

Update

Qatar Labour Law: Amendment to Article 66

Amendment

Article 66 of the Qatar Labour Law No.(14) of 2004 (Qatar Labour Law) was recently amended by Law No.(1) of 2015 (the Amendment). Whereas the article previously required that salaries (Salaries) and any other sums to which an employee is entitled under his/her contract of employment were paid to an employee's account at a bank agreed upon between the parties, or to an agent appointed by the employee, payment will now need to be made directly from the employer's local Qatari account into a Qatari account in the name of the employee. The new system effectively creates a Qatar to Qatar based transaction between the employer and employee. The Amendment applies to employees whose employment is governed by the Qatar Labour Law.

The substantive body of Article 66 remains the same under the Amendment such that Salaries must continue to be paid in Qatari currency. Further, Salaries of employees employed on an annual or monthly basis must be paid at least once in every month; Salaries of all other employees must be paid at least every two weeks. The material change is that once the Amendment takes effect, an employer will be obliged to transfer the Salaries directly into employees' Qatari accounts within the designated time periods.

When will the amendment take effect?

We understand that the Amendment will be enforced from 18 August 2015, six months after it was first issued on 18 February 2015 rather than the time period stated in the Amendment, being six months from the date of publication of the new law in the Official Gazette.

Given we are in the introductory phase of a new system, we understand that the Labour Department of the Ministry of Labour and Social Affairs will provide sufficient time to those companies who as yet have not been able to implement the necessary measures to ensure compliance. This goes alongside our understanding that the Labour Department plans to enforce the Amendment in various stages, with companies employing five hundred or more employees being the first to come under close scrutiny, followed by companies with between one and five hundred employees and finally companies with one hundred or less employees.

Until the Amendment has been fully implemented it is difficult to confirm with any real certainty how the changes will operate in practice on a day to day basis. However, we would advise all employers to put measures in place to ensure compliance as soon as is practicable and where, for whatever reason, they cannot do so that they open a dialogue with the Labour Department before the threat of penalties is imposed.

Decision

The Minister of Labour and Social Affairs (Minister) recently issued Decision No. (4) of 2015 (Decision) setting out both the controls and procedures required to apply the Amendment which it refers to as the Wages Protection System (WPS). The Decision was published in the Official Gazette on 7 July 2015 and took effect the following day.

The WPS's stated aim is to ensure an employer's compliance with the payment of the salaries of its employees on the specified dates and in accordance with their employment contracts and the applicable laws of the State of Qatar.

The Decision requires employers to transfer Salaries via WPS to the appropriate Qatari banks and financial institutions the week prior to the date on which the Salaries are due to be paid. An employer will only be relieved of its payment obligations after the transfer has occurred and the monies have been received by the Qatari banks and financial institutions.

The Labour Department may also request that a detailed report is submitted by an employer, in the form prepared by that department and approved by the Minister, showing the employer's approval of the payment of all of its employees' Salaries for a specified period of time.

Penalties for non-compliance

If an employer believes that it does not have sufficient time to put the necessary measures in place to accommodate the Amendment and implement the WPS, an employer is entitled to request an extension. Whether or not an extension is granted will depend on the specific facts and circumstances of each case as presented, but will ultimately rest on the discretion of the Minister. The process for submission of an extension request and how such request will be received is unclear at this stage.

The Amendment has introduced a penalty for every employer who fails to comply with Article 66. The penalty may constitute either: (i) imprisonment of up to one month, and/or (ii) a fine of a sum between QAR 2,000 and QAR 6,000

per employee. In order for an imprisonment penalty to be issued to a corporate employer, an individual would need to be joined as a party to the claim. The individual would usually be the general manager or an authorised signatory of the employer. An unpaid employee will also remain entitled to submit a claim to the Labour Court.

Further, if an employer fails to transfer its employees' Salaries via WPS within seven days of the Salary due date, the Minister may either suspend the issuance of any new work permits to the employer; and/or suspend all of the employer's transactions with the Ministry, provided that the suspension shall not include the authentication of any employment contracts. In such instances, suspension shall only be removed by a decision of the Minister, or his designee, once the employer submits proof that all unpaid Salaries have been transferred and received.

We understand that the Ministry has established a separate inspection unit in order to monitor compliance with the WPS.

Practical considerations

We understand that the Ministry has been consulting with both banks and employers in recent months in relation to the detail of the proposed changes.

We are currently not aware of any specific documentary or practical requirements which should be put in place or actioned in order to evidence compliance apart from those already referred to, however from an internal governance perspective and to demonstrate good business practice, we would advise employers to maintain current and accurate records of the Salaries it transfers to each of its employees together with a clear written record evidencing such transfer which may be stamped by the appropriate bank or financial institution. Evidence should contain key information about each employee and his/her Salary, e.g. deductions, etc.

Employers with internationally mobile employees who are sponsored and employed in Qatar whilst on assignment from their home country will need to consider carefully the implications of the Amendment on the payment of these employees' salaries during that period.

Note: *Qatari laws (saved for those issued by the Qatar Financial Centre to regulate internal business) are issued in Arabic and there are no official translations, therefore for the purposes of drafting this article we have used our own translations and interpreted the same in the context of Qatari regulations and current market practice.*

Further information

If you would like further information and/or guidance on any issue raised in this update please contact:

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