



March 30, 2020

Dear Client,

The World Health Organization has declared the Coronavirus outbreak a pandemic on March 11, 2020.

The Hashemite Kingdom of Jordan has enforced the Defense Law on March 17, 2020, declared a national curfew on March 21, 2020, and has issued various Defense Orders and regulations to be followed in an effort to contain the virus.

As part of our continuous effort to work diligently to provide the highest quality of legal services to our clients, we have prepared this general review of the Defense Law currently in force to serve as a guide for the concerns of employers and employees alike.

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The Defense Law No. (13) for the year of 1992:

Its issuance, implementation mechanism, enforcement and all the procedures taken pursuant to its articles up to March 20, 2020:

- Article/124 of the Jordanian Constitution states the following:

"In the event of an emergency which necessitates the defense of the country, a law will be issued under the name of the Defense Law, which grants a person designated by law the authority to take the necessary actions, procedures, and measures, including the authority of suspending any legislation to secure the defense of the country. The Defense Law shall enter into force by virtue of the Royal Decree upon the decision of the Council of Ministers."

- Accordingly, the Defense Law:
 - Is issued in the event of an emergency.
 - Is issued by a Royal Decree based on a resolution by the Cabinet and is also suspended by a Royal Decree.
 - Grants a person the authority of taking necessary actions, procedures and measures, which include the suspension of any other Laws in force without any reference.

Relevant Articles of the Defense Law:

- Article/ 2/A of the Defense Law states the explanatory reasons to bring this Law into effect:

"In the event of an emergency that threatens the national security or public safety in all parts of the Kingdom or a particular area therein, due to war, or the occurrence of an event that may lead to a war, or disturbances, or armed internal strife, or public disasters or the spread of a pest or epidemic; a Royal Decree shall declare the entry into effect of this Law based on the resolution of the Cabinet ."



- Articles/ 3 and 4 of the Law have regulated the authorities granted under the Defense Law:

The Authorities granted by the Defense law are granted to the Prime Minister, who is also the Minister of Defense. The Prime Minister shall execute his authorities via Defense Orders and may delegate all or part of his authorities to whom he deems fit, whereby such authorities may be exercised in all of the Kingdom or a particular area and within the conditions and criteria imposed by the Prime Minister.

- The Prime Minister's authorities include the following:
 - I. Place restrictions on the freedom of people to gather, move, reside, and may arrest or detain suspects or those who pose a threat to the national security and public order.
 - II. Assign any person to perform any work or service within their ability.
 - III. Inspect persons, places and vehicles without being bound by the provisions of any other legislation and may order the use of appropriate force in the event of resistance.
 - IV. Confiscate movable and immovable assets and postpone the settlement of debts and due commitments.
 - V. Prevent or restrict the importation, exportation or transfer of goods from one place to another and prohibit their concealment, destruction, purchase, exchange or the setting of their prices.
 - VI. Seize any land, building, road, or source of water and energy and remove any trees or installations thereon to construct any facilities for defense purposes and to order its management, exploitation and regulate its usage.
 - VII. Evacuate or isolate some areas and impose curfews.
 - VIII. Determine or limit the opening and closing times of public places.



- IX. Regulate transportation between the different regions and block any road or water stream or change its course and prevent any traffic on it or regulate it.
- X. Monitor all messages, newspapers, publications, pamphlets, drawings, and all means of expression, publicity and advertisement before they are published and seize, confiscate, suspend and close the places where they are prepared.
- XI. Prohibit the capturing of pictures or production of designs or maps of any place, and the prolonged stay in any place without a legitimate excuse.
- XII. Cancel licenses of firearms, ammunition, explosives or explosive materials used in the manufacturing of explosives, and prohibit their manufacture, sale, purchase, transfer, and disposition and to order their handover and seizure, and the closure of the shops where they are sold or stored.
- XIII. Prohibit the manufacture, sale, purchase or possession of telecommunications equipment and to ordering their handover and seizure.

