



Key Protections for Mothers at the Workplace

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The Convention No. 111, Convention Concerning Discrimination in Respect of Employment and Occupation 1958, ratified by the Kingdom of Bahrain pursuant to Legislative Decree No. 11 of 2000, and which came into effect on 19 April 2000, provides under its Article (2):

“Each Member for which this Convention is in force undertakes to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof.”

The Kingdom of Bahrain has taken the lead in the Region in shaping inclusive workplaces with a commitment to combatting discrimination and enhancing the participation of women underrepresented in the workforce. This Article aims to discuss the key transformative legislative reforms under the Labour Law for the Private Sector No. 36 of 2012, which came into effect on 1 September 2012, and its amendments, (the **Labour Law**) aimed to address the specific challenges to mothers in the workforce.

Maternity Leave

Female employees are entitled to a maternity leave of sixty (60) calendar days with full pay and are entitled to take an additional fifteen (15) days without pay (Article (32), the Labour Law). A minimum of forty (40) days of the maternity leave must be after the birth of the child.

Adoption leave is not expressly dealt with under the Labour Law and advice should be sought on whether provisions applicable to the birth of a child are also applicable to the placement of a child.

Nursing Hours

Upon her return to work after maternity leave, the mother is entitled to a minimum of two (2) nursing hours per day until the child reaches six (6) months. Thereafter, she is entitled to a minimum of one (1) nursing hour per day until the child reaches one (1) year. The company may specify the timing for taking the nursing hour(s) and the 2 nursing hours may be combined or taken in two separate periods at the discretion of the employee (Article (35), the Labour Law).

Child Care Leave

A mother with a child under six (6) years of age may take unpaid leave to care for her child for a period of up to six (6) months each time and may do so up to three (3) times during the period of her employment (Article (34), the Labour Law). A carer will not need to provide evidence of how she spends her leave and taking this

leave entitlement will be subject to the same employment protections associated with any leave and so she will be protected from dismissal or any detriment as a result of taking time off.

Emergency Leave

In accordance with Article (59) (b) of the Labour Law, all employees are entitled to a maximum of six (6) days, and a maximum of two (2) consecutive days, per holiday year, of lawful absence without prior approval, sick leave or other statutory leave entitlement due to impeding circumstances. This leave is deducted from the annual leave entitlement. The term *impeding* is undefined in the Labour Law and is understood to cover a wide range of circumstances, including, caring for a sick child or other family member, accompanying them for medical treatment and attending a child's appointments and school events.

Protection from Termination During Leave

Article (102) (b) of the Labour Law expressly prohibits the termination of the contract of employment during any of the employee's leaves and Article (33) of the Law specifically prohibits the dismissal of a female employee during her maternity leave.

Protection from Discrimination by Employer

Article (2) (bis) of the Labour Law, introduced by Legislative Decree No. 59 of 2018, extends discrimination protection at the workplace based on sex, race, religion, origin or language. It had previously been limited to pay and pregnancy/ maternity leave.

Article (185) of the Labour Law, as amended by Legislative Decree No. 59 of 2018, deals with breaches of Article (2) (bis) of the Labour Law and Article (188) of the Labour Law deals with breaches of Article (39) of the Labour Law. Pursuant to Articles (185) and (188) of the Labour Law, companies in breach of Articles (2) (bis) and (39) of the Labour Law could be liable for a fine.

Protection of Mothers from Work with Health and Safety Risks

Ministry of Labour Decision No. 84 of 2019 with Respect to the Specification of the Tasks Prohibited for the Employment of Pregnant Women prohibits the employment of pregnant women, as well as new mothers returning to work and during the nursing period, in tasks with inherent health and safety risks. Companies are required to implement all necessary measures and precautions to safeguard the health of the pregnant employee and her child in situations where potential risks arise from the nature of the work. Notably, and in line with Bahrain's national policy committed to equal opportunities in employment, this Decision repeals the Ministry of Labour Decision No. 22 of 2012 with Respect to the Specification of Tasks Prohibited for the Employment of Women, which restricted women's rights to work in certain industries and locations and nighttime hours.

Arbitrary Termination

Article (104)(a) sets out the circumstances under which the termination of the contract of employment of an employee is regarded as arbitrary and they include termination due to gender, family responsibilities, pregnancy, the birth of a child, nursing, and exercising leave rights in accordance with the Labour Law.

In accordance with Article (111)(e) of the Labour Law, in the event of termination under any of the circumstances specified under Article (104)(a), abovementioned, the employee shall be entitled to *additional compensation amount*, equivalent to half the compensation due under Article (111).

Where an employee is terminated after she tells the company about her pregnancy but before starting her maternity leave, or she is terminated shortly after she has returned to work following maternity leave and during her period of nursing, or she is terminated shortly after she has returned to work following her child care leave, she is not protected from termination as protection is currently available only during the leave. However, such termination can lead to a potential claim of discrimination and the compensation awarded will be equivalent to 150% of the compensation for unlawful termination prescribed under Article (111) in accordance with Articles (104)(a) and (111)(e) abovementioned.

Conclusion

Companies should develop workplace policies and procedures that further support mothers and allow for a more inclusive and modern working environment. They should include policies on part-time employment, flexibility for employees to work from home, arranging working hours on a flexi-time basis and other provisions that are currently missing in the Labour Law.

Zeenat Al Mansoori & Associates can assist in advising on workplace policies and procedures and provide training on workplace culture, including discrimination.

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