Legal Update

31 March 2018

JUDICIARY LAW

- Courts start to notify litigants by SMS, email.

The Ministry of Justice has officially started to implement the royal decree approving digital means of judicial notifications. Dr. Waleed Al-Sama'ani, Justice minister and chairman of the Supreme Judicial Council, ordered implementation after the e-notification controls had been published in the official gazette Umm Al-Qura. The ministry declared in a press statement that e-notification was considered productive for its legal effects in three cases. The first is notification by way of an SMS sent to a phone number verified by the competent authority.

The second case is notification on the natural or legal person's email address when the address belongs to the person, has been included in a contract between the parties, have been mentioned on the person's website, or has been verified by a government entity. The third case is notification via an account registered on any of the government automated systems.

The ministry asserted that — in addition to the data required for the notice and claim statement — the ID card or commercial registration number of the defendant, execution debtor, or notification receiver would also be included, and they would have to provide such data.

It also pointed out that e-notification should be conducted via the digital systems approved by the Ministry of Justice.

The official implementation comes at a time when some judicial panels, such as those of commercial courts, have started applying it and linked it to the ministry's digital systems, in addition to the traditional notification means, including process servers and Saudi Post.

Custodian of The Two Holy Mosques King Salman had issued a royal decree approving judicial e-notifications — via SMSs on verified phone numbers, emails, and accounts registered on government automated systems — as valid and effective notifications, just like the means traditionally recognized by law.

- Launch of special labor courts postponed by one year.

The opening of special courts to look into labor issues has been postponed for a year, according to legal sources. The courts were to open on Jan. 17 this year but will now commence their work on Jan. 17, 2019. The postponement was decided by a high-level committee of the Supreme Judicial Council.

The labor issues are currently being considered by general courts and 38 labor commissions in various parts of the Kingdom. A royal decree has extended the interim period during which the general courts will look into labor disputes by a year until special courts are established. The special labor courts once established will consider the labor disputes involving contracts, wage, the rights of laborers, and work injuries and financial compensations for them.

The courts will also consider disputes arising from the arbitrary sacking of workers by employers and other complaints of workers. The commissions to settle labor disputes will be dissolved once the labor courts start their work and their staff will be redeployed in the new courts.

According to a report by the Ministry of Labor and Social Development, the commissions have settled more than 23,000 disputes during the past year alone.

- GCC lawyers allowed to practice in KSA.

Justice Minister Dr. Waleed Al-Sama'ani has issued a decision authorizing GCC lawyers to practice law in Saudi Arabia by adding an article to the executive regulations of the Law Practice Code. The decision followed a Council of Ministers' directive asking the Justice Ministry to review the provisions of the executive regulations of the Law Practice Code in order to ensure equal treatment for all GCC citizens.

The article provides for recording lawyers with a GCC nationality in the active lawyers' register, and licensing them to practice law on the condition that they are already licensed in their home country.

The decision also stipulated that the GCC lawyer's native license must be valid, in accordance to the conditions and controls of the Law Practice Code and its executive regulations, excluding the residency requirement.

An article was added to the executive regulations banning the registration of foreign law firms unless each partner of such firms had been licensed to practice law in Saudi Arabia in cases where foreign lawyers was permissible in accordance with the conditions of the Law Practice Code and its regulations

BUSINESS LAW

- Commercial Mortgage Law approved.

The Shoura Council has approved the draft Commercial Mortgage Law.

Yahya Al-Samaan, assistant president of the council, said that the law, which consists of 47 articles, aims at regulating commercial mortgage contracts. It also protects the rights of the concerned parties and deals with relevant matters related to their rights and interests.

- Draft Bankruptcy Law approved.

The Shoura Council on Monday approved the Draft Bankruptcy Law, which aims at regulating the bankruptcy procedures in the Kingdom.

The law, which consists of 231 articles, covers bankruptcy procedures with regard to preventive settlement and financial restructuring, especially that of minor debtors, in addition to administrative settlement.

The law comprises 17 chapters consisting of general rules of bankruptcy committee, procedures for guarantees and clearance associated with financial transactions, right to object to rules and decisions, procedures for administrative settlement, financing, priority of debts, and special rules for the deceased debtors.

