

# Al-Khateeb highlights most prominent labor law amendment

## Second part highlights termination, holidays, differences with older labor law

**CAPITALS:** An interview was recently conducted with Professor Lawyer Khaled Al-Khateeb who has an experience of more than 25 years in Labor Law and the legal field with many relevant researches and numerous studies. This was stated in a press release issued Monday. He is a partner in Taher Group Law Firm along with Abdulaziz Taher Al-Khateeb.

Al-Khateeb highlighted that the Labor Code which was issued on the Feb. 19, 2010 marking significant adjustments which differed radically from the previous law, pointing to the importance of this law being one of the topics related to all workers in the sector of civil society. Below are excerpts of the final part of a two part interview:

### In what circumstances can an employer terminate the services of an employee?

**Al-Khateeb:** The new law deals under two circumstances for expulsion one with a reward and another without. Article 41 of the law states that the employer has the right to dismiss the worker without notice or compensation or end of terminal service indemnity in three circumstances, namely: If the worker commits an error which resulted in a massive loss to the employer, if it is proven that the worker has obtained work fraudulently, if the worker discloses work secrets which caused or would cause a certain loss for employer.

Paragraph B of the same Article deals with the eligibility of the worker to get end of terminal service indemnity in five circumstances, namely: if the worker has been sentenced in a crime of honor, integrity or ethics, if the worker commits an indecent act in the workplace, if the worker assaults one of his colleagues or the employer or his representative at the workplace, if the worker commits a breach of or fails to carry out his obligations imposed on him under the terms of the relevant contract and its provisions, if the worker repeatedly disobeys the instructions of the employer.

The law also lays down provisions for the worker dismissed for one of the cases mentioned above for a right to appeal the decision before the competent labor body in accordance with the procedures set forth in this law. In all cases, the employer shall notify the Ministry of the dismissal and its causes, and the Ministry shall inform the Manpower Restructuring Authority.

Thus Article 41 of the new law contradicts with the old law in complete, where an employer could terminate the services of a workers in all the above such circumstances without notice and without any end of service benefits.

### If the worker stops reporting to work without an excuse, what are the grounds of the employer under the new law?

**Al-Khateeb:** If the employee stops reporting to work without an acceptable excuse for seven consecutive days or twenty separate days during the year, the employer may consider him as having resigned in accordance with Article 42, and in this case the provisions of Article 53 of the law shall be applicable on the workers eligibility to terminal service indemnity.

### What are the rights of the employee in the case of termination by the employer under the new law?

**Al-Khateeb:** Article 44 sets out the notification of termination of contract by three months for monthly paid workers and one month to other workers if the notice of termination of services was provided by the employer. During the notified three months, the employee is entitled to be absent for a full day per week or eight hours during the week to look for another job, keeping his right of pay for that day or those hours of absence, and the worker has the right to choose the time of absence provided that he notifies the employer at least a day in advance.

The employer is also entitled to exempt the employee from work during the notice period provided he pays the employee his wages for the entire notice period.

### What does the law stipulate in circumstances where a employer terminates the services of a worker during his vacation?

**Al-Khateeb:** The new law prevents the employer from termination the services of a worker while the latter is on vacation according to Article 45.

### What are the circumstances which empower the employee to end his contract with entitlement to full end of service settlement?

**Al-Khateeb:** The new law under Article 48 empowers the employee to terminate the employment contract without notice and with the eligibility to the end of terminal service indemnity in six cases, namely: if the employer does not stick to the provisions of the contract or the provisions of the law, if the worker is assaulted by the employer or his representative or both, if the continuation of work in the workplace threatens the worker's safety or health as decided by the Medical Arbitration Committee at the Ministry of Health, if the employer or his representative involves in fraud or fraudulent acts while the employee is under contract, if the employee was accused of a criminal act and final judgment is issued declaring his innocence, if the employer or his representative were accused of committing an indecent act against the worker which violates public order and ethics.

### Does the marriage of a woman have any effect on her contract under the new law?

**Al-Khateeb:** The previous law permitted a working woman to terminate her employment contract due to her

marriage allowing her right of the end of service benefits in full if she leaves work within 6 months from the date of marriage. Under the new law, the legislator amended the term upwards to a full year from the date of marriage during which she can leave work with full end of terminal service benefits.

