

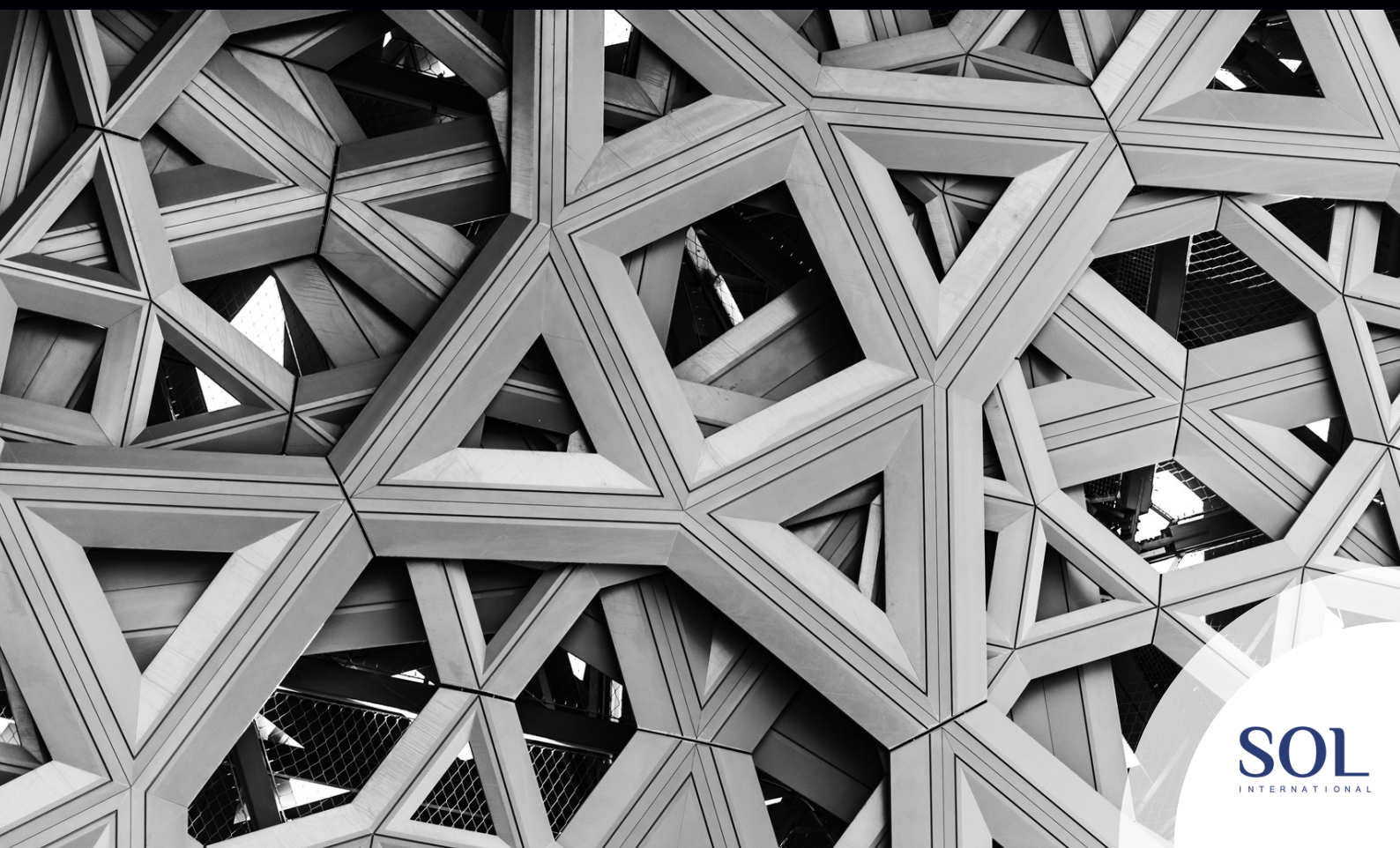
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Navigating the ADGM Employment Regulations 2024: What's Changed?

The Abu Dhabi Global Market (ADGM) has introduced a new employment law framework, the Employment Regulations 2024 (New Regulations), which will come into effect on 1 April 2025, replacing the previous regulations.

Although the ADGM Employment Regulations 2019 (Old Regulations) were comprehensive at the time of their introduction, the New Regulations enhance the ADGM's alignment with global best practices, positioning it as a regional leader and an appealing jurisdiction for both employers and employees.

Application and Scope [Article 75]: The New Regulations apply to all employers and employees within the ADGM. However, in case of dual licensed entities that have a branch office licensed by both the ADGM and the Abu Dhabi Department of Economic Development ("Abu Dhabi DED"), employees working for the Abu Dhabi DED licensed entity are not subject to the New Regulations.



Notable changes in the New Regulations

1. **Remote Employees [Article 11]:** The New Regulations include provisions for 'Remote Employees,' whether they are located in the UAE or abroad. For both categories, the provisions related to physical workplace conditions (such as ventilation, temperature in indoor workplaces, lighting, cleanliness, room dimensions and space) do not apply. Additionally, the requirements for residency visas and ADGM work permits are not applicable for employees who neither reside nor work in the UAE.

2. **Probationary period [Article 8]:** The New Regulations stipulate that employees are entitled to sick leave during their probationary period, but not to sick pay. The New Regulations further set out certain provisions relating to maternity leave, paternity leave, special leave, and other similar entitlements do not apply during the probation period. Additionally, an employee is entitled to a repatriation flight if their employment is terminated during the probation period, regardless of the cause of termination.

3. **Amendment to Employment Contracts [Article 6]:** While the Old Regulations mandated amendments to be signed by the employee (unless the change was beneficial to them), the New Regulations go further by mandating both the employer and employee to sign any amendments. Administrative changes however only require written notice from the employer.

4. **Working hours [Article 15]:** The maximum weekly working hours remain at 48, but pursuant to the New Regulations, employees must provide written consent to work overtime. While there are no specific provisions for overtime pay, the ADGM may issue separate rules or guidance on this in the future. Additionally, **Article 17** of the New Regulations now provides a twenty five percent reduction in working hours during Ramadan for Muslim employees, whereas the Old Regulations only allowed a two-hour reduction in working time.

5. **Leave [Article 21]:** Under the Old Regulations, a maximum of five days of accrued leave could be carried over to the following year. The New Regulations allow the employer and employee to agree on the carry over of accrued and unused vacation leave, with employees entitled to carry over at least five days. Furthermore, according to **Article 28**, employees are now entitled to five days of paid bereavement leave.





6. Maternity/Parental leave [Article 32]: The New Regulations expand maternity leave to include employees who adopt a child under five years old or experience a stillbirth or miscarriage after the 24th week of pregnancy, whereas the Old Regulations only provided maternity leave for mothers adopting children under 3 months old.

In terms of paternity leave, under Article 34, the New Regulations extend the entitlement to fathers adopting children under five years old, aligning it with the maternity leave provisions.

7. Immigration [Article 4(3)]: The New Regulations require the employer to promptly cancel the employee's work permit and, if applicable, the employer-sponsored residency visa, following the termination date, and within the timeline set by the relevant authority. Moreover, employers are explicitly prohibited from making the cancellation of an employee's UAE residence visa and/or work permit dependent on the employee waiving any of their rights.

8. Discrimination [Article 53]: In the New Regulations, the term 'gender' has been replaced with 'sex.' The term 'colour' has been removed from the list of protected grounds. Additionally, pregnancy and maternity are now explicitly protected.

9. Obligations on employees [Article 52]: Under the New Regulations, employees will be subject to several new legal obligations, including following the employer's lawful and reasonable instructions, refraining from engaging in bribery or corruption, acting in good faith and loyalty towards their employer and not placing themselves in a position that may create a conflict of interest between the employee and the employer.

