



GLOBAL EXPANSION GUIDEBOOK EMPLOYMENT

Bahrain



Downloaded: 01 May 2025

INTRODUCTION

Welcome to the 2024 edition of DLA Piper's *Global Expansion Guidebook – Employment*.

GLOBAL EXPANSION GUIDEBOOK SERIES

Many companies today aim to scale their businesses globally and into multiple countries simultaneously. In order to help clients meet this challenge, we have created a handy set of global guides that cover the basics that companies need to know. The *Global Expansion Guidebook* series reviews business-relevant corporate, employment, equity compensation, intellectual property and technology, and tax laws in key jurisdictions around the world.

EMPLOYMENT

As business grows more global, the challenge for in-house counsel and HR professionals responsible for workforce issues and employment law compliance is intensifying. This guide is designed to meet that challenge head on and has been produced in response to feedback from clients in both established and emerging international businesses. We hope it will become an invaluable resource for you.

This 2024 edition of our popular guide covers all of the employment and labor law basics in 63 key jurisdictions across the Americas, Asia Pacific, Europe, the Middle East and Africa. From corporate presence and payroll set-up requirements, language rules, minimum employment rights, business transfer rules, through to termination and post-termination restraints, we cover the whole employment life span.

We have used our global experience and local knowledge to bring you this newest edition of our guide. With over 300 lawyers, DLA Piper's global Employment group is one of the largest in the world, with one of the widest geographical footprints of any global law firm. We partner with our clients, wherever they do business, to find solutions and manage risk in relation to their legal challenges and objectives.

While this guide provides high-level guidance, it is not a substitute for legal advice, and we encourage you to take advice in relation to specific matters. If you wish to speak to any of our contributors, their contact details are set out towards the back.

We hope that you find this guide valuable and we welcome your feedback.

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BAHRAIN



Last modified 13 June 2024

LEGAL SYSTEM, CURRENCY, LANGUAGE

Civil law system. Employment matters are governed by Law No. 36 of 2012 (Labor Law) as amended. The official currency is the Bahraini Dinar (BHD). The official language is Arabic.

CORPORATE PRESENCE REQUIREMENTS & PAYROLL SET-UP

A foreign employer cannot directly engage employees in Bahrain without being registered under the Commercial Registry in the Ministry of Industry and Commerce.

Foreign employers are required to register at the Labor Market Regulatory Authority (LMRA). Following the registration process, work permits are then allocated – the number of which will depend on the type of activity of the establishment – through the Expats Management System (EMS).

As stipulated in LMRA law, establishments are required to pay monthly fees on each expatriate employee working for it.

There has been a move towards requiring payment in local currency into local bank accounts through local payroll, but this is not yet strictly enforced.

PRE-HIRE CHECKS

Required

Foreign employees must receive prior approval from the LMRA and Ministry of Interior before they may be hired on local employment contracts. The level of background checking and screening carried out by Bahrain authorities varies according to the nationality and proposed position of an individual.

Permissible

Generally, employers in Bahrain are not able to obtain the same level of information from background checks as they can in other jurisdictions and, in most cases, the employees themselves are required to provide this information. As such, a Certificate of Good Conduct from the Criminal Investigation Directorate is the most commonly requested document.

IMMIGRATION

In order to legally work and reside in Bahrain, all employees except Bahrain and Gulf Cooperation Council (GCC) nationals are required to have a residence visa and work permit under the sponsorship of their employer, which must have an entity registered in Bahrain.

When an employee is only required to work in Bahrain for a short period of time, there are alternative permits and visas that may be applied for, including the 72-hour visa, 7-day visa and business visas.

HIRING OPTIONS

Employee

Unlimited or fixed-term. Part-time employment is legally possible but is not common.

Independent contractor

There is no concept of a consultant, unless individuals have established their own professional license and business.

Agency worker

There is no general concept of an agency worker or "temp" in Bahrain. Some Bahraini-owned employment agencies are licensed to provide manpower on a temporary basis; such employees remain under their sponsorship.

EMPLOYMENT CONTRACTS & POLICIES

Employment contracts

Unlike some other GCC countries, Bahrain does not require the signing of a government contract. However, the contract entered into between the employer and the employee must be registered with the LMRA in order to obtain the employee's work permit and residence visa. Under the Labor Law, the contract should be in Arabic, but in practice, where contracts are drafted in another language, an Arabic-translated version may be attached to fulfill this requirement.

