

LIBYAN LEGAL DEVELOPMENTS NEWSLETTER

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Overview of Law 12/2010 Concerning Employment

A new labor law under the name of "Employment Relationship Law" bearing No. 12/1378 (2010) was published in GPC web site on 28/01/2010. The Law will go into force at the date of publishing in the Official Gazette. It is not published yet. Following are the most important new provisions under the Law:

- Hiring of locals is restricted to those who are registered in one of the Employment Offices and holders of an employment seeker card (Art. 8).
- It is permissible to hire employees through recruitment agencies that are licensed to provide this service provided that the employment contract is concluded and signed by and between the employee and the employer (Art. 7).
- The duties and the impermissible acts of employees are well explained, detailed and expanded to include new acts such as claiming of influence, practicing of mediation or favoritism and sexual harassment (Art. 11 and 12).
- Working hours should not exceed 48 hours per week. Daily hours should not exceed (10) hours (Clause 13).
- Employee should enjoy a weekly rest of not less than full 24 hours preferably on Friday (Art. 14).
- It is possible to accumulate the weekly rest days and official holidays for employees working in remote locations distant from urban areas. However the employees in these areas should not work continuously for more than 8 weeks (Art. 14).
- Over time should not exceed 3 hours per day (Art. 16).
- Women may not be engaged in works that are not suitable for them and there should be no distinction between men and women in employment, benefits and salaries. (Art. 24) There should be no discrimination among employees based on gender, race, religion or color (Art. 21)
- Maternity leave with pay is 14 weeks provided that female employee shall not be permitted to work during the 6 weeks following delivery. This leave is to be extended to 16 weeks if she delivered more than one child (Art. 25).
- Annual leave is 30 days, to be extended to 45 days for employees who are 50 years old or spent 20 years in work. In all events, employee should enjoy a minimum of 15 days continuous leave per year (Art. 30).
- Employees are entitled to receive compensation for their accumulated annual leave at the end of their services, if they did not enjoy said leave in the interest of work. If postponement of annual leave is at the request of the employee, employee will be entitled to receive compensation only for a maximum of 6 months' salary (Art. 32).
- Employees are entitled to sick leave for 45 consecutive days and 60 intermittent days in a year. In all events sick leave should not exceed 3 months in a given year (Art. 33).
- Employees are entitled to two special leaves with pay granted only once during service time: to 20 days leave with pay to perform pilgrimage to Mecca and 2 weeks leave with pay for marriage. Female employee is entitled to 4 months and 10 days leave with pay in case of the death of her husband [(Art. 34).
- Employers are obliged to refer employees to medical examination before starting work as well as during employment in a periodical manner (Art. 37).
- Employers are obliged to provide employees with insurance coverage against work related diseases and industrial hazards and provide necessary medical care and social protection for them and their families (Art. 38).
- Employers are obliged to provide on the job training to employees and advise them about the hazards of employment as well as oblige them to use protective means (Art. 39).
- Employers are obliged to report to Employment Office any and all incidents causing disability or death within 48 hours (Art. 40).
- Employers have to advise employees in relation to work order, working hours, weekly rest day(s), safety and the registration number with the Social Security Fund (Art. 46).
- Services of an employee shall terminate in any of the following cases: death of the employee; reaching the age of retirement, which is 65 for male employees and 60 for female employees; health unfitness; resignation; being convicted in a felony or a misdemeanor involving honor or integrity (Art. 42).

- Employers may deduct 25% of an employees' salary in settlement of amounts borrowed by them from the employer (Art. 50).
- Number of national employees shall not be less than 75% of the total number of employees (Art. 51).
- Employer is obliged to report any criminal offense committed by an employee to the competent authorities (Public Prosecutor) (Art. 53).
- Employment contract should be concluded in the form drafted by the Labor Authority. Employment contracts may not be implemented unless approved by the Labor Authority (Art. 67).
- The law maintained the same old distinction between fixed term contract and an indefinite term contract save for reducing the term of fixed term contract to 2 years instead of 5 years. According to the new Law and the recent interpretation of the Supreme Court, a fixed term employment contract of less than two years can be renewed for an unlimited number of times. If such term is two years, it can be renewed only once, thereafter, the term of the contract becomes indefinite. In this respect, it is worth noting that if the employment contract is for a fixed term and both parties continue to implement it after its expiry date without agreeing on the renewal thereof, such contract shall become an indefinite employment contract (Art. 70).
- Using and or taking of drugs is now equated to the case of being in obvious state of drunkenness and is considered a reason for terminating the employment contract without notice to the employee and without indemnity or compensation (Art. 73)
- The new law reinstated the abolished end of services indemnity. Such indemnity is calculated on the basis of half a month salary for each year up to fifth year of service and one month's salary for each subsequent year of service. (Clause 78). National employees are entitled to receive an end of service indemnity in certain cases such as: in case of resignation (Article 74); termination due to suspension of work or cancelation of work for administrative or economic reasons (Article 72); termination by the employee due to employer's fault in the cases listed in Article 75; termination due to death of the employee; termination by reason of disability or due to an illness which necessitates the employee's absence from work for a continuous period of 120 days or for intermittent periods in excess of 180 days in one year. In case of death, the family of the employee will also be entitled to receive one month salary (Clause 80).
- Non- national employees are entitled to receive an end of service indemnity at the end of their services provided that they are not entitled to the social security benefits. Such indemnity is calculated on the basis of half a month salary for each year up to fifth year and one month's salary for each subsequent year. (Article 78).
- Violations of this law are subject to a fine between L.D 500.00 and L.D 2,000.00.



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