuity payments and allowances, if any (bonuses, commissions, transport allowance, accommodation allowance, cost of living allowance and other allowances and benefits will all be included if they are paid by the employer to the employee as part of the employee's wages).

The general rule is that an employer cannot exclude specific payments from the calculation of the wages in the contract as any such exclusion will not be enforceable under local law. However certain payments such as phone bills, company car costs and rent (if paid directly to the Landlord rather than to the employee) may be excluded from the definition of wages.

Orders are issued from time to time setting minimum wages in particular industry sectors. There is however no national minimum wage.

Holidays and weekly days of rest

An employee cannot be required to work for more than six days in any given week and Fridays are deemed to be the weekly day of rest on full pay. The employee is also entitled to leave for official public holidays. Where such public holidays occur on a Friday, the employer must compensate the employee with one (1) further day of rest. The employer may require an employee to work on public holidays or on Fridays, subject to the provisions of local law.

Annual leave

All employees are entitled to a minimum of 21 days paid annual leave rising to 28 days after 5 years service. An employee may not waive this entitlement, postpone it, or receive payment in lieu except in accordance with the law and on termination of employment.

Sick leave

In the event of illness which is certified by an approved doctor or hospital, an employee is entitled to a total of forty-five absences in each year of employment. This is divided as follows:

- fifteen days on full pay;
- fifteen further days on half pay; and
- fifteen further days without pay.

Pilgrimage

A Muslim employee, employed for five consecutive years, will be entitled to leave of two weeks on full pay once during his/ her period of employment to perform his/ her 'Haj' pilgrimage duty.

Maternity leave

A female employee is entitled to maternity leave of forty-five days on full pay and this period may be extended by a further fifteen days without pay.

On her return, the employee will be entitled to an additional hour each day for nursing for a period of two years from the date of birth.

Disciplinary measures

An employer employing ten or more workers must have a set of rules in respect of the workplace and a disciplinary procedure which is approved by the Ministry of Labour & Social Affairs. A copy of the rules and disciplinary procedure must be displayed in a prominent place at the workplace.

If an employer wants to take disciplinary action or dismiss an employee, he must follow the approved procedure or the provisions of the law. The disciplinary measures which can be taken against an employee include warnings, fines, suspension, and dismissal.

Statutory dispute resolution procedure

If an employer or employee wishes to make a complaint he must first follow the statutory procedure applicable to all labour disputes. A relevant claim must be presented to the Ministry of Labour which will take steps to mediate an amicable settlement between the parties. If the parties fail to reach an amicable settlement, the Ministry of Labour will refer the dispute to Court.

Termination

A contract entered into for a period of definite duration automatically terminates at the end of the prescribed period, unless the parties continue to abide by its terms after its expiry. A contract entered into for a period of indefinite duration is terminable by either party giving no less than thirty days' notice, unless a longer notice period is expressly agreed.

Employers are advised to take advice before dismissal on the possible rights and remedies of an employee whom he wishes to dismiss as the employee may have a potential statutory claim for compensation for termination on unlawful grounds. Termination by reason of redundancy is potentially lawful. The court will award such amount as it considers to be just and equitable having regard to the loss sustained by the employee and the surrounding circumstances.

Examples of unlawful termination include:

- Termination of a female employer on grounds of marriage, pregnancy or maternity;
- Termination without applying the lawful disciplinary measures and rules;
- Termination for a breach of contract which is not serious enough to warrant termination under Article 113 (grounds for summary termination);
- Termination during sick leave or any other lawful leave; and
- Refusing to reinstate employees who have been suspended pending investigation and disciplinary action after they have been acquitted.

More information

CHARLES RUSSELL

Clive Hopewell

+973 17 135203

clive.hopewell@charlesrussell.co.uk

Sarah Jane Turcan

+973 17 133200

sarahjane.turcan@charlesrussell.co.uk

ZEENAT AL MANSOORI & ASSOCIATES

Amel Al Aseeri

00973 17532012

Amel@zeenatalmansoori.com

Reem Al Rayes

00973 17532012

Reem@zeenatalmansoori.com

NON-BAHRAINI EMPLOYEES

Registration

The employer must register all non-Bahraini employees in the Kingdom of Bahrain with the Labour Market Regulatory Authority (LMRA) and receive a valid residence permit and work permit.

Foreign employees are prohibited from engaging in any work in the Kingdom of Bahrain, and employers are prohibited from employing foreigners without a valid work permit. To work in Bahrain, foreign employees must be medically fit, have entered the country lawfully, possess a valid passport, and retain a residence permit and work permit.

Leaving indemnity and return travel expenses

The leaving indemnity which is payable on termination of employment of a non-Bahraini national is calculated by reference to a statutory formula which reflects the employee's length of service and whether the employment has been terminated by the employer or the employee.

The employer must also pay the non-Bahraini employee for a return plane ticket to the place specified in the employment contract. If the contract does not specify such a place, then the employer must pay for a return plane ticket to the place of the employee's nationality.

This information has been prepared by **Charles Russell LLP and Zeenat Al Mansoori & Associates** as a general guide only and does not constitute advice on any specific matter. We recommend that you seek professional advice before taking action. No liability can be accepted by us for any action taken or not taken as a result of this information.