

2021 US Labor & Employment Webinar Week  
**Insights and Compliance Strategies for a New World**

February 1 – 4, 2021



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# Middle East Update

February 1, 2021

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# Presenter

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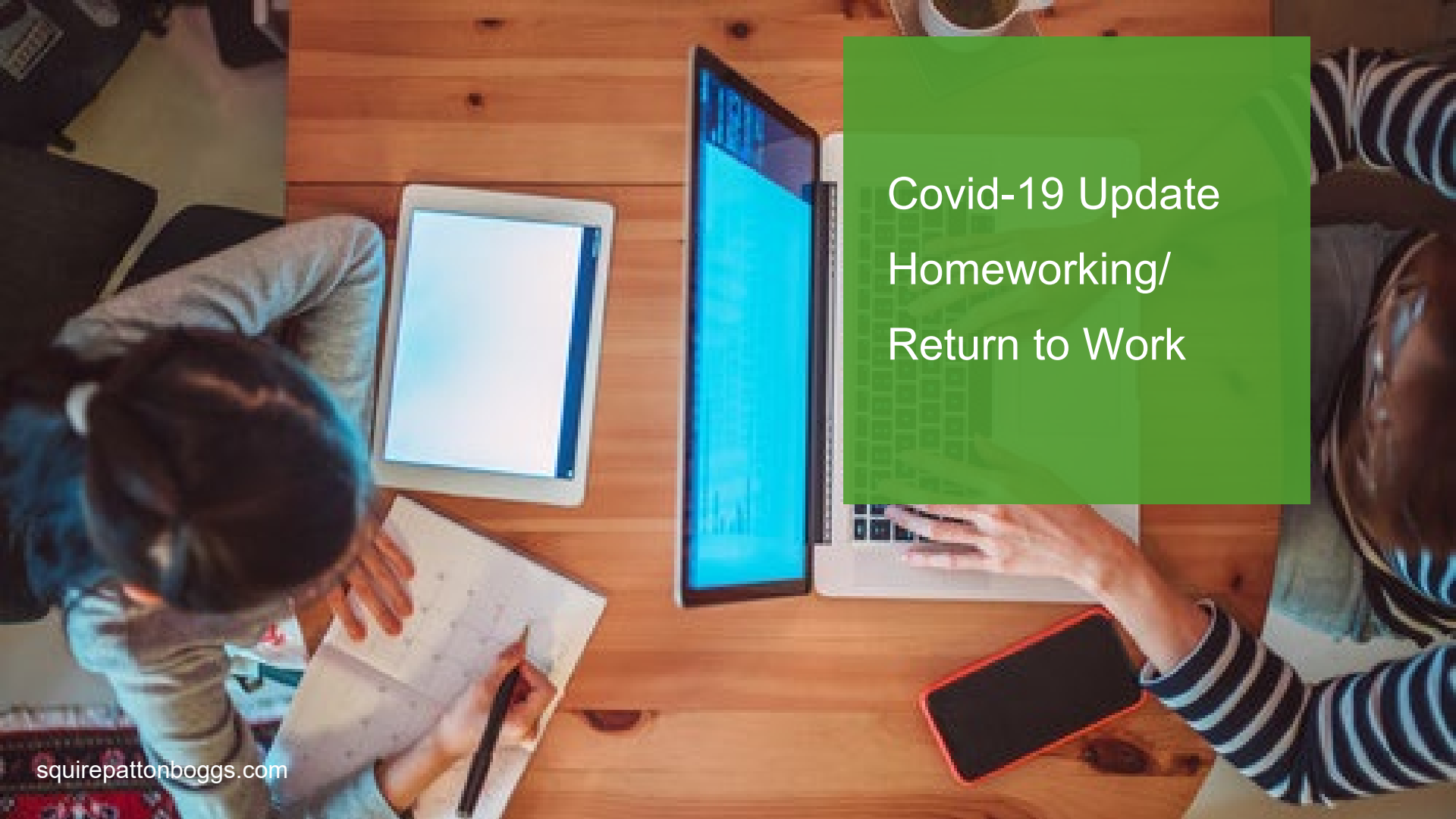


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Covid-19 Update  
Homeworking/  
Return to Work



## Covid-19 - General update from the Middle East

- Rates of Infection
- Measures taken across the GCC
- PCR/Testing Requirements
- Obligations on Employers
  - Notice
  - Maintaining a safe workplace
  - Dealing with employees' afraid to or refusing to return
- Government Support for Employers?
- Managing Sick Leave

