

COVER STORY | **ACCESS TO LEGISLATION**

# **INSIDE** **INFORMATION**

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*How do law firms discover when new laws are issued and how do they overcome the challenge posed by the lack of a central repository of legislation? We find out*

**T**he UAE of 2009 bears little resemblance to the country at its formation in 1971. Indeed, much of the landscape of today is barely recognisable from that of even 10 years ago. Where there once was nothing but desert, there now stands a global financial centre; where there was nