

Qatar Labour Law: end of service



By David Salt and Emma Higham

Qatar Law No.(14) of 2004, the Labour Law, governs the terms of employment of the majority of individuals currently working in the State of Qatar. The Labour Law establishes the entitlement of an employee to be paid a sum of money, an end of service benefit (EOS), by their employer upon the termination of their employment with that employer.

Who is excluded?

The Labour Law (Article 3) excludes individuals employed by the following employers from its provisions and regulation:

- Ministries and other Governmental organisations, public institutions, and companies which are established by Qatar Petroleum and individuals whose employment is regulated by special laws.
- The Qatar armed forces, the Police and individuals employed at sea.

In addition the Labour Law also excludes individuals working in the following roles: casual workers; domestic workers; family members and dependants of individuals working in Qatar; agricultural workers and those individuals who repair agricultural equipment; the Labour Law may be applied to the individuals set out in the last four bullet points above subject to a resolution of the Council of Ministers upon the recommendation of the Minister.

Where individuals are excluded from the Labour Law their employment is subject to alternative legal and regulatory provisions.

For the purposes of this article we have not considered any employment termination payments.

Who will qualify?

The Labour Law (Article 54) provides that in addition to any other termination payments, an employee shall also be entitled to EOS provided he has worked for the same employer for a period of one year or more.

Employees who have had their employment validly terminated (Article 61) for gross misconduct, eg. submitting fraudulent documentation, causing material financial loss, etc, without notice will not qualify for EOS. Employees who validly terminate their employment (Article 51) without notice due to the employer's gross misconduct, eg. material breach, physical assault, etc, should be paid EOS in addition to their other employment termination payments.

Employees who are entitled to a greater benefit under their employer's retirement or similar scheme will not generally also be

entitled to EOS (Article 56). Where the scheme's benefits are less than EOS on the termination of an employee's employment he can choose to be paid EOS and an employer will be required to repay to the employee any scheme contributions which the employee or the employer, on the employee's behalf, may have paid.

If an employee dies when he is working in Qatar and if he would have qualified for EOS then the employer is under an obligation to pay EOS to the employee's heirs.

How is it calculated?

The Labour Law (Article 54) provides that the employer and employee can agree on the amount of EOS provided the amount equals to or is higher than three weeks of the employee's termination basic salary for every full year that he has worked for the employer. Part years are pro rated. EOS is usually calculated using calendar days, but may be calculated using working days if more appropriate given the industry working practices. Periods of valid leave, eg. Sick or annual leave are generally included in the calculation. Voluntary unpaid leave will generally be excluded, but this will usually be determined by company policy.

If an employee was employed by an employer prior to the Labour Law taking effect, ie. 06 January 2005, EOS for the period to 06 January 2005 will most probably be calculated in accordance with the terms of Law No.(3) of 1962, the previous Labour Law. EOS under this law is more generous given there is a calculation escalation after five years. The employer and employee are permitted to opt out of EOS payments where one of the parties terminates employment for gross misconduct, but also if the employee was foreign, worked for a national enterprise and had agreed in writing. Such an opt out is not possible under the Labour Law.

When is it payable?

The Labour Law provides for EOS to be paid when employment is terminated. Recent entrants to Qatar have started introducing payment policies which provide for employees to be paid EOS throughout the duration of their employment in order to ease cash flow by avoiding material payments having to be made on termination. Where such policies are implemented it will be important for employers to ensure that their employees receive their full EOS entitlement in compliance with the Labour Law. A recalculation of the EOS should be undertaken and a final termination payment made to employees to ensure that full payments are made.

Clyde & Co LLP

Tel: (974) 4496 7434 | Fax: (974) 4496 7412

Email: david.salt@clydeco.com

emma.higham@clydeco.com

www.clydeco.com