

## Practical considerations under the Labour Law

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## Overview

The introduction of Oman Sultani Decree No. 53/2023 On the Promulgation of the Labour Law which came into force on the 31 July 2023 marks a significant milestone in the development and protection of workers' rights in the Sultanate of Oman. Oman Sultani Decree No. 53/2023 aims to empower employees in private sector by providing them with improved working conditions, enhanced labour rights, and strengthened mechanisms for dispute resolution.

Alongside expanding the protections of the labour force in Oman, Oman Sultani Decree No. 53/2023 has introduced new systems of reporting on the employment of Omanis, provided for a number of new leave entitlements, and established definitive guidelines on dispute and termination procedures to be adhered to by employers.

To be regarded in conjuncture with Oman Sultani Decree No. 52/2023 On the Issuance of the Social Protection Law, Oman has aimed to radically develop employer-employee relationships.

## Definitions

- *MOL/Ministry*: Ministry of Labour.
- *Minister*: The Minister of Labour.
- *Competent Authority*: The competent general directorate in the ministry's general office, the general directorate of labour in the governorate, the labour administration, or its branches.
- *Omanisation*: The employment system prepared by the Ministry for employers aimed at ensuring the employment and targeted replacement in favour of Omanis.

## Practical Guidance

### Implementation

Employers should acknowledge that Oman Sultani Decree No. 53/2023 establishes, under article 5 of Oman Sultani Decree No. 53/2023, that it will come into force the day after it was posted in the Official Gazette. Therefore, as of 31 July 2023, the enforcement of the previous Oman Sultani Decree No. 35/2003 On the Promulgation of the Labour Law was officially repealed.

Under article 3 of Oman Sultani Decree No. 53/2023, employers have been granted a six-month adjustment period within which they are expected to amend their practices and policies to adhere to the new provisions by 31 January 2024. However, the inclusion of this adjustment period does not delay the rights and entitlements of employees who will be entitled to claim such, as of the date of enforcement.

This adjustment period is important to note in recognising that the MOL has yet to publish the regulations in accordance with Oman Sultani Decree No. 53/2023 itself. Further clarifications are to be expected in the accompanying ministerial decisions published by the Minister.

### Favourable treatment

Article 3 of Oman Sultani Decree No. 53/2023 should be considered carefully by employers when amending policies. Oman Sultani Decree No. 53/2023 makes a clear stance on favourable treatment ensuring that any policies, regulations and practices implemented prior to Oman Sultani Decree No. 53/2023 that are more favourable to the employee, will remain applicable. Employers cannot reduce the levels or conditions of employment that were in effect prior to the enforcement of Oman Sultani Decree No. 53/2023.

### Omanisation under Oman Sultani Decree No. 53/2023

With the primary focus of the MOL being the employment of Omanis, Oman Sultani Decree No. 53/2023 has emboldened the position of Omani employers in comparison to non-Omani employees. Under the new provisions, notable emphasis has been placed on the long-term employability of Omanis. Oman Sultani Decree No. 53/2023 aims to ensure the replacement of non-Omanised positions with well-trained and capable Omani employees.

Heavier emphasis has been placed on employers obligations towards the maintenance and implementation of Omanisation procedures. Employers with a work force exceeding 25 people must take into consideration the provisions of article 22 of Oman Sultani Decree No. 53/2023 and ensure the following:

- The announcement of vacancies and requirements and selection criteria specified for filling them.
- Compliance with the professional grading systems as approved and established by the MOL to ensure the facilitation of Omanisation policies.
- Determine wages, employment benefits and working conditions.
- Train Omanis to develop their skills and raise their efficiency.
- Create the appropriate work environment and facilities at the workplace.
- Provide performance appraisals.
- Devising plans for the appointment and training of Omanis for leadership roles, and monitoring its implementation.

- Developing practical strategies to retain the Omani workforce.

Employers must comply with new reporting structures which ensure the submission of an annual report via the MOL online portal detailing the following in accordance with article 19 of Oman Sultani Decree No. 53/2023:

- An Omanisation plan.
- Detailed report of current Omani employees with their professions and wages.
- The vacancies which been available within a year if and when applicable.

Employers should further remain cautious about ensuring the replacement of Omani employees with Omanis.

## Contracts

Oman Sultani Decree No. 53/2023 expressly acknowledges that fixed-term contracts must strictly be limited to five years and establishes the conditions for indefinite contracts. Employers should ensure consideration of specifying the term of their contracts and ensure renewal periods remain within a five year period, unless they intend to proceed with an indefinite employment relationship. Oman Sultani Decree No. 53/2023 contracts now consider inclusion.

## Termination

Oman Sultani Decree No. 53/2023 clarifies the grounds for termination whilst emphasising the compensatory limits for unfair dismissal. Employees terminated unlawfully are entitled to receive between three to 12 months compensation based on their last gross salary in accordance with the conditions of article 11 of Oman Sultani Decree No. 53/2023.

Employers should take into consideration the pre-requisites for fair dismissal outlined under article 43 of Oman Sultani Decree No. 53/2023, inclusive of:

- Reaching the age of retirement in accordance with the provision of Oman Sultani Decree No. 52/2023.
- Termination on the basis of the implementation of an Omanisation plan in favour of a capable Omani employee.
- Poor performance subject to conditions outlined below.
- Closing, downsizing or amendment of activity of the establishment.
- Economic reasonings.

Notably, the Oman Sultani Decree No. 53/2023 has established grounds for termination based on poor performance under article 43(3) of Oman Sultani Decree No. 53/2023 which is a great benefit to employers. However, implementation of this provision requires employers to ensure the establishment of a six-month improvement period within which employers are required to provide for an improvement plan, monthly performance reviews, and notice to the MOL at least three months prior to any termination procedures. Furthermore, employers must ensure that the position be replaced with an Omani employee if it was previously held by an Omani.

It should be noted that the listed grounds for dismissal under Oman Sultani Decree No. 53/2023 should be recognised as non-exhaustive.

## Monitoring employers

Oman Sultani Decree No. 53/2023 has established the empowerment of MOL designated employees in inspecting, monitoring and ensuring the implementation of provisions of Oman Sultani Decree No. 53/2023. Employers must ensure their facilitation of said employees in their right to enter the workplace, review relevant documentation, books and records and verify the provision of employee's rights. Failing to comply with these provisions will not only result in penalties but may result in employers being blacklisted from the MOL's resources until all non-compliances are rectified.

## Consideration of non-Omani employees

Unlike within the previous establishment, employers are no longer obligated to maintain the visas of expatriate ex-employees throughout any on-going labour dispute procedures. The employer's obligation to ensure the re-patriation of an expat employee post the conclusion of their employment contact is now limited to 60 days under article 14 of Oman Sultani Decree No. 53/2023. Under the same provision, Oman Sultani Decree No. 53/2023 now relieves employers of such a responsibility in the event an expat employee refuses to leave and places the responsibility on the Competent Authority.

Moreover, Oman Sultani Decree No. 53/2023 provides that the MOL now requires notice and will provide approval on the secondment of an expatriate employee. The MOL further requires explicit notice, through its online portal, of the transfer of a non-Omani employee to another employer, which the Ministry must approve prior to the employee starting at a new employer.

## Occupational health and safety

Oman Sultani Decree No. 53/2023 has made notable amendments to its health and safety provisions with the establishment of an occupational safety and health committee (committee) to be established by the MOL under article 103 of Oman Sultani Decree No. 53/2023. The extent of the committee's authority is yet to be determined as the associated regulation has not been published yet, however, employers should take caution in ensuring their alignment with the committee and its competencies.

The provisions by Oman Sultani Decree No. 53/2023 on health and safety establish clear obligations on employers such as ensuring that employees are made aware of the company's safety procedures prior to their employment.

Much like in other areas of Oman Sultani Decree No. 53/2023, emphasis on training is established with employers being obligated to provide employees all required health and safety training with no costs being imposed on them. Oman Sultani Decree No. 53/2023 further establishes strict penalties which are applicable against employers who fail to comply with these provisions. It is strongly recommended that employers monitor and keep up to date with the regulations and developments.

Another notable inclusion is the recognition of hybrid-working plans under article 17 of Oman Sultani Decree No. 53/2023. Oman Sultani Decree No. 53/2023 has established limitations on employers looking to include remote work policies in ensuring that all such employees are strictly located in the Sultanate of Oman.

## Related Content

- Oman Sultani Decree No. 53/2023 On the Promulgation of the Labour Law
- Oman Sultani Decree No. 52/2023 On the Issuance of the Social Protection Law

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### **Biography**

Jenna Al Bakry is a lawyer in training under K&Co's corporate and commercial team. She graduated from Curtin University with a Bachelor's degree in Business Law and International Relations and is a current SQE Candidate.

Since initiating her career, Jenna has become well-recognized for her skills in legal research and analysis and is highly-valued in her firm for her work in contract reviews, drafting, legal opinions and articles. She frequently established in-depth outlines of the laws of the Sultanate of Oman inclusive of its latest developments focusing with emphasis on the Oman Labour Law, corporate and M&A transactions.