

NEWSLETTER 6/2016 (01. September 2016)

In this Newsletter we would like to inform you about recent developments and provide you with an overview of legal changes introduced in the United Arab Emirates (UAE).

I. Wages Protection System and Penalties for Delaying Payments

Effective 1st October 2016, companies registered with the Ministry of Human Resources and Emiratisation (MOHRAE) must pay its employees' wages within ten days of the registered due date in the Wages Protection System (WPS).

Companies with 100 or more employees that delay the payment of salaries for ten days may face a warning notice followed by suspension of the MOHRAE services (i.e. new work permits, renewal of work permits etc.) on the 16th day of the payment due date. Additional penalties will apply if the companies continue to delay payments such as suspending other companies registered under the owners' names and implementing administrative fees. Companies delaying payment of salaries for more than 30 days will be deemed as "refusing" payment.

Companies with less than 100 employees will be subject to existing regulations. However refusing payment more than once a year will subject the company to warnings and a suspension of the services as well.

Suspension of the MOHRAE services for "late payments" will be withdrawn once the payments have been settled. However, a suspension of the MOHRAE services for "refusing payments" will remain active for two months from the date of settling the payments.

II. Amendments to "Cyber Crime Law" in the UAE

Federal Law No. 5/2012 on combating information technology crimes ("Cyber Crime Law") has been amended by Federal Law No. 12/2016 replacing Article 9 stating whoever uses a fraudulent computer network protocol address (IP address) by using a false address or a third-party address by any other means for the purpose of committing a crime or preventing its discovery, shall be

punished by imprisonment and/or a fine not less than AED 500,000 and not exceeding AED 2,000,000.

The UAE's Telecommunications Regulatory Authority (TRA) has issued a statement regarding the changes being made to Federal Law no. 5 of 2012 stating that there are no regulations which prevent the use of VPN technology by companies, institutions and banks to access their internal networks through internet. However, business users can be held accountable, like for the use of any other technology, in case the VPN is being misused¹.

The RTA further clarified that the amendments to Federal Law no. 5 of 2012 will not affect the substance of the law but only tighten the penalties and punishments for any violations.

III. New Jebel Ali Free Zone Authority (JAFZA) Rules 2016

The new JAFZA Rules 2016 (Rules) have recently been released, governing licensing issues, employment issues and other procedural operational issues. The new Rules shall be replacing the old JAFZA rules. The Rules now include an “innovation license” as license category. Furthermore, the Rules now include further articles for the punishment of employment law violations.

In the event any company situated in JAFZA utilizes the services of an employee belonging to any other company, they shall be fined up to 5,000 AED if the employee is employed by any other JAFZA entity- or up to 10,000 AED if the employee is not employed by a JAFZA entity.

The fines for companies housing more than the permissible number of employees in housing accommodation has also increased up to 2,500 AED for employees sponsored by JAFZA and up to 10,000 AED for employees not sponsored by JAFZA.

Additionally, the new Rules include a detailed list of administrative fees such as registration fees for licenses, applying for changes and documents within JAFZA.

¹ <https://www.tra.gov.ae/en/media-hub/press-releases/2016/8/1/telecommunications-regulatory-authority-issues-statement-on-the-use-of-vpn-to-clarify-media-reports.aspx>.

IV. Establishment of the Dubai Economic Security Centre

Law no. 4 of 2016 entitled the Dubai Economic Security Centre Law was published in May 2016, and has been enforced since. The law aims to protect the economic security of Dubai as a global financial and economic hub. The Dubai Economic Security Centre's ("Centre") responsibilities include combating corruption, fraud, bribery, embezzlement, destruction of public property, forgery, or other illegal financing organizations. The Centre will also be supervising the trade of currencies, and developing rules and procedures to prevent interactions with individuals or organizations involved in terrorism or with any individual having any connection to such organizations.

The Centre will be providing protection to whistleblowers, and it requires that all employees at the Centre keep information confidential. The law requires that all concerned persons cooperate with the Centre, respond to any of its requests and not hinder the performance of the Centre. Violators of the law may face penalties ranging from 10,000 AED to 500,000 AED.

V. Value Added Tax (VAT) Considerations

It has been announced by the Minister of State for Financial Affairs of the UAE that the UAE shall implement a value added tax (VAT) as of 1st of January 2018. The introduction of VAT is in fact, a GCC-wide initiative. The UAE has confirmed that it shall impose a VAT at a rate of 5% on goods and services at point of sale. This would mean that VAT is charged by adding the VAT rate to the charges for the supply of goods and services. Companies affected by this should ensure that their contracts adequately address VAT issues.

It is difficult to ascertain the exact consequences at the moment since the legal framework is yet to be seen and implemented in practice. However, with the introduction of this sales tax, companies are advised to undertake a review of their current commercial arrangements and general terms and conditions of sale to ensure that their contractual positions are suitably protected.

This newsletter only constitutes a simplified and shortened description of some legal developments and in no way replaces legal consultation. The team at SCHLÜTER GRAF will gladly support you in case of any questions.

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