

ALLEN & OVERY

# Employment Reorganisation Roadmap

United Arab Emirates

1 April 2021



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# 1. Employee representation

## 1.1. What are the main forms of employee representation involved in restructurings?

There are no trade unions or employee works councils in the UAE. UAE law currently prohibits the formation of trade unions.

## 1.2. Is there a system of employee participation rights?

Employees have no right to management or board-level representation.



## 2. Process on business sales

### 2.1. Are employees automatically transferred to a buyer by operation of law on a business sale?

If a business sale takes place, employees are not automatically transferred to a buyer by law. The transfer of employees must be agreed separately between a buyer and seller. Employees will only transfer to a buyer if the buyer offers them employment and they accept. If their employment terminates with the seller and they are rehired by the buyer, employees will be entitled to receive severance pay from the seller in accordance with article 115 (*compensation for termination*) of the UAE Employment Law 1980 (as amended) (see answer to ).

### 2.2. If so, in broad terms, what is the legal test for identifying which employees transfer?

Employees are not automatically transferred to a buyer by operation of law on a business sale.

### 2.3. Can employees object to the automatic transfer of their employment and what are the consequences of an objection?

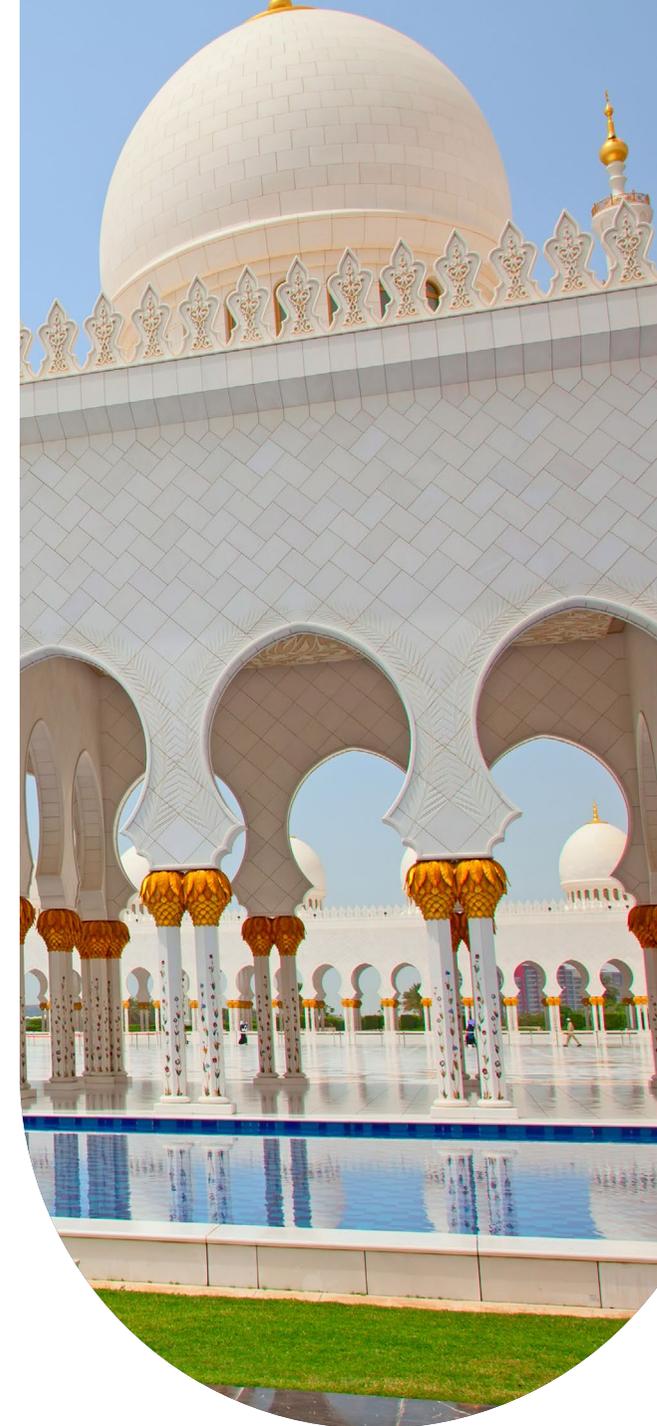
There is no automatic transfer of employees in the case of a business sale. An employee may resign on account of a change in their working conditions, in which case the employee will be entitled to receive severance pay from the seller in accordance with article 116 (*worker compensation for rescission of contract*) of the UAE Employment Law 1980 (as amended).

### 2.4. Do obligations to inform and consult employees or employee representatives arise on a business sale?

There is no obligation to inform or consult employee representatives in relation to a proposed business sale. There is no obligation to inform or consult employees save to the extent necessary to seek their consent to a transfer of their employment to the buyer.