It is important to note that, Defense Orders must include the penalties imposed for their violation. Alternatively, the penalties stipulated in the articles of the Defense Law will be applied, which include a period of imprisonment that does not exceed three years. The Courts of First Instance have jurisdiction to decide on all crimes committed against the provisions of the Defense Law and the Defense Orders issued according to it

The Defense Law also tackles the procedures of implementing the aforementioned matters, in addition to the objection procedures against any adopted measures which are subject to objection before the administrative courts. It also includes the basis for claiming compensation for damages caused by the Defense Orders.



- Implementation of the Defense Law:
 - The Defense Law has come into force on March 17, 2020.
 - The Defense Law and the orders issued by its virtue apply throughout the Hashemite Kingdom of Jordan.
- Limitations on the Implementation of Defense Law:

The Royal Decree instructed that the implementation of the Defense Law shall be to the narrowest extent, so as:

- Not to prejudice the political and civil rights of Jordanians and to protect them.
 - To protect public freedoms and the right of expression, which are guaranteed by the Constitution.
 - To ensure the respect of private properties, whether real estate or movable and immovable properties.
- The adopted measures relate to:
 - a) Relieving citizens & residents and meeting their health and educational needs, their provision with supplies as necessary in an effective and efficient manner.
 - b) Intensifying and continuing the efforts to reduce the burdens of life on its citizens & residents.
 - c) Undertaking the necessary measures to protect the health and safety of the citizens & residents and living requirements and working to sustain it efficiently and in high coordination between the various relevant country organs.
 - d) Taking all the necessary measures to ensure the durability, stability and safety of the private sector and its institutions.
 - e) Maintaining public facilities to ensure that the needs of citizens & residents are met.



Defense Order No (1) for the year 2020:

Defense Order No. (1) suspended the implementation of several articles of the Social Security Law and provided for the following:

- a. Suspension of the application of Pension Insurance during March, April and May 2020 on all private-sector workers who are subject to the provisions of the Labor Law. The establishment of employment shall continue to pay 1% of the workers' wages subject to deduction for natural disability insurance and natural death insurance, in addition to the obligation to pay subscriptions relevant to other insurances, as per the provisions of the Social Security law. If an establishment is unable to pay the due subscriptions during that period, these amounts shall be paid in installments without accruing any interest and for the period required by the establishment, provided that they are paid within a period not exceeding December 31, 2023.
- b. If the establishment wishes to continue applying the Pension Insurance to all or some of its employees and was unable to pay the subscriptions due during March, April and May 2020, such amounts can be paid in installments without interest, provided that they are paid within a period not exceeding December 31, 2023.
- c. Employees that were excluded by their establishments from Pension Insurance may optionally subscribe to Pension Insurance provided that they pay 16.5% of their wages, which are subject to deduction.
- d. Suspension of all interests and fines for March, April and May 2020 resulting from:
 - i. The delays in the payment of the subscriptions on their due dates
 - ii. delay in the submittal of any required forms and,
 - iii. the delay in informing the Social Security Corporation of any changes in the entitlement of insurance benefits or pension rights.
- e. A maximum of 50% of the Social Security Corporation's revenue from Annual Maternity Insurance subscriptions may be utilized to provide in-kind and financial assistance for the elderly and the ill or their families through means defined by the Corporation.



In accordance with the above Defense Order, establishments shall:

- Grant the right to Employers to suspend the deduction and payment of Pension Insurance during March, April and May 2020 for all workers who are subject to the provisions of the Labor Law.
- Continue the deduction and payment of the establishment's rate for Disability Insurance, Natural Death Insurance, Unemployment Insurance, Maternity Insurance and other types of insurance by paying a percentage of 5.25 instead of 21.75 of the applicable subscription dues.
- If establishments are unable to pay the due subscriptions to the Social Security during March, April, and May 2020, then the same may be paid in installments without interest and for the period required by the establishment, provided that the applicable dues are paid within a period not exceeding December 31, 2023.