10. Victimization [Article 54]: The New Regulations prohibit employers from victimizing employees. An employer is deemed to have victimized an employee if they subject the employee to a disadvantage, such as dismissal, because the employee has engaged in or is believed to have engaged in a "protected act."

A **protected act** includes:

- bringing legal proceedings under the law;
- providing evidence in relation to such proceedings; or
- formally alleging that the employer or another individual has violated the law.

However, giving false evidence or making false claims is not considered a protected act unless done in good faith.

If an employer victimizes an employee, the employee may seek a declaration from the court. The court has the discretion to order the employer to pay compensation, considering factors such as the employer's conduct, the employee's emotional distress, and any financial loss suffered, with compensation capped at three years' wages. Additionally, the court may require the employer to take steps to mitigate any negative impact on the employee or others involved.

11. Whistleblowing [Article 55]: Pursuant to the New Regulations, employees are protected when making a "Protected Disclosure" and cannot be held in breach of the regulations for doing so. Employers are prohibited from imposing any civil or contractual liabilities against employees who make such disclosures.

Both the employer and any related parties are prohibited from retaliating or threatening retaliation against an employee who intends to or has made a Protected Disclosure. Retaliation can include actions such as dismissal, disciplinary action, forcing retirement or resignation, withholding equal employment terms, or subjecting the employee to any detriment or disadvantage.

If retaliation occurs, the employee may apply to the court for a declaration. The court may order compensation based on factors such as the employer's conduct, any emotional distress suffered by the employee, and any financial loss incurred, with compensation capped at three years' wages.



12. End of Service Gratuity [Article 61]: While the method for calculating the end-of-service gratuity remains the same, the New Regulations now require the basic salary to account for at least 50% of the total salary. Previously, gratuity was not awarded if termination was for cause; however, the New Regulations ensure that gratuity is payable to any employee with over a year of service, regardless of the reason for termination.

13. Late payment after termination [Article 14]: Employers are required to settle all outstanding payments to the employee within 21 calendar days of the termination date. If this deadline is missed, a penalty will be imposed, equal to the employee's daily wage for each calendar day the payment is delayed.

This penalty:

- may be reduced or waived by the Court, based on the behavior of both the employer and employee.
- will not apply if the outstanding amount is less than one week's wages.
- is capped at a maximum of six months' wages.

Conclusion:

The ADGM Employment Regulations 2024 introduce changes aimed at enhancing workplace fairness, improving employee protection and striving towards international best practices in the ADGM. Employers must align their policies, agreements, and workplace practices with the new rules to ensure compliance. This involves updating employment contracts, keeping proper records, and enforcing policies that prevent discrimination. The changes emphasize the ADGM's dedication to creating a fair, transparent, and conducive environment that supports both business development and employee welfare.



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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'. In 2023 Sarah was listed as a 'leading practitioner' in The Arbitration Powerlist: Middle East Legal 500 EMEA.

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.

In addition to practice, Sarah is appointed as Adjunct Faculty on the LLM programme at Middlesex University and co-devised a UAE and DIFC Employment Law module for the LLM for both postgraduate students and industry. Sarah is a co-author of the first Comparative Guide to UAE and DIFC Employment Law published by LexisNexis in June 2021.

She regularly conducts training for students, legal professionals, corporates and government organizations on Unconscious Bias in the workplace, Gender and Equal Pay and various other aspects of employment.



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Pavithra Rajendran is currently a Paralegal at SOL International Ltd. She focuses on employment law, arbitration, commercial law, sports law and fashion law. Her work includes researching complex legal issues, drafting contracts, and supporting clients in dispute resolution.

Pavithra holds an LL.M in International Business Law from Middlesex University and a B.A., LL.B (Hons) from the School of Law, Sastra University.

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