

In this document, underlining indicates new text and striking through indicates deleted text



Dubai International  
Financial Centre

EMPLOYMENT LAW AMENDMENT LAW

DIFC LAW NO. 4 of 2020

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**PART 1: GENERAL**

**1. Title**

This Law may be cited as the “Employment Law Amendment Law, DIFC Law No. 4 of 2020”.

**2. Legislative Authority**

This Law is made by the Ruler of Dubai.

**3. Date of enactment**

This Law is enacted on the date specified in the Enactment Notice in respect of this Law.

**4. Commencement**

This Law comes into force on the date specified in the Enactment Notice in respect of this Law.

**PART 2: AMENDMENTS TO THE EMPLOYMENT LAW**

- 5. The Employment Law 2019 is amended as prescribed in this Part.
- 6. The following Articles of the Employment Law 2019 are to be amended by inserting the underlined text and deleting the struck through text as shown below:  
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**11. No waiver**

- (2) Nothing in this Law precludes:
  - (b) subject to Article 66(13), an Employee from waiving any right, remedy, obligation, claim or action under this Law by entering into a written agreement with their Employer to terminate their employment or to resolve a dispute with their Employer, provided:
    - (i) the Employee warrants in the written agreement that they were given an opportunity to receive independent legal advice from a Legal Practitioner as to the terms and effect of the written agreement; or
    - (ii) the Employer and Employee took part in mediation proceedings provided by the Court prior to entering into the written agreement.

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**17. Part-Time Employees and Short-Term Employees**

- (4) If a Part-Time Employee is employed on any other basis than the manner set out in Article 17(2) or 17(3), the number of Work Days during a Work Week of the Part-Time Employee for purposes of this Article 17 shall be determined by:
  - (a) calculating the average number of days on which an Employee worked during a Work Week, over the course of the shorter of:
    - (i) the period of the ~~Employer's~~ Employee's employment with the Employer; and
- (5) This Law applies to a Short-Term Employee, except for:
  - (a) Articles 14(2), 15, 16(1)(f), (g), (h) and (i), 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, Part 5, Part 6, Part 9 and Part 10 of this Law which shall not apply to a Short-Term Employee;

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**19. Payments following termination**

- (1) An Employer shall pay to an Employee, within fourteen (14) days after the Termination Date:
  - (a) all Remuneration, ~~excluding, where applicable, any Additional Payments deferred in accordance with Article 18(2));~~
  - (b) the where applicable, any Gratuity Payment that accrued prior to the Qualifying Scheme Commencement Date under Article 66(1) not transferred to a Qualifying Scheme under Article 66(6); and
  - (c) a Daily Wage for each day of all accrued Vacation Leave not taken, ~~within fourteen (14) days after the Termination Date;~~ and

(d) all outstanding amounts due in respect of the Employee under Article 66(7) not yet paid to a Qualifying Scheme.

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**59. Discrimination**

(9) No provision in this Part 9 precludes any law, program or activity that has as its object the employment of UAE Nationals or the amelioration of conditions of disadvantaged individuals or groups, including those that are disadvantaged because of mental or physical disability.

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**61. Proceedings under Part 9**

(6) An appropriate recommendation for the purposes of Article 61(35)(c) is a recommendation that within a specified period the respondent takes specified steps for the purpose of obviating or reducing the adverse effect on the complainant of any matter to which the proceedings relate.

(7) The amount of compensation that may be awarded by the Court under Article 61(5)(eb) shall not exceed an amount equivalent to the Employee's Annual Wage, calculated on the basis of the last Wage paid to an Employee prior to such compensation order.

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**66. Gratuity Payment and Qualifying Scheme Benefits**

(1) ~~Subject to Article 66(6), a~~ An Employee who is not required to be registered with the GPSSA under Article 65(1), and who completes continuous employment of at least one (1) year or more with their Employer, before or after the Qualifying Scheme Commencement Date, including any period of Secondment, is entitled to a Gratuity Payment for any period of service prior to the Qualifying Scheme Commencement Date on the termination of their employment. A period of service referred to in this Article 66(1) includes any period of Secondment.

