

Warning and Termination to the Employees Accordance with Omani Law

Terminating an employee is an unescapable part of operating a business and this can be tough spot for many legally. If the employee termination is not handled correctly it can result in unfavorable repercussions for the employers including legal notices of labor lawsuits.

In Oman, every terminated employee has the right to make a Ministry of Manpower complaint (can be done online) against their employer/ex-employer. Although there is no way you can 100% protect yourself from claims against you after firing an employee, there are steps you can take in order to reduce the chances:

Step 1: Review the Employee's Contract

Employer's often rush a termination of an employee because of their own emotions towards the employee and not assessing the facts in play. For example, If you terminate an employee based on him/her not achieving certain targets, these targets should have been mentioned in the agreement.

Another key point to check in the agreement is the notice period. This is often overlooked, but according to Omani Labour Law RD 35/2003, Article 37, any party wishing to terminate the employment agreement must give a 30-day notice. This means that the employee must remain on the job for a further 30 days upon being served their termination notice.

If the employer does not want the employee to remain on the job for this period, he/she is obliged to pay the employee their Gross Wage for that period.

Step 2: Check the employee's personnel file

Article 26 of Omani Labour Law requires employers to keep a special file for each employee containing details of which are further explained in the law. (These are basic information on the employee and his time at the workplace).

You should look out for any past Warning Notices given to the employee or any staff complaints registered or poor performance reports. You should cross reference the company Employee Regulations Handbook that is enforced in the workplace (and approved by Ministry of Manpower) to see if the requirements for disciplinary actions have been met.

Sometimes employers have only given Oral Warning notices and this is not advised and should further be followed by a written notice that is signed and received by the concerned employee. Usually if you have not given a warning letter at least once before termination, you may be in trouble.

Step 3: Understand how much the employee is due

The employer is expected to cover the employees':

1. Gross salary of notice period

This is one full salary unless the notice period of termination under the contract is more than 30 days.

2. Leave salary

This is a compensation on the leftover holiday allowance the employee has. There is a big debate on whether this comprises of the full or basic salary in Omani Labour law.

Article 61 of Omani Labour law states that the employee is entitled to a full salary upon his annual leave – it is assumed this remains the case after resignation/termination.

3. Gratuity – AKA the End of service benefits

This can be very high in the case of non-Omani employees as the employer must calculate and bear the cost of this as of Article 39 of Omani Labour law – This does not apply to employees who have worked for less than 1 year.

To learn how to calculate your gratuity, follow this link

Employers don't need to worry about arranging funds for gratuities of Omani Employees as they are covered by PASI (Public Authority for Social Insurance) where all Omani employees must be registered and a monthly fee must be paid by the employer to PASI.

There are situations where the employer is not required to pay any gratuity at all to the employee at all, this is outlined in Article 40 of Omani Labour Law shown below.

“The employer may dismiss the worker without prior notice and without end-of-service gratuity in any of the following cases:

Labour Law Royal Decree 35/2003

If he assumes a false identity, or if he resorts to forgery to obtain the employment;

If he commits a mistake which results in a heavy financial loss to the employer provided that the latter should notify the relevant directorate of the incident within three days from the date of his knowledge of its occurrence;

If he in spite of being notified in writing does not comply with such instructions the compliance with which is necessary for the safety of workers or the workplace, provided that such instructions shall be written and hanged in a conspicuous place and the contravention of which is likely to cause a grievous damage to the work place or to the workers;

If he absents himself from his work for more than ten days without reasonable cause during one year or for more than seven consecutive days provided that such dismissal shall be preceded by a written notice to him from the employer after his absence for five days in the first case;

If he discloses any secrets relation to the establishment in which he works;

If a final judgement is entered against him for an offence or felony for breach of honour or trust or for a felony committed in the work place or during the course of his work;

If he is found during the working hours in a state of drunkenness or was under the influence of an intoxication drug or mental stimulus;

If he commits an assault on the employer or the responsible manger or if he commits a grievous assault on any of his superiors in the course of the work, or because of it if he assaults one of his colleagues in the work place by hitting him and as a consequence thereof sickness or delay from the work for a period exceeding ten days ensues;”

Step 4: Serve the employee their notice correctly

This means that you have made sure that there are logical and understandable grounds for termination of employment, have put this in writing and followed company policies.

You may want to revert for a legal opinion before this.

Make sure you have mentioned reasons in your letter of termination of why the employee is not suitable for his/her job anymore. Try to avoid discussing attitude problems of the employee in the letter and mention the situations which that have led to his/her termination instead.

You will start counting your notice period from the same working day of which the letter to terminate was signed and received. If the letter of termination is issued whilst the employee is on leave or during a public holiday, the notice of termination shall not commence until the next day after the leave/public holiday (Article 38 Omani Labour Law).