Amendments to Articles 65 & 66 of the DIFC Employment Law – FAQs

1. Why was the Employment Law amended?

Further to a public consultation issued in August 2023 (see consultation paper: Link), Articles 65 and 66 of the DIFC Employment Law have been updated to put GCC national Employees on an equal footing with non-GCC national Employees in relation to Core Benefits payable into a Qualifying Scheme (e.g. DEWs).

DIFCA is aware that, for example, under UAE Federal Law No. 7 of 1999 on Pension and Social Security (the "**GPSSA Law**"), the pension contribution for UAE national, private sector employees is typically calculated against a maximum salary cap of AED50,000, whereby any monthly salary in excess of AED50,000 is not taken into account for the purposes of calculating and making a pension contribution on behalf of Employees that are UAE nationals. Similar caps are applicable in respect of Employees that are nationals of other GCC countries (e.g. Bahrain and Kuwait) which have lower maximum salary caps for the purposes of pension contributions.

The existence of these contribution caps gives rise to the potential for a discrepancy to arise whereby Employees that are UAE or GCC nationals who receive a monthly salary in excess of the relevant cap may receive a lower contribution under the GPSSA Law than they would if they were not Exempted Employees and Core Benefits were paid on their behalf into a Qualifying Scheme.

2. What is required of DIFC Employers?

The changes require Employers to make "top-up" payments into a Qualifying Scheme (such as the DEWS Scheme) for their GCC national employees, in addition to making their GPSSA contributions.

This "top-up" payment is required in circumstances where the amount of the GPSSA contribution on behalf of a GCC national Employee is lower than what they would have been received as monthly end-of-service contributions under the Employment Law if they were not GCC nationals.

The "top-up" requirement is, however, subject to a de minimis monthly threshold of AED 1,000.

3. What is the AED1,000 de minimis threshold?

Where a "top-up" payment is calculated and it is less than AED1000 per month, then the DIFC Employer is not required to make an additional payment into a Qualifying Scheme. Where the "top-up" payment exceeds the AED1000 de minimis threshold, the full "top-up" amount must be paid into a Qualifying Scheme.

4. Can you provide an example of how the "top-up" calculation works?

The "top-up" contribution is the positive difference between:

i. The amount that would have been payable into a Qualifying Scheme if the individual was not a GCC national Employee; and
ii. the Employee's GPSSA pension contribution for the month in question.

The **Appendix** at pages 3-4 below shows worked examples.

5. When do the changes take effect?

These changes take effect from the Qualifying Scheme Commencement Date.

The Qualifying Scheme Commencement Date was amended so that the changes affecting GCC nationals and their Qualifying Scheme contributions took effect from 1 April 2024.

6. Were any other changes made to the DIFC Employment Law?

Yes, the DIFC Employment Law was also amended to deal with situations where a Qualifying Scheme is prohibited from accepting contributions from an Employer, or in respect of an Employee, as a result of sanctions prohibitions.

The result of these amendments is that where an Employer or Employee is subject to sanctions that prohibit a Qualifying Scheme or its service providers receiving end-of-service contributions on behalf of an Employee, the Employer's obligation to make such contribution on a monthly basis to a Qualifying Scheme is suspended and replaced with an obligation on the Employer to accrue such benefits on behalf of the relevant Employee/s until the sanctions related prohibition falls away or when an employment relationship is terminated, whichever is the earlier.

Appendix

The below table shows worked examples for a UAE national Employee, with an assumption that the GPSSA contribution is calculated at an amount of 15% of a capped amount of AED50,000:

UAE Employee monthly salary	**Length of service**	**Scheme**	**Calculation**	**Monthly contribution amount**	**Payment required into a Qualifying Scheme?**
A gross monthly salary of AED120,000, and basic salary of AED72,000	More than 5 years	GPSSA	15% of the capped amount of AED50,000	**AED7,500**	No, there is a negative difference of -AED1502.40 between the GPSSA contribution and what would be payable if the Employee was a non GCC national. A top-up payment is only payable into a Qualifying Scheme if there is a positive difference of AED1000 or more.
		DEWS (if non GCC Employee)	8.33% of the basic salary monthly amount of AED72,000	**AED5997.60**	
A gross monthly salary of AED200,000, and basic salary of AED120,000	Less than 5 years	GPSSA	15% of the capped amount of AED50,000	**AED7,500**	No, there is a negative difference of -AED504 between the GPSSA contribution and what would be payable if the Employee was a non GCC national. A top-up payment is only payable into a Qualifying Scheme if there is a positive difference of AED1000 or more.
		DEWS (if non GCC Employee)	5.83% of the basic salary monthly amount of AED120,000	**AED6,996**	
	More than 5 years	GPSSA	15% of the capped amount of AED50,000	**AED7,500**	Yes, a AED2496 top-up payment is payable into a Qualifying Scheme. This is the positive difference between what would have been payable if the Employee was a non-GCC national and their

		DEWS (if non GCC Employee)	8.33% of the basic salary monthly amount of AED120,000	**AED9,996**	GPSSA contribution, which exceeds the de minimis threshold of AED1000.
A gross monthly salary of AED129,000, with no separate allowance amounts.	Less than 5 years	GPSSA	15% of the capped amount of AED50,000	**AED7,500**	No, although there is a positive difference of AED20.70 between what would have been payable if the Employee was a non-GCC national and their GPSSA contribution, the positive difference does not exceed the de minimis threshold of AED 1000.
		DEWS (if non GCC Employee)	5.83% of the basic salary monthly amount of AED129,000	**AED7,520.70**	
	More than 5 years	GPSSA	15% of the capped amount of AED50,000	**AED7,500**	Yes, a AED3245.70 top-up payment is payable into a Qualifying Scheme. This is the positive difference between what would have been payable if the Employee was a non-GCC national and their GPSSA contribution, which exceeds the de minimis threshold of AED1000.
		DEWS (if non GCC Employee)	8.33% of the basic salary monthly amount of AED129,000	**AED10,745.70**	