(2) An Employee's Gratuity Payment shall be calculated as follows:

- (a) an amount equal to twenty one (21) days of the Employee's Basic Wage for each year of the first five (5) years of service prior to the Qualifying Scheme Commencement Date; and
- (b) an amount equal to thirty (30) days of the Employee's Basic Wage for each additional year of service prior to the Qualifying Scheme Commencement Date,

provided that the total Gratuity Payment shall not exceed an amount equal to two (2) times the Annual Wage of the Employee.

(3) For the purposes of Article 66(2):

- (a) an Employee's Basic Wage shall not be less than fifty percent (50%) of the Employee's Annual Wage; ~~and~~
- (b) the daily rate of an Employee's Basic Wage shall be calculated by dividing the Employee's Basic Wage by three hundred and sixty five (365); and
- (c) all references to an Employee's Basic Wage and Annual Wage shall be to those applicable to the Employee on the Employee's Termination Date.

(4) Where the Qualifying Scheme Commencement Date or Termination Date occurs part-way through a year of service of an Employee, the Gratuity Payment in respect of the Employee for the part year of service shall be calculated on a pro rata basis.

- (5) An Employer may deduct from ~~the~~ Gratuity Payment any amounts due and owing to the Employer by an Employee pursuant to the provisions of Articles 20 or 28(2).
- (6) ~~Subject to Article 66(7), Article 66(1) does not apply to an Employee who agrees in writing to receive contributions from their Employer into a pension scheme, retirement savings scheme or any substantially similar scheme, whether located in the UAE or elsewhere, instead of a Gratuity Payment.~~ An Employer may transfer to a Qualifying Scheme the Gratuity Transfer Amount in respect of an Employee at any point subsequent to the Qualifying Scheme Commencement Date and, where such transfer takes place with the prior written consent of an Employee, the Employer shall be relieved of any obligation to:
- (a) make a Gratuity Payment to the Employee under Article 66(1); or
  - (b) make up any negative difference between:
    - (i) the value of the Money Purchase Benefits acquired in the Qualifying Scheme with the Gratuity Transfer Amount; and
    - (ii) the value of the Gratuity Payment that the Employee would have been entitled to under Article 66(1) at the Employee's actual Termination Date had the Gratuity Transfer Amount not been transferred to a Qualifying Scheme.
- (7) ~~The aggregate contributions made by an Employer in accordance with Article 66(6) must not be less than the Gratuity Payment the Employee would have been entitled to receive under Article 66(1), provided that the risk of any investment into a pension scheme, retirement savings scheme or any substantially similar scheme, if placed with a third party in a fiduciary capacity, shall be that of the Employee. From the Qualifying Scheme Commencement Date an Employer shall, on a monthly basis, pay to a Qualifying Scheme, for the benefit of each Employee who is not an Exempted Employee, an amount equal to at least the Core Benefits, which shall be calculated as follows:~~
- (a) five point eight three percent (5.83%) of an Employee's Monthly Basic Wage for the first five (5) years of an Employee's service, inclusive of any period of employment or Secondment served prior to the Qualifying Scheme Commencement Date; and
  - (b) eight point three three percent (8.33%) of an Employee's Monthly Basic Wage for each additional year of service,
- provided that where an Employee's Termination Date occurs part-way through a month, the Core Benefits payable by an Employer in respect of an Employee shall be calculated on a pro rata basis in respect of the part of the month served in employment, and which may be paid directly to the Employee pursuant to Article 19(1)(d).
- (8) For the purposes of Article 66(7):
- (a) the Employee's Monthly Basic Wage shall be for the month in respect of which the Core Benefits are paid;
  - (b) any calculation to establish an Employee's Monthly Basic Wage shall not be less than fifty percent (50%) of the Employee's Monthly Wage; and
  - (c) where any pro rating is required, the daily rate of an Employee's Monthly Basic Wage shall be calculated by dividing the Employee's Basic Wage by three hundred and sixty five (365).
- (9) A Qualifying Scheme is one (1) which:
- (a) holds a valid Certificate of Compliance; or

