

# KEY CHANGES IN EMPLOYMENT CONTRACT & PROBATIONARY PERIOD

UNDER NEW DECREE NO. 33 OF 2021

*Written by Mohamed Waer*

On 26 October 2021, Decree no. 33 of 2021 concerning the Regulation of Labour Relations in the Private Sector (the "New Decree") was issued.

## Main Contract Changes

**Alignment with Global Developments Approach, Enhancing the flexibility and sustainability of the UAE labour market:**

**1. Work Patterns** - Article 7- Defined new work patterns, such as flexible work, temporary work, and other work patterns specified by the regulation of this law such as self-employment (freelance), considering those patterns in all rights arising from the employment contract, such as calculating the end-of-service gratuity and annual leaves etc.

**2. Working Hours** - Article 17- indicated the possibility of the Employee (with the approval of the employer) to perform his work remotely whether inside or outside the State, with the possibility of the employer specifying the controls of working hours during remote work.

**Improving and developing the capabilities and skills of workers in the private sector, in a manner that enhances the efficiency and productivity of the workforce in the UAE labour market: The new decree also introduced articles that enhance the efficiency and productivity of the workforce in UAE,**

**Various Leaves** - Article 32- indicated the possibility of the worker to take various paid leave such as study leave which stated that worker may be granted a study leave for a period of (10) ten working days per year for the worker who is enrolled or regularly studying at one of the educational institutions approved in the State, in order to sit for exams, provided that the service term at the employer is not less than two years in addition to the bereavement leave and parental leave.

**" The New Decree, have come into force starting from 02 February 2022 (the "Effective Date") in accordance with Article 74 of the New Decree ".**



## **Non -competition Clause:**

**The New Decree and its related regulation rules has reorganized the rules for the Non-competition Clause, through the following: -**

1. Emphasis was placed on the requirement that the nature of the employee's work permit him to peruse the secrets of the work of the employer or his clients, and that the clause be specific in terms of time, place and type of work
2. A maximum period of time for this clause has been added, which is two years
3. Another reason has been added for the invalidity of this condition in the event that the termination by the employer is in violation of the provisions of the New Decree.
4. The burden of proof of damage is on the employer, which shows that the damage is a primary reason for activating the clause.
5. The possibility of removing the non-competition clause upon or after the termination of the employment contract
6. The non-competition clause shall be cancelled in the event that compensation is paid to the original employer, not exceeding the last salary received by the employee for a period of 3 months, subject the approval of the original employer, whether the payment was made by the employee or the new employer.

**"The New Decree and its related regulation rules has reorganized the rules for the Non-competition Clause, "**



" The New Decree has reorganized the rules for the probationary period after the provision for the same in the old law was brief and did not set specific procedural rules around it",

## Probationary period

1. Continuing to determine the maximum probation period (6 months), not appointing the employee under probation more than once for one employer and If the employee successfully passed the probationary period and continued to work, that period shall be counted in the service period.
2. Determining the minimum term of notice of termination during the probationary period by the employer (14 days)
3. Differentiation with regard to the term of notice of termination by the employee according to the following cases:
  - A. In the event that the termination for joining another employer within the country is (30 days), and in that case the new employer is obligated to compensate the **original employer for the expenses of residence (VISA) unless otherwise agreed upon with the original employer.**
  - B. In the event that the termination for leaving the country is (14 days), with an indication that in the event of the employee return to work within the country within 3 months after termination, the new employer is obligated to compensate the original employer for what was previously referred to in the aforementioned item, unless otherwise agreed upon with the original employer.