### Does the employee have the right to obtain a certificate of experience from the employer if he quits work?

**Al-Khateeb:** The new law gives the right to the worker to obtain a certificate of end of service indicating the duration of his service and his work last paid salary. This certificate may not include any information that might offend the worker or reduces the chances of procuring work ahead. The employer is obliged to return all the documents or certificates or tools the worker has entrusted with him before.

### Has the new law amended working hours?

**Al-Khateeb:** Working hours are still 48 hours per week but the new law has reduced the working hours in the month of Holy Ramadan to 36 hours per week.

### How does the new law differ from the previous one with respect to official holidays?

**Al-Khateeb:** Official holidays have been increased under the new law compared to the previous law as per Article 68 and an addition of the New Year holidays, Arafat Day, Liberation Day, and Eid Al-Fitr and Eid al-Adha which have now been increased to three days instead of two days.

### In what way has the new law affected the annual vacation?

**Al-Khateeb:** Article 70 gave workers the right to a paid annual leave period of 30 days, excluding public holidays and days of sick leave that may occur during it. No worker is entitled to leave for the first year except after spending at least nine months in the service for the employer. The worker is entitled to get a leave for the fractions of the year which he has spent in work, even if it was his first year of service. Article 71 obliges the employer to pay the worker his wages owed for annual leave beforehand, and Article 72 determines the worker's right to accumulate his annual vacation of no more than two years leave with the consent of both the worker and employer which comes with better conditions for the worker compared to the previous law under Article 38.

Article 73 also conferred on the worker the right to get a cash return for his compiled annual days of vacations in case of termination of contract, without violating the provisions of articles 70 and 71 referred to earlier.

Article 74 also stipulates that without prejudice to Article 72, the employee shall not have the right to waive off his annual leave with or without compensation on the other hand the employer has a right to be reimbursed by the employee any leave salary paid by him if it is proven that the employee worked with another employer during his leave.

### What changes have the new law undergone towards the sick leave of the employee?

**Al-Khateeb:** The new law has increased sick leave days as compared to the previous law to increase to the 75 sick days, of which 15 days are with full pay, 10 days for three-quarters of pay, 10 days at half the pay, 10 days for a quarter of pay, 30 days without pay, but chronic diseases are excluded by a decision of the competent minister who determines the type of these diseases.

### Has the legislator made any provision toward performance of Hajj leave?

**Al-Khateeb:** Article 76 introduces a paid leave of 21 days to perform the Hajj for those who spent a minimum of two years at the service of the employer, provided that they have not performed Hajj before.

### Are working women who become widows given a special leave for mourning?

**Al-Khateeb:** Article 77 creates a leave for mourning for a working Muslim woman whose husband dies, on a full pay for four months and ten days from the date of death in accordance with Sharia. A non Muslim working woman is given a period of 21 paid days. It was also decided that in the case of the death of a first or second degree relatives, the employee male and female is entitled to receive a three day paid mourning leave.

Finally, Article 79 has developed a text that authorizes the employer's right to grant special leave without pay at the worker's request, other than leaves referred to earlier.

### What is the legal position of a worker for injuries suffered by him during or because of work?

**Al-Khateeb:** According to the new law, the legislator introduced Article 90 which states that it requires the employer to report the injury of the worker in the accident either resulting at work or on the way to work and back, and the report shall be referred to the competent police station and the Labor Department.

The Act also sets a new Article 91 for the employer to bear the expenses by the employee's treatment of his injuries and occupational diseases, including the value of medicines and transport expenses, all without violating Health Insurance Act No.1 of 1999.

### Does the law set a certain period of time for raising labor cases? Is this period of limitation different from the old law?

**Al-Khateeb:** Article 144 of the Law states that denial claims brought about by workers based on the provisions of this law cannot be heard after a year from the date of the termination of contract.

When the denial occurs, then the provision of paragraph two of Article 242 of the Civil Code applies, where those employers who refute the claims of the hearing must take the oath of religion that they have paid the worker in full of all his claims.

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