### 2.5. What are the penalties for non-compliance with information and consultation obligations on a business sale?

There is no obligation to inform or consult employee representatives on a business sale.



## 3. Process on share sales

### 3.1. Do obligations to inform and consult employee representatives arise on a direct share sale (ie, on the sale of the company itself)?

There is no distinction in **UAE Employment Law** between a share sale and a business sale. There is no obligation to inform or consult employee representatives on a direct share sale.

### 3.2. Do obligations to inform and consult employee representatives arise on an indirect share sale (on the sale of a company's direct or indirect holding company)?

There is no obligation to inform or consult employee representatives on an indirect share sale.

## 4. Process on outsourcings

### 4.1. Are employees transferred by operation of law in the following scenarios: (i) on an initial outsourcing of processes/services; (ii) on a change of supplier; or (iii) on an insourcing of processes/services?

Employees are not automatically transferred by operation of law in any of these scenarios. The transfer of employees must be agreed separately in the outsourcing arrangement. Employees will only transfer to a new supplier/service provider if it offers them employment and they accept. If their employment terminates with the outgoing supplier/service provider and they are rehired by the incoming one, employees will be entitled to receive severance pay from the outgoing supplier/service provider in accordance with article 115 (*compensation for termination*) of the UAE Employment Law 1980 (as amended) (see answer to ).

### 4.2. Do obligations to inform and consult employees or employee representatives apply in any of these scenarios?

There is no obligation to inform or consult employee representatives in these scenarios. There is no obligation to inform or consult employees save to the extent necessary to seek their consent to a transfer of their employment to the new supplier/service provider.



# 5. Process on collective dismissals

## 5.1. Is a “collective dismissal” (or “mass layoff”) defined by law?

There is no concept of collective dismissals, nor any specific regulations regarding collective dismissals. As to individual redundancy dismissals, please see

## 5.2. Do obligations to inform and consult employee representatives arise on a collective dismissal?

There is no concept of collective dismissals, nor any specific regulations regarding collective dismissals. As to individual redundancy dismissals, please see

## 5.3. Do obligations to inform and consult the competent authorities arise on a collective dismissal?

There is no requirement to inform and consult the competent authorities, as there are no specific regulations regarding collective dismissals.

## 5.4. When are these obligations triggered?

There is no requirement to inform or consult regarding collective dismissals.

## 5.5. What are the penalties for non-compliance with information and consultation obligations on a collective dismissal?

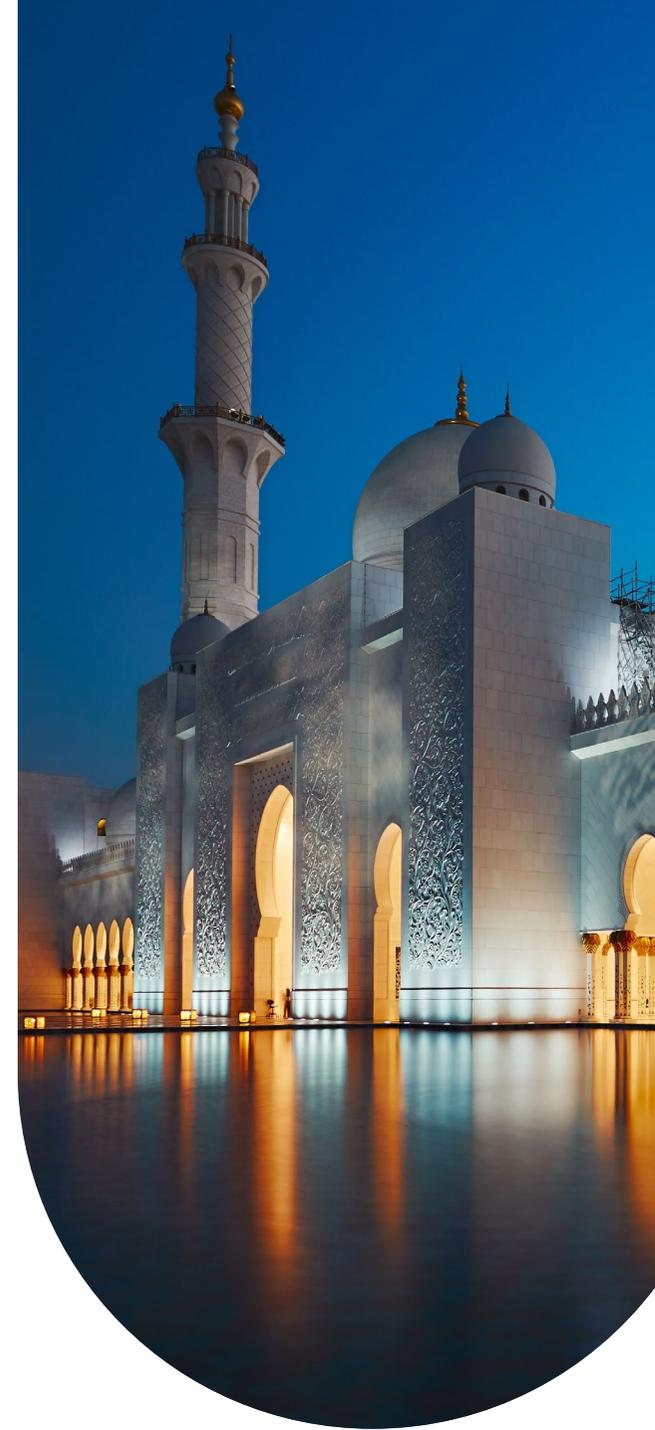
There are no specific penalties for collective dismissals as there are no specific regulations regarding collective dismissals. Please see answer to as to penalties for non-compliance with individual dismissal requirements.

