

Local

Manpower authority official explains new Kuwait labor law amendments

Written notice, investigation required before an employee is penalized

By Nawara Fattahova

KUWAIT: Ministerial decree 27/2021 that was published last month in the official gazette Kuwait Al-Youm includes some changes and amendments to the labor law. Kuwait Times contacted the Public Authority for Manpower (PAM) for clarification of some of the new articles. The following questions were answered by Nasser Al-Hamidi, Head of the Legal Department at PAM.

Kuwait Times: What are the new amendments to the labor law in the new decree that are important to both the employer and the employee?

Nasser Al-Hamidi: Paragraph 3 of article 3 of law 109/2013 on the founding the Public Authority for Manpower mandated PAM to issue three types of regulations - the regulation of rules and procedures of issuing a work permit, regulation of transferring manpower from one employer to another, and the regulation of need assessment of workers.

The new decree 27/2021 was issued with the launch of PAM's modern electronic system, which includes providing online services through its website to ease work for both employers and employees. This decree includes more clarifications of the regulations for registering licenses at PAM and adding new types of licenses. It also details how to appoint the authorized signatory and how to cancel the signatory. The decree also includes detailed provisions for the final cancellation of work permits.

Also, more types of businesses of the first category of licenses were added, such as companies with government shares that are established according to the development plan laws. Furthermore, barns and veterinary activities licensed by the Public Authority for Agricultural Affairs and Fish Resources were added to the first category of licenses, in addition to commercial and investment real estate.

Professions such as barber were added to men's salons in the second category of licenses. Also, several restrictions were added to some businesses in the second category.

Employer's death

KT: Does paragraph 1 of article 3 means that if the employer passes away, the establishment or company will be closed? Which businesses does this article apply to?

Hamidi: Article 3 includes the conditions of registering business licenses at PAM. The first condition requires that all employers should be alive, which is a normal condition and is not related to closing the establishment. Article 3 mentions the conditions for business registration, while later events such as the death of the owner doesn't mean the closure of the establishment.

In this situation, article 50 of law 6/2010 is applied. This article states: In the event that the facility is sold, merged with others, or transferred by inheritance, donation or other legal action, the employment contract remains valid vis-a-vis the successor and under the same conditions as con-

tained therein. The obligations and rights of the previous employer towards the employees are transferred to the employer who replaced him.

KT: Is article 8 new? Why does this decision include working under government contracts?

Hamidi: Article 9 of labor law 6/2010 states: A public authority with legal personality and an attached budget shall be established (PAM), supervised by the minister of social affairs and labor, and will be in charge of the functions assigned to the ministry in this law, as well as expat labor recruitment according to employers' demands.

So PAM is in charge of all labor affairs in the private sector, whether the workers were employed based on government contracts and projects, employees in the oil sector, or employees in the private sector in other categories. PAM organizes regulations and procedures for issuing a work permit, renewing it or canceling it. This includes employees on government contracts and projects, whether these projects are longer than a year or a temporary project shorter than a year. This is highlighted in articles 7 to 10 of the fourth chapter on registering and canceling government contracts.

Working till midnight

KT: Why did article 23 include businesses that don't operate till midnight?

Hamidi: This article is not really new, as it is included in the labor law for the private sector



places that provide services only for women, mentioning some examples such as lingerie shops, women's salons, shops selling salon equipment and women's health clubs. PAM will not issue work permits for men to work in these institutions or similar institutions that provide services only for women. Sanctions will be applied on male employees, and inspectors regularly go on inspections in all areas. The same applies to women, who are not allowed to work in institutions that provide services only for men.

Holding passports

KT: Is article 38 new? And does it apply to all professions?

Hamidi: This article bans employers in the private sector and oil sector to hold the passports of the employees working there, which is in line with international criteria. It is also subject to inspection of international labor organizations. PAM will receive any complaint from an employee and will force the employer to return the passport to the employee.

KT: Are the articles 49 and 50 new?

Hamidi: Article 37 of the labor law bans employers from imposing penalties on employees unless an employee was given written notice about the accusation, the accusation is investigated, their defense is heard, and a record of it is filed in the employee's file. Of course, if the employee is absent from work, this will be one of the cases in which the worker breaches their duties stipulated in the work contract, which is an 'absconding case'.

This was the reason for imposing articles 49 and 50 - to provide employees preventive security from having the employer file absconding cases that may be malicious. Article 49 obliges the employer to post a copy of the absconding notice in a visible place at the workplace until the case is resolved, so the employee is aware of the case filed against them, as their absence from work is a serious issue that has serious consequences.