Defense Order No. (2) for the year 2020:

The above-mentioned Order announced a curfew in Jordan as of Saturday, March 21, 2020, at 7 AM and until further notice. It states the following:

- Starting 7 AM Saturday, March 21, 2020, and until further notice, all citizens and residents of Jordan are banned from moving in all provinces of the Hashemite Kingdom of Jordan.
- People authorized by the Prime Minister/the Minister of Defense, whose work is necessary to sustain public utilities, are excluded from Defense Order No. (2) provided they obtain the necessary official permits.
- As for medical emergencies, citizens and residents shall inform the Public Security Directorate and the Civil Defense Directorate to take all necessary measures to ensure their health and safety.
- Anyone who violates the provisions of this Order and the communiqués issued by the Prime Minister/Minister of Defense shall be subject to immediate imprisonment for a period not exceeding one year.
- The following was announced on Tuesday, March 23, 2020:
 - Corner stores and limited supermarkets throughout the Kingdom shall open between 6 AM to 6 PM.
 - Citizens & residents are permitted to walk to these stores between the hours of 10 AM to 6 PM to buy food and household goods they need. Citizens & residents are prohibited from driving their cars during this time.



Defense Order No. (3) for the year 2020

Defense Order No. (3) for the year 2020 issued on March 25, 2020, included the penalties imposed on all those who violate the stipulations of Defense Order No. (2) in relation to the curfew imposed on the free movement of the people all across the Kingdom and the statements related thereto.

- The penalties for those who violate the curfew shall be as follows:
 - A fine of not less than JOD (100) and not exceeding JOD (500) for the first violation. The offender will not be prosecuted if he/she pays the minimum fine within a week from its occurrence.
 - In the case of recurrence, the penalty shall be imprisonment for a period not exceeding one year or a penalty of not less than JOD (100) and not exceeding JOD (500) or both.
 - The vehicles circulating during the curfew will be confiscated for (30) days.
- The penalties for opening the stores during unauthorized timings shall be as follows:
 - Opening stores during unauthorized timings will be penalized with a fine of not less than JOD (1000) in addition to the closure of the store for (14) days.
- The penalties for opening a store that has not been authorized to open by the Government:
 - Opening a store without due authorization will be penalized by imprisonment for a period not less than (3) months or a fine of JOD (3000) or both.



The Effect of the Defense Law on Contracts and Agreements:

- Article/11 of the Defense Law indicates that:
 - I. If the implementation of the terms of any contract or obligation becomes excruciating for either Party due to the enactment of this Law, or the instructions issued thereto, then; either Party may suspend the implementation of the contract or its obligations without being considered in breach.

This clause may be considered a defense plea in any claim or any procedures that may be taken against a person or entity for refraining from implementing the contract or obligation before the Court of Law.

The impact of the Defense Law on Employment Contracts:

- I. In accordance with the decision of the Law Interpretation Bureau No. 14 of the year 1972, official and emergency leaves issued by an official decision from the Cabinet are considered as Official Leaves, and they apply to both the private and public sectors.
- II. The Cabinet declared an Official Leave for 15 days as of March 18, 2020, for all official institutions, except for specific vital sectors as determined by the Prime Minister.
- III. The Official Leave was extended for an additional two weeks, which begins on Wednesday, April 1, 2020.