The draft law will be applicable to all persons involved in businesses or commercial activities in the Kingdom. It will also applicable to non-Saudi commercial and vocational companies and other entities and organizations as well as investors.

FOREIGN INVESTMENT LAW

- Investment licenses now in four hours.

Now investment licenses can be issued in less than 4 hours, according to an official of the Saudi Arabian General Investment Authority (SAGIA).

Earlier the procedures for the issuance of investment licenses took 53 hours. The remarkable improvement was due to three initiatives: restructuring the processes, reducing the required documents, training and qualifying the cadres. Ibrahim S. Al Suwayel, deputy governor for Investors’ Services and Consultancy, said the restructured processes include issuing, amending and renewing investment licenses. Earlier, eight documents were required to get an investment license, but now only two documents are required.

These two documents are financial statements and commercial registers attested by Saudi embassy where the company seeking investment license is located. Investment licenses can be renewed by investor through self-service on the SAGIA website.

LABOR LAW

- Small firms exempt from expat levy.

Firms employing not more than five people have been exempted from the monthly expat levy, according to the Ministry of Labor and Social Development.

Firms employing up to nine foreigners pay the levy for the number of workers exceeding five, provided the owner of the firm is a full-time employee.

The ministry has said the segments of foreigners who enjoy exemption from deportation also will not pay. They include Palestinians with Egyptian travel documents, the Burmese, Turkistanis and the Baluch. Foreigners working in branch offices of general recruitment firms and offices for hiring domestic help are also exempted.

The levy does not apply to citizens of all Gulf Cooperation Council (GCC) states, spouses of Saudi citizens and non-Saudi children of Saudi women.

Companies with a Saudi workforce of 50 percent or more pay a levy of SR300 per month per expatriate worker in 2018. For companies employing more expatriates than Saudis, the monthly levy will be SR400 for 2018. In 2019, this fee will increase to SR500 and SR600, respectively and in 2020 it will reach SR700 and SR800, respectively.

- New catalogue of fines.

Employers will be fined SR10,000 if they violate Labor Law provision with regard to the prescribed holidays of their employees.

This has been included in the revised table of violations and penalties pertaining to the Labor Law regulations.

The table approved by Minister of Labor and Social Development Ali Al-Ghafees was revised after making necessary amendments in view of the changes and developments in the labor market, according to a ministry statement carried by the Saudi Press Agency.

A SR10,000 fine will be imposed on employers who violate the revised Article 38 of the Labor Law by allowing a non-Saudi employee to work in a profession other than the one specified in his work permit.

The same amount of fine will be imposed if Article 15 is violated by not opening a file of the firm in the Labor Office or not updating the data of the firm at the office.

Employer will be fined SR2,000 for keeping employee’s passport, iqama (residency permit) or medical insurance card without his consent.

Employer will be fined SR10,000 for not having organizational regulations or not complying with them.

Failure to submit the Wage Protection file to the Labor Office on a monthly basis will result in a fine of SR10,000.

If the firm fails to meet the requirements of health and occupational safety of its staff, the penalty will be SR15,000 in fine.

The fine will be doubled if the offense is repeated.

The fine must be settled within one month after the issuance of penalty, the failure of which will result in the doubling of fine.

- Twelve new activities off limits for non-Saudis.

Minister of Labor and Social Development Dr. Ali Al-Ghafees has issued a ministerial decision restricting work in outlets of 12 activities and occupations to Saudis starting from the beginning of the next Hijri year.

The 12 work areas banned for expats are: watch shops, optical stores, medical equipment stores, electrical and electronics shops, outlets selling car spare parts, building material shops, outlets selling all types of carpets, automobile and mobike shops, shops selling home furniture and ready-made office material, sale outlets of ready-made garments, children clothes and men’s supplies, household utensils shops and pastry shops.

- Private sector agencies to conduct labor inspections.

The authorities are giving final touches to a plan to privatize the inspection wings of the Ministry of Labor and Social Development and the Ministry of Rural and Municipal Affairs.

The sources said the move was aimed at boosting the performance and enforcing stricter supervision of the markets.

Specialized companies will take over the inspection activities in a move to ensure better services to both citizens and expatriates especially in matters pertaining to the public health, they said.