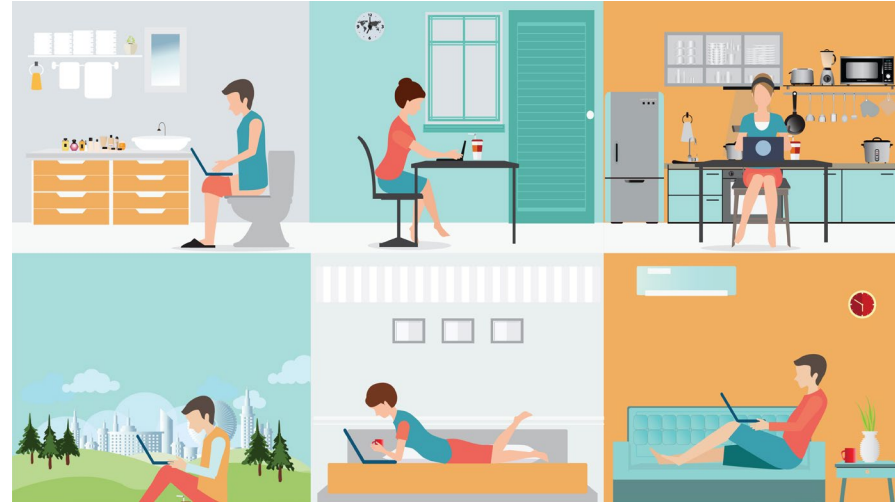
# Working from Home

- Regulation and legislation governing homeworking is limited across the GCC:
  - No legal requirement to prioritise certain requests (i.e. from parents or carers)
  - No legal requirement to carry out a risk assessment before allowing employees to work from home (although recommended).
  - No legal requirement to reimburse employees for costs incurred by employees working from home unless an applicable policy or the employment contract provides otherwise.
  - No legal requirement to have a homeworking policy (again, recommended)
- In the UAE, UAE nationals have the right to request to work from home. Employers must respond to an application by a UAE national to work remotely within 20 days. If the application is rejected the employer needs to state the reason for refusal.



# Working from Home

- In the UAE and KSA, employees who are classed as higher risk employees during the Covid-19 pandemic must continue to work from home.
- Across the GCC, homeworking cannot be imposed, will likely to constitute a change to the employee's terms and conditions of employment and require their consent.
- Generally no risk of employee claim if a homeworking request is rejected, unless the employee is part of the group of employees who are considered as higher risk employees or unless the employee could demonstrate a discriminatory reason for the rejection.
- Requirement in the UAE for a specific amount of office space to be leased per work permit. Uncertain whether changes will be made to these requirements as working from home arrangements are becoming more common.



# Challenges of Working from Home

Communication



Diversity & Inclusion



Mental Health



Managing employees remotely



Health and Safety







## Vaccine Update

# Vaccines

- Roll-out of vaccines across the GCC has commenced – front-line staff and teachers currently being prioritised in the UAE, Kuwait and Qatar.
- No indication in any GCC-country that the vaccine will be mandatory once widely available.
- UAE - vaccination roll-out is the highest in the GCC – over 2 million residents have been vaccinated. KSA – over 300,000 residents.
- UAE government is continuing to implement measures which comprise of increased mandatory testing requirements for residents and citizens who have not been vaccinated (i.e. testing requirements every 7 days for employees of public sector entities / companies affiliated with the public sector and government site visits). Other incentive-based policies have been implemented including unrestricted access to Abu Dhabi for road-based entry for vaccinated residents and no requirement to present a negative PCR test for inpatient hospital appointments (Abu Dhabi only).
- In light of UAE government policy, increasing numbers of private sector companies are implementing testing requirements every 14 days for unvaccinated workforce.



# Vaccines

- At this stage, employers may be able to refuse an employee access to the workplace – no strict rules exist around this but organizations are going to need to consider whether it is really necessary to refuse an employee access to the workplace.
- Ultimately the vaccine is not currently mandatory - an employee's refusal to have the vaccine would not constitute a failure to comply with a reasonable management request.
  - With the exception of Qatar, dismissal of employees refusing vaccination carries a similar risk across the GCC - any dismissal under these circumstance likely amount to arbitrary dismissal.
- Data protection considerations - DIFC/ADGM in particular where there is increased regulation.
- The future? Emirates/Etihad Airlines – Vaccine certificates / “Digital Passports”
  - Airlines have partnered with the International Air Transport Association (IATA) to trial a mobile app allowing passengers to manage their travel and conform with relevant government requirements for Covid-19 testing or vaccine information.