Further to the above decision of the Cabinet; the Minister of Labor has issued several decisions related to the procedures of implementing this decision on the private sector:

- I. The employee is considered to be on paid leave during the Official Leave referred to in the Cabinet's decision.
- II. The decision has excluded some sectors from the above-mentioned Official Leave; therefore, the employees of the excluded sectors are not subject to the Official Leave and should proceed with their work after taking all necessary safety precautions. Those sectors include healthcare workers and those who work in the field of supplying, selling and distributing food.
- III. Following decision No. (1/5079) issued on March 17, 2020, by the Minister of Labor, and in light of the above; employers of the Private Sector, Civil Associations, Private International Organizations, Consultancy Institutions, Translation Service Providers, Software Development Companies, and any entities whose duties do not require the presence of employees at the workplace, are permitted to instruct their employees to work remotely. In which case, the Official Leave may not apply to employees who can fulfill their duties remotely, provided that their offices are closed.
- IV. If the nature of the work allows it, and according to the operational needs of the employer, employees may work remotely from their houses, and as long as duties assigned to said employees do not require them to leave their homes or leave the province in which they work or reside. As such, their work will not be considered overtime.



Frequently Asked Questions:

- Can the Employer terminate the services of employees?
 - The employer may not terminate the services of employees during the period of the Official Leave. As such, any termination will be considered as arbitrary dismissal, whereby employees will be compensated according to the terms of their contracts.
 - However, the employer may terminate the services of Employees during the period of the Official Leave in accordance with Article/28 of the Jordanian Labor Law.

- Can the employer end the services of employees under the probation period?
 - a) Employees under the probation period to whom the decision to work remotely applies:
 - The employer may terminate the services of employees excluded from Official Leave during the period of Official Leave by serving them a termination notice through the same means of communication used while working remotely.

 - b) Employees under the probation period to whom the Official Leave applies:
 - The employer may terminate the services of employees within the period of probation during Official Leave. However, if the letter/notice of termination was not delivered to the employee within the probation period that has ended and/or will end during this Official Leave; and if it was impossible to reach the employee during the Official Leave; then the employer shall hand over the termination letter within/on the employee's first working day after the Official Leave. In this case, employees will be entitled to all their entitlements owed until the last day of the probation period.



- Can the employer terminate the services of employees with fixed-term contracts?
 - a) Employees with fixed-term employment contracts to whom the decision to work remotely applies:
 - The employer may send the employee a letter indicating their wish not to renew the employment contract, which expires during the period of Official Leave. The employee may be notified of the employers decision through the same means of communication used while working remotely.
 - b) Employees with fixed-term contracts to whom the Official Leave decision applies:
 - If the letter of non-renewal was not delivered during the term of the contract that has expired and/or that will expire during this Official Leave; and if it was impossible to reach the employee during the Official Leave; then the employer shall hand over the letter of non-renewal within/on their first working day after the Official Leave. In this case, the employee will be entitled to all the entitlements owed until the last day of the expiration of the contract.

- How does the Official leave impact annual leave requests?
 - a) Employees to whom the decision to work remotely applies, and who have applied for an annual leave before the commencement of the Official Leave, and have obtained the employer's approval on the same; can take their annual leave whereby the duration of this leave is deducted from the employees' annual leave balance. The employee obliged to work remotely if the period of the annual leave ends before the Official Leave has concluded.
 - b) Pursuant to Article/61 of the Labor Law, annual leaves may not be deducted from an employee's annual leave balance if they fall during an Official Leave or public holiday. Accordingly, employees to whom the decision of the Official Leave applies, and who have applied for Annual Leaves before the commencement of the Official Leave and have obtained the employer's approval on the same, are instead deemed to be on Official Leave.



- What are the provisions of Article/50 of the Labor Law, and do they apply during this period of Official Leave?

Article/50 of the Labor Law stipulates that if employers are forced to suspend work temporarily due to an unpreventable reason not attributable to them, the following will apply:

- Employees will be entitled to their full wages for a period that does not exceed the first ten days of the suspension of work within a year, and to half of their wages for any period that exceeds the first ten days; provided that the total number of paid suspended workdays does not exceed sixty days per year.

The guide issued by the Ministry of Labor has explicitly stated that Article/50 of the Labor Law does not apply to the situation at hand. Accordingly, employees are entitled to full wages for the entire duration of the Official Leave.