The sources believed that the privatization of the inspection services will also increase the government's revenues and will enable the private sector to work side by side with the public sector.

A recent report by the Control and Investigations Board (CIB) noted that the field inspections of the two ministries were weak and that the fees were not properly collected.

TAX

- 7 VAT guidelines issued.

The General Authority of Zakat and Tax (GAZT) has issued seven guidelines for various sectors related to tax transactions and implementation. The objective is to help value-added tax (VAT) registered companies.

The guidelines cover the real estate, transport, healthcare, digital economy sectors. More guidelines for other sectors will be issued soon. The guidelines will be updated periodically.

The GAZT reminded all enterprises registered for value added tax (VAT) whose supplies of goods and services exceed SR40 million annually to file their tax returns on a monthly basis, as stipulated by the VAT Law and Implementing Regulations.

Enterprises whose supplies of goods and services total SR40 million or less are required to file tax returns every three months. The VAT Implementing Regulations require the taxable person or whoever is authorized to act on his behalf to file tax returns latest by month-end.

Failing to file the tax return within the required tax period will result in a fine equal to no less than 5% and no more than 25% of the tax amount the enterprise was obliged to file. Enterprises in violation will also face a late payment fine equal to 5% of the tax amount due for every month or part thereof for which the tax goes unpaid, as well as suspension of several government services.

Enterprises must adhere to the tax return form specified by GAZT in order to provide the required information about the tax amount due on supplies and purchases in a clear and accurate manner. The form includes two separate sections, the first is for the tax due on revenues (output tax), and the second is for tax due on purchased (input tax).

Enterprises will automatically be issued a tax invoice by GAZT containing the invoice number and tax amount due.

Once the invoice is issued, the tax amount due must be paid to GAZT's bank account via the SADAD online payment portal or ATM. Once the payment is made, the enterprise will receive a notice from GAZT confirming the amount paid.

MISCELLANEOUS

- Registration of rental contracts.

An electronic rental network has been launched to regulate the Kingdom's real estate rental market. A registration fee of SR250 has been fixed for residential rental contracts and SR400 for commercial rental contracts.

The network offers a wide range of electronic services such as documenting contracts, electronic payment, and obliging real estate agents to submit a uniform rental contract on the network so as to be approved as an executive bond. It also shows credit status of tenants.

A unified rental contract will be considered as an executive bond and as such its holder can directly approach the court. It will significantly help avoid long judicial process.

This new service, which is a giant step in the Kingdom's digital transformation process, will serve a large section of people and sectors and will be instrumental in safeguarding the rights and interests of all contractual parties.

- New medical services added to health insurance policy.

Dental and gum treatment as well as one-time teeth cleaning during policy period will be covered in the new cooperative health insurance bylaws which will be implemented in July 2018. An announcement to this effect has been made by the Council of Cooperative Health Insurance (CCHI).

The new insurance bylaws also allow the Respiratory Syncytial Virus (RSV) vaccine and early test programs for hearing problems, newborns' heart problems, gastric sleeve surgeries for people with 45 BMI. Among the new diseases covered by insurance are psychological issues that require hospital care indicated by the Ministry of Health and psoriasis.

Baby milk formula will also be covered by insurance for babies who medically need it until they reach 24 months of age.

All insurance companies must now give an annual coverage of at least SR500,000 for medical check-ups, diagnoses, treatment, medications, admission, and surgeries.

- Prepaid salary cards for domestic workers.

Domestic workers (housemaids, drivers etc.) will get prepaid payroll or salary cards to protect their wages and ensure that they get their salaries on time. The Ministry of Labor and Social Development (MLSD) has already started this scheme. It has given a six-month deadline to all employers to issue these cards to domestic workers under their sponsorship.

Many banks are already offering prepaid card services to their customers.

Prepaid payroll cards give domestic workers the flexibility to conveniently withdraw monthly salary through ATMs and pay for all their shopping at POS with ease through the Mada network. The card is acceptable within the Kingdom only and it accepts deposits only from the sponsor.

There is no fee for transferring salary from the sponsor account to the Mada household payroll card. To get a prepaid payroll card, the sponsor must have an account with a bank, fill up a form, sign an agreement with the bank, and show the original ID of the worker to the bank.

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