- (b) is deemed to be a Qualifying Scheme under the Regulations.
- (10) An Employer shall be required to obtain a Certificate of Compliance and provide any additional confirmations or filings in respect of each Qualifying Scheme it pays Core Benefits to as required under the Regulations.
- (11) Subject to Article 66(12), an Employer shall register each Employee entitled to Core Benefits as a member of a Qualifying Scheme within two (2) months from the date of their Qualifying Scheme Commencement Date, provided that:
- (a) the Employee will be entitled to Core Benefits on a retrospective basis to their Qualifying Scheme Commencement Date;
  - (b) any Core Benefits due for a period prior to the month during which the Employee is registered as a member of a Qualifying Scheme shall be paid in aggregate with the Core Benefits due in respect of the Employee for the month during which such registration took place; and
  - (c) the Employer shall not be responsible for any profit or loss that may have accrued in a Qualifying Scheme in respect of Core Benefits paid on a retrospective basis.
- (12) An Employer may defer the payment of an Employee's Core Benefits to a Qualifying Scheme during the Employee's probation period agreed to in an Employment Contract, in which case:
- (a) if the Employee's employment is confirmed:
    - (i) the Qualifying Scheme Commencement Date for the Employee will be the date of such confirmation;
    - (ii) the Core Benefits due to the Employee will be calculated retrospectively from the date of commencement of the Employee's employment; and
    - (iii) the provisions of Articles 66(11) (b) and (c) shall apply in respect of any Core Benefits due on a retrospective basis; or
  - (b) in the case of non-confirmation of the Employee's employment, no Core Benefits will be payable in favour of the Employee to a Qualifying Scheme,
- provided that where an Employer has not deferred the payment of an Employee's Core Benefits during a probation period, the Employee shall remain entitled to any Core Benefits paid to a Qualifying Scheme on their behalf in case their employment is not confirmed.
- (13) Any agreement or arrangement between an Employer and an Employee to the extent that:
- (a) the Employee's Core Benefits shall not be paid into a Qualifying Scheme; or
  - (b) the Employee shall be entitled to benefits less than the Core Benefits,
- shall be null and void and unenforceable, and an Employee's rights, remedies, claims or actions in respect thereof shall not be capable of waiver under Article 11(2)(b).
- (14) An Employee who wishes to contribute any part of their Remuneration to a Qualifying Scheme shall inform their Employer in writing, and the Employer shall be permitted to deduct the agreed amount from the Employee's Remuneration to pay to the Qualifying Scheme on behalf of the Employee.

- (15) Subject to Article 66(6), the risk in respect of any amounts paid by an Employer on behalf of an Employee to a Qualifying Scheme shall be that of the Employee.
- (16) An Employee shall not have any recourse, claim or action against an Employer in respect of its choice of Qualifying Scheme to pay Core Benefits to, provided that the Employer takes reasonable steps at least once a year to ensure that such Qualifying Scheme continues to satisfy the requirements for a Certificate of Compliance.
- (17) An Employer who contravenes Articles 66(7), (8), (10), (11) and (13) is liable to a fine as set out in Schedule 2. Subject to Article 66(11) and (12), an Employer shall be in contravention of Article 66(7) if Core Benefits in respect of any monthly period is not paid the Employer by the twenty first (21<sup>st</sup>) day of the next calendar month to a Qualifying Scheme on behalf of an Employee.
- (18) The provisions of this Article 66 shall not derogate from an Employee's right to approach the Court in respect of enforcing any right, remedy, claim or action it may have against an Employer for non-payment of any Gratuity Payment or Core Benefits.