## 5.6. Do obligations to inform and consult employee representatives and/or competent authorities arise in the context of multiple dismissals, which do not qualify as a collective dismissal, as defined by law?

There is no obligation to inform or consult employee representatives and/or the competent authorities in the context of multiple dismissals.

## 5.7. Does an employer have options/alternatives when it has been unable to reach agreement with employee representatives during the negotiation period?

There is no duty on the employer to inform or consult or to reach agreement with employee representatives.



# 6. Process on individual dismissals

## 6.1. Are employees entitled to a minimum period of notice on dismissal on redundancy or economic grounds?

The minimum notice entitlement is 30 days.

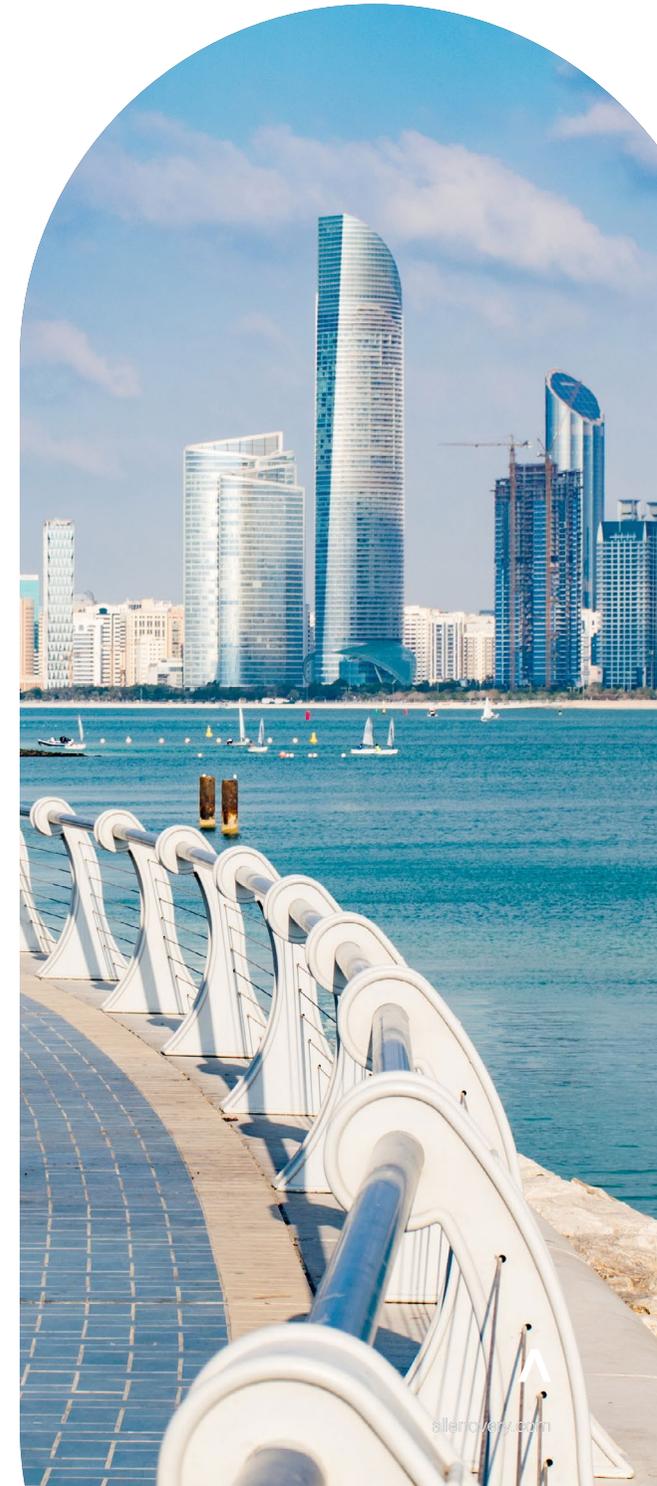
Different minimum notice entitlements apply for daily-paid workers (ranging from one week to one month depending on their length of service).