Probationary periods

Generally, a duration of 3 months is allowed, although this may be increased up to a maximum of 6 months in respect of certain occupations.

Policies

Employees should be provided with any relevant staff handbook and the employer's policies, if applicable, on commencement of employment. The Labor Law specifies that company policies and internal regulations must be openly displayed to employees.

Third-party approval

The employment contract must be registered with the LMRA to obtain the employee's work permit and residence visa. Strictly speaking, any contractual changes should be notified to the LMRA and amended on the filed employment contract copy.

LANGUAGE REQUIREMENTS

Pursuant to the Labor Law, all employment contracts and records must be in Arabic. Where a contract has been drafted in a foreign language, an Arabic-translated version may be attached to fulfill this requirement. If a document is registered in a dual language format and a dispute arises, then the Arabic version of the document will prevail.

WORKING TIME, TIME OFF WORK & MINIMUM WAGE

Employees entitled to minimum employment rights

All employees. Additional rights are also available to minor workers (ie, those under the age of 18) and women.

Working hours

The maximum ordinary working hours is 48 hours per week at the rate of 8 hours per day. During the month of Ramadan, the maximum working hours is 36 hours per week at the rate of 6 hours per day.

Overtime

Not to exceed 2 hours per day.

Wages

At present, pursuant to the National Employment and Training Scheme, Bahraini nationals who hold high school diplomas are entitled to a minimum wage of BHD300 monthly. Bahraini nationals who hold diploma degrees are entitled to a minimum wage of BHD380 monthly, and Bahraini nationals who hold university degrees are entitled to a minimum wage of BHD450.

Vacation

Employees are entitled to 30 days' vacation, where the employee's period of service is at least 1 year accrued at a rate of 2.5 days a month. If an employee's period of service is less than 1 year, leave is calculated on a pro-rated basis.

Sick leave & pay

Employees are not entitled to statutory sick leave until they have completed 3 months' service and provided they have proven their sickness with a certificate from a physician approved by the employer. Employees are entitled to 55 days of sick leave per year of service thereafter (ie, 15 days at full pay, 20 days at half pay and the remaining 20 days without pay). The entitlement of a worker to sick leave on full or half pay may be accumulated for a period not exceeding 240 days.

Maternity/parental leave & pay

60 days' maternity leave at full pay. A female employee may take a further 15 consecutive or non-consecutive days without pay.

A male employee is entitled to 1 day of paternal leave at full pay for the birth of their child.

Other leave/time off work

Employees are also entitled to paid or unpaid leave such as bereavement leave, childcare leave, carer leave for a disabled dependent and emergency leave.

DISCRIMINATION & HARASSMENT

The Labor Law prohibits discrimination between workers and in the payment of wages on the basis of sex, ethnic origin, language, religion or belief. Further, dismissals on the basis of sex, color, religion, belief, social status, family responsibilities, a female worker's pregnancy, childbirth or nursing an infant shall be deemed automatically unfair.

WHISTLEBLOWING

While there is no standalone whistleblowing law, provisions in the Labor Law encourage employees to raise concerns about corporate wrongdoing.

BENEFITS & PENSIONS

Bahraini nationals are entitled to a state retirement pension, and certain contributions on a monthly basis must be made by the employer and employee to the relevant authority. Typically, expatriate employees have their own individual pension arrangements. Some employers also provide contributions depending on the employer's policy and employee hierarchy, although there is no legal obligation to do so. In addition, a 3-percent contribution to social security is implemented on expatriate employees (2 percent of which is paid by the employer and 1 percent by the employee).

DATA PRIVACY

Personal data privacy is protected under Law No. 30 of 2018 with respect to Personal Data Protection (PDPL). Employees must be notified prior to processing their personal data, and their prior written consent should be obtained (unless exceptions stipulated under the relevant legislation are present) for such processing and transfer of their personal data.

Transfers of personal data out of Bahrain is prohibited unless the transfer is made to a country or region that provides an adequate level of protection to personal data. There are 83 countries, including the UAE, Saudi Arabia, Oman, Jordan, Egypt, India, all EU countries, the USA and the UK that are listed as adequate for transfers.

RULES IN TRANSACTIONS/BUSINESS TRANSFERS

No automatic transfer principles and no laws covering business transfers. Employees transfer through termination and rehire in an asset deal.

EMPLOYEE REPRESENTATION

Trade unions are permissible in Bahrain, and employers are required to consult with them in the event that an employee is retrained to perform different job duties from the work originally agreed upon. Employees are also entitled to strike in defense of their interests according to the Labor Law.

TERMINATION

Grounds

Termination is possible on the following grounds: during the probationary period, on the expiry of a fixed-term contract, dismissal with notice provided it is for a valid reason, failure to improve performance after reasonable opportunity (ie, 60 days), resignation, incapacity or death, redundancy, retirement (age 60) and summary dismissal by reason of any of the grounds listed in Article 107 of the Labor Law.

Employees subject to termination laws

All employees are subject to the Labor Law, save for domestic servants and persons regarded as such, including agricultural workers, security house-guards, nannies, drivers and cooks.

Prohibited or restricted terminations

Employees who have not exhausted their statutory sick leave entitlement are protected from dismissal on grounds of health, unless their full sick leave entitlement has been taken (ie, 55 days per year of service). The worker may accumulate the balance of sick leave on full or partial pay to which the worker is entitled for a period not exceeding 240 days. Female employees are protected from dismissal during maternity leave and by reason of their marriage.

Third-party approval for termination/termination documents

Any office closures must be reported to the Ministry of Labor. Bahrain nationals are generally entitled to higher protection from dismissal in such circumstances and may accordingly be awarded higher compensation payments by the authorities.

Mass layoff rules

Governed under Article 110 and 111 of the Labor Law.

Notice

30 days' statutory notice.

Statutory right to pay in lieu of notice or garden leave

Depends on the Labor Law and contract of employment.

Severance

Unless terminated under Article 107 of the Labor Law, employees are entitled to salary and benefits up to the termination date, notice (or payment in lieu), payment in lieu of accrued but untaken annual leave, the cost of an airline ticket to repatriate the employee to their home country unless the employee has obtained alternative sponsorship to remain in Bahrain, an end-of-service gratuity payment (EOSG) and reimbursement of unpaid business expenses.

In case of employer termination, employees are eligible for payment of an EOSG which accrues at the rate of half a month's wage for each of the 1st 3 years of service and 1 month's wage for each of the following years of service. The calculation is pro-rated for any fractions of a year of service that have not been completed.

POST-TERMINATION RESTRAINTS

It is permissible to have restrictive covenants contained in the contract of employment to the extent necessary to protect the legitimate interests of the employer, provided the nature of the employee's work allowed them to know the company's clients and/or know the secrets of the business.

Covenants must be restricted in relation to their duration (which must not exceed 1 year), geographical scope and the nature of the business to be protected.

Parties are permitted to include a liquidated damages clause in the contract of employment, as it is difficult to obtain an injunction in Bahrain, but contractual provisions imposing a penalty (rather than a genuine estimate of the loss incurred) are likely to be unenforceable.

Non-competes

Typically no longer than 6 to 12 months.

Customer non-solicits

Typically no longer than 6 to 12 months.

Employee non-solicits

Permissible.

WAIVERS

Waiver agreements are commonly used, but there is no clear data to illustrate their positive effect.

REMEDIES

Discrimination

An employer's termination shall be deemed automatically unfair if it is based on the employee's sex, race, religion, belief, social status or family responsibilities and, in the case of female employees, on pregnancy, childbirth or nursing an infant. The employee is entitled to compensation as detailed in the "Arbitrary dismissal" section.

Arbitrary dismissal

The employee is entitled to compensation equivalent to 3 days' wages for each month of service and no less than 1.5 month's wages up to a maximum of 18 months' wages.

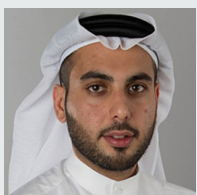
Failure to inform & consult

Not applicable.

CRIMINAL SANCTIONS

Criminal sanctions may be imposed for a variety of reasons, including but not limited to the breach of health and safety obligations, breach of immigration laws, breach of data protection laws and breach of confidentiality.

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