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**SCHEDULE 1**

**3. Defined terms**

<b>Term</b>	<b>Definition</b>
Allowance	any allowance payable to an Employee pursuant to an Employment Contract, which includes (but is not limited to) <u>any housing, travel, education, social and entertainment allowance and any benefit received in kind by an Employee</u> and, where such allowance (or any part thereof) is not paid to an Employee in equal parts for each Pay Period over a twelve (12) month period, the aggregate annual allowances payable to an Employee shall be divided by the number of Pay Periods for that Employee over a twelve (12) month period for the purposes of determining an Employee's Wage for a Pay Period.
<u>Certificate of Compliance</u>	a certificate issued by the Board of the DIFCA, or its delegate, to an <u>Employer certifying that a particular scheme is a Qualifying Scheme as provided for under the Regulations.</u>
<u>Core Benefits</u>	<u>the benefits referred to in Article 66(7), as applicable to an Employee.</u>
<u>Daily Wage</u>	(a) <u>an Employee's Annual Wage divided by two hundred and sixty (260) for an Employee that works five (5) days per Work Week;</u> (b) <u>in all other cases, an Employee's Annual Wage divided by the product of:</u> (i) <u>the average number of Work Days worked per Work Week by the Employee over a Relevant Calculation Period;</u> (ii) <u>multiplied by fifty two (52).</u>
<u>Employee Money Purchase Scheme</u>	an arrangement where: (a) <u>the main purpose of the arrangement is to provide Money Purchase Benefits to members in respect of their employment; and</u> (b) <u>such Money Purchase Benefits are payable on termination of employment or on the occurrence of another specified event.</u>
<u>Equity Partner</u>	<u>an Employee who owns a partnership interest, membership interest or shares in an Employer.</u>
<u>Exempted Employee</u>	an Employee who is: (a) <u>required to be registered with the GPSSA under Article 65(1);</u> (b) <u>referred to in Article 4(2)(a), (b) and (c);</u> (c) <u>-serving a notice period under Article 62 on 1 February 2020;</u> (d) <u>employed under a fixed term Employment Contract that will end within three (3) months of 1 February 2020; or</u> (e) <u>an Equity Partner, provided that an Equity Partner is only an Exempted Employee to the extent that they make drawings from a partnership, equity, capital or profit account of the Employer or receive profit distributions or dividends from their Employer.</u>
Gratuity Payment	the end of service gratuity payment entitlement <u>for any period of service by an Employee prior to the Qualifying Scheme Commencement Date under Article 66(1).</u>
<u>Gratuity Transfer Amount</u>	<u>an amount equal to the Gratuity Payment that would have been due to an Employee if their Termination Date was the day before the Qualifying Scheme Commencement Date, for purposes of establishing the period of employment served under Article 66(2), provided that the Basic Wage</u>

<b>Term</b>	<b>Definition</b>
	<u>used in the calculation shall be that of the Employee on the date of the actual transfer of such amount.</u>
<u>Money Purchase Benefits</u>	<u>means benefits the rate or amount of which is calculated solely by reference to assets which (because of the nature of the calculation) must necessarily suffice for the purposes of their provision to a member of an Employee Money Purchase Scheme (it being immaterial for the purposes of this definition if the calculation of the rate or amount of the benefit includes deductions in relation to administrative expenses or commission).</u>
<u>Monthly Basic Wage</u>	<u>an Employee's Basic Wage divided by twelve (12) at the time a Core Benefit is due under any one of Article 66(7), (11) or (12).</u>
<u>Qualifying Scheme</u>	<u>an Employee Money Purchase Scheme complying with the requirements set out in the Regulations, and for which a Certificate of Compliance has been issued to an Employer.</u>
<u>Qualifying Scheme Commencement Date</u>	<p>any one (1) of the following, whichever is applicable:</p> <ul style="list-style-type: none"> <li>(a) <u>1 February 2020 for an Employee, who is not an Exempt Employee, already employed by an Employer on that date;</u></li> <li>(b) <u>the date of employment for an Employee, who is not an Exempt Employee, employed on or after 1 February 2020;</u></li> <li>(c) <u>the day after the Termination Date for an Exempt Employee who is serving a notice period under Article 62 on 1 February 2020, or who is employed under a fixed term Employment Contract that will end within three (3) months of 1 February 2020, but only for purposes of calculating the Gratuity Payment due to the Employee at their Termination Date; and</u></li> <li>(d) <u>1 February 2020 for any other Exempt Employee entitled to a Gratuity Payment under Article 66(1) but only for purposes of calculating the Gratuity Payment due to the Employee at their Termination Date.</u></li> </ul>

**SCHEDULE 2  
CONTRAVENTIONS AND FINES**

<i>Article</i>	<i>Contravention</i>	<i>Maximum Fine* (USD)</i>
<u>66(13)</u>	<u>Failing to comply with Articles 66(6), (7), (9), (10) or (12) for each contravention in respect of each Employee.</u>	<u>\$2,000</u>