## 6.2. Does any special procedure apply when proposing to implement an individual dismissal on redundancy or economic grounds?

An employer may only terminate employment for a “valid” reason. This is not defined but is understood to mean a reason connected with the employment. It is not clear if redundancy qualifies as a reason – to our knowledge this has not been tested in the UAE courts.

## 6.3. Does special dismissal protection apply where dismissals are to be implemented following or in connection with a business transfer?

There are no specific procedural requirements relating to dismissals following a business transfer, other than the requirement to give minimum notice.





#### **6.4. Are employees entitled to a minimum severance payment on dismissal for redundancy or economic grounds?**

The minimum severance payment for an employee with one or more years' service is:

- 21 days' wages per year of service for up to five years' service, and
- 30 days' wages for each additional year of service up to a total maximum of two years' wages.

Severance is calculated on the basis of the last basic wage (excluding gratuities in kind) received by the employee before the termination of the employment contract. According to a recent judgement delivered by the UAE courts, with the exception of allowances and bonuses, any amounts payable to an employee as wages, including commission payments or performance payments, are considered as salary and will be taken into consideration when calculating severance.

#### **6.5. What are the penalties for non-compliance with individual dismissal procedure?**

If an employee is dismissed under a definite contract for an unreasonable cause, they are entitled to a compensatory payment. This payment will not exceed three months' wages or the remaining balance of the contractual term (whichever is shorter) and is in addition to the employee's severance entitlement.

If an employee is arbitrarily dismissed (for a reason irrelevant to the employee) under an indefinite contract, they are entitled to a compensatory payment. This compensation will not exceed three months' wages and is in addition to the employee's severance payment.

#### **6.6. Is there any special legal protection or does any special treatment apply for particular groups of workers?**

There is no special legal protection that applies for particular groups of workers.

# 7. Process when implementing alternatives to redundancy

## 7.1. Can changes to employment terms be made with or without express employee consent?

'Changes to the employment terms should generally be agreed with the employee. The employment agreement may, however, contain an express right for an employer to vary terms without the employee's consent.

## 7.2. Must an employer consult individually or collectively with affected employees or their representatives (if any) before making changes to employment terms?

Unless the employment agreement contains an express right for the employer to vary terms without the employee's consent (see answer to 7.1), an employer must consult individually with the affected employees before making changes to the employment terms.

## 7.3. Do additional restrictions apply if changes are proposed in connection with or following a business transfer?

There are no additional restrictions if changes are proposed in connection with or following a business transfer.

## 7.4. What are the penalties for non-compliance with these procedures?

Subject to the terms of the employment agreement, the changes cannot be made without the employee's consent (see answer to 7.1). If an employee is arbitrarily dismissed (for a reason irrelevant to the employee), they will be entitled to a compensatory payment in addition to the severance payment (see answer to 7.1).

## 7.5. Do national laws promote or permit any alternatives to redundancy (eg layoff or short-time working)?

UAE law does not promote alternatives to redundancy. However, alternatives can be agreed between an employer and the relevant employees.



# 8. Process on insolvency

## 8.1. Do obligations to inform and consult employee representatives arise on the sale of an insolvent business (whether share sale or business sale)?

Insolvency in the UAE is extremely rare and there are no real precedents dealing with what happens to employees on the sale of an insolvent business. There is, however, no obligation to inform or consult employee representatives on the sale of a solvent business, and this is also likely to be the position on the sale of an insolvent business (see [here](#) for further information).

## 8.2. Does the buyer of an insolvent business inherit employees and/or employee liabilities by operation of law?

Insolvency in the UAE is extremely rare. The law does not really address this point and there are no real precedents dealing with what happens to employees on the sale of an insolvent business. The rules relating to the transfer of employees and/or employee liabilities on a solvent business sale would probably apply on an insolvent business sale. On the sale of a business, employees would not be automatically transferred by law. They would only transfer to the buyer if they are offered, and accept, employment. On a sale of shares, any employment contract which is valid at the time of change remains valid between the employee and the buyer and their service is considered continuous. Both the seller and buyer are jointly responsible for a six-month period for the execution of the obligations under the employment contract in the period prior to the change. After that six-month period the buyer will be solely responsible for all obligations under the employment contract.

The law does provide that if an employer goes bankrupt, the employee and the trustee in bankruptcy may terminate the employment contract, subject to the rules of UAE Employment Law 1980 (as amended), ie a minimum of 30 days' notice must be given and minimum severance entitlements must be observed (see [here](#) for further information).

## 8.3. Do obligations to inform and consult employee representatives arise where collective dismissals are to be implemented in an insolvent business?

There is no concept of collective dismissals, nor any specific regulations regarding collective dismissals. Rules on individual dismissals would, however, need to be observed in an insolvency situation (see [here](#) for further information).



# 9. Contacts



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