Article 50 obliges an employer who has filed an absconding case against an employee to visit the labor department before the employee returns to work to avoid any action against the employee, as PAM's staff should be made aware that the employee has returned to work. This provides better protection to the employee.



Holding employees' passports banned

(6/2010) in the women's labor section. Article 22 of the labor law states: Women are not allowed to work between 10:00 pm and 7:00 am, with the exception of hospitals, rehabilitation centers, private medical institutions and other institutions decided by the minister of social affair and labor. The employers in the abovementioned institutions are obliged to ensure security measures for them, in addition to their transportation to and from work.

Working hours during the holy month of Ramadan are also excluded from this article. The law authorizes the minister or PAM to issue a decision to exclude institutions that may be working during the period between 10:00 pm and 7:00 am. In fact, such decisions were issued previously, and the types of businesses in this article are not new and were not amended in the past few years.

KT: Some salesmen work in stores selling women's lingerie and similar outfits - does article 27/1 apply to them?

Hamidi: This article bans men from working in

Stress levels increase amid pandemic

By Abdulaziz Al-Bahar
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"Everything I had planned for my company had to be postponed for almost one full year," said Aysha Al-Mudhaf, the Managing Partner and Chief Financial Officer of the startup Circular Group. Like billions of people worldwide, Aysha has faced unprecedented challenges navigating the new normal of a world in the grips of the COVID-19. "It has been stressful at times as we have worked tirelessly to find a way to keep afloat while not even having launched yet."

To be sure, the pandemic has taken a psychological toll beyond the more-feared physiological one. A recent survey conducted via the program Qualtrics assesses the severity of that impact by analyzing levels of stress and anxiety in the general population. Out of 149 people surveyed across all sectors of the public, 93 responded. Most respondents were females (78.13 percent) between ages of 14-18 (5.88 percent), 19-25 (7.35 percent), 26-35 (26.47 percent), 36 and over (60.29 percent). The rest were male respondents (21.87 percent) between the ages of 14-18 (32 percent), 19-25 (20 percent), 26-35 (20 percent), 36 and over (28 percent). Stress levels focused on the mental health of individuals and their ability to achieve everyday routines without interruption. Anxiety levels measured the physical manifestations of stress levels. The results indicate that, while stress levels have increased over the past year due to the society-wide restrictions of movement, people have largely found ways to limit that stress through adaptation. "One thing that I've found that works," Aysha said, "is finding new hobbies and trying to be constantly active, instead of sitting at home which then leads to overthinking which can be a trigger for stress."

Respondents answered a series of online questions designed to produce metrics on the Perceived Stress Scale (PSS), a 10 item questionnaire that assesses individual levels of stress by measuring how unpredictable, uncontrollable, and overloaded respondents find their lives, and the Beck Anxiety Inventory (BAI) an inventory that consists of 21 items better known as anxiety symptoms. The majority of those surveyed, 55 percent, indicated that they have had moderate stress levels, with 39 percent experiencing low levels of stress. Nearly three-quarters of the respondents experienced low levels of anxiety, suggesting that the interruptions to everyday life have increased stress but not to runaway levels. People have mostly adapted to the shelter-in-place shutdowns and virtual commutes, but they are not completely at ease with it.

Anxiety levels also fluctuate in response to the personal events. One respondent reflected, "When someone close to you has the virus you start to worry and you stop working efficiently until you get the PCR with a negative result."

For people who have not been directly affected by the pandemic themselves or indirectly affected by having people close to them suffer, anxiety has not been a key issue. In fact, many of the people in this category have discovered positive aspects of the societal changes that have taken place since the outbreak.

Social isolation, which was initially hypothesized to lead to higher levels of anxiety, has seemingly played a minor role in the psychology of the general public. This can be attributed to the digital connection that has ensued. People spend more time on their device screens due to working on Zoom more often, this is especially prevalent with students who have to endure learning in front of their laptops for half of the day.

In addition, a lot of the open-ended responses at the end of the survey revealed that respondents were additionally stressed throughout the pandemic as they dealt with "challenges in online schooling," and "felt worried as well as stopped working efficiently" whenever they found out that "someone close has the virus."

Another factor that has capped stress and anxiety levels is a perceived end to the current conditions. "There will always be a light at the end of the tunnel," Mudhaf said. "Having a positive mindset leads to positive results."

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