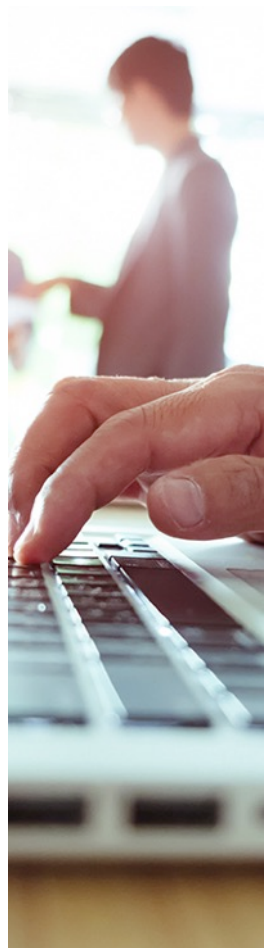
SECURITY

# Data Protection

With additional subtitle

# Data Protection

- Significant reform in the DIFC from 1 October 2020 - DIFC Data Protection Law 2020 (DIFC DPL), draws heavily on the GDPR.
  - Applies to all processing of *existing* and new data after that point by companies incorporated in the DIFC, irrespective of whether the processing takes place in the DIFC.
  - Also applies to entities that process personal data in the DIFC on a regular basis, regardless of the entity's place of incorporation.
- Covers anything that an entity does with any information relating to any living individual – from a HR perspective, this may include electronic records (HR files, emails, payroll systems, voicemails etc...) and certain paper records
- Non-compliance - Fines – up to USD100,000. Organisations must report all personal data breaches to the DIFC Commissioner as soon as practicable.
- Similar data protection legislation is in force in the Abu Dhabi Global Market – not as developed as the DIFC DPL, currently undergoing consultation for update.
- More broadly across the UAE and GCC, laws designed primarily to protect privacy do not typically exist as laws in their own right and there is no codified data protection regime (save for in Qatar)



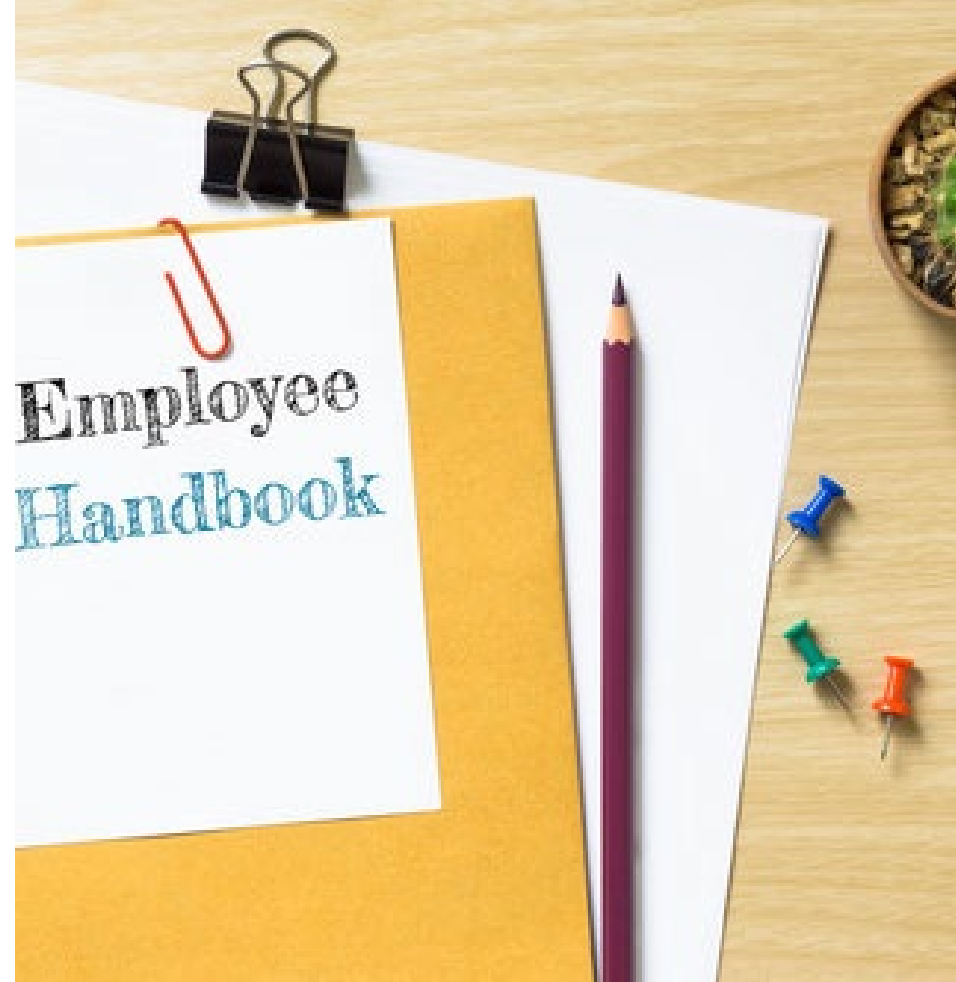
A photograph of a wooden desk with a pair of black-rimmed glasses, a silver pen, and a document titled "EMPLOYEE TERMINATION". The document has a form with fields for "Name", "Address", "Occupation", "Date", and "Order". A teal text box is overlaid on the right side of the image.

# EMPLOYEE TERMINATION

Termination of  
Employees/RIFs in  
the current climate

# Valid Termination Reasons

- Gross Misconduct/  
Termination for  
Cause
- Performance Related
- Breach of Employer Policies
- Redundancy?



# Termination for Redundancy Across the GCC

UAE	Kuwait	Saudi Arabia
<ul style="list-style-type: none"><li>• No mention in the Labour Law</li><li>• Case Law</li><li>• Compensation – up to 3 months' pay</li></ul>	<ul style="list-style-type: none"><li>• Article 50 Kuwait Labour Law – full closure</li><li>• 3 month minimum notice period for monthly paid employees</li></ul>	<ul style="list-style-type: none"><li>• Article 74 KSA Labour Law</li><li>• Compensation – end of fixed term</li><li>• KSA Nationals – min 2 months</li></ul>
Bahrain	Qatar	Oman
<ul style="list-style-type: none"><li>• Articles 110 and 111 Bahrain Labour Law</li><li>• Specific compensation</li><li>• Notification to the MOL 30 days in advance of issuing notice</li></ul>	<ul style="list-style-type: none"><li>• No mention in the Labour Law</li><li>• Compensation/Reinstatement unlikely</li></ul>	<ul style="list-style-type: none"><li>• No mention in the Oman Labour Law</li><li>• Full closure likely to be fair</li><li>• <b>Minimum</b> compensation – 3 months' pay</li></ul>




# Any changes to redundancy position as a result of Covid-19?

UAE	Kuwait	Saudi Arabia
<ul style="list-style-type: none"><li>• Recognition of redundancy as a valid reason – increased acceptance?</li><li>• Protection for UAE Nationals</li></ul>	<ul style="list-style-type: none"><li>• No change to redundancy position as a result of Covid-19</li><li>• 3 month minimum notice period for monthly paid employees</li></ul>	<ul style="list-style-type: none"><li>• Force majeure – wait 6 months?</li><li>• KSA Nationals – subsidy extended</li><li>• Risk if benefited from subsidies in any way</li></ul>
Bahrain	Qatar	Oman
<ul style="list-style-type: none"><li>• No change to redundancy provisions</li><li>• Specific compensation</li><li>• Notification to the MOL</li></ul>	<ul style="list-style-type: none"><li>• No impact as a result of Covid-19 as no arbitrary dismissal claims</li></ul>	<ul style="list-style-type: none"><li>• Protection for Omani Nationals in the private sector</li><li>• Termination of expatriates permitted provided permanently repatriated and all dues paid (although flights currently suspended)</li></ul>



## Termination Payments

- Salary and benefits during notice or payment in lieu of notice (for unlimited term contract)
- Accrued but untaken annual leave
- End of service gratuity (if non GCC national with one year's continuous service)
- Cost of flight/ air ticket for repatriation
- Any contractual amounts (including bonus/ commissions)
- Any outstanding expenses
- An ex-gratia payment?



General  
Employment Law  
Update from the  
Region

# GCC Employment & Immigration Round Up

## UAE

- Parental Leave
- Retirement Visa
- Remote Working Visa
- Equal Pay – new wording

## KSA

- Work Visit Visa option removed
- Part time working introduced
- QIWA Portal / Internal Regulations
- Saudisation Changes
- Labour Reform Initiative – exit/entry visa reform



# GCC Employment & Immigration Round Up

## Oman

- No objection certificate requirement removed
- VAT/Income Tax

## Qatar

Minimum Wage  
NOC abolished



Questions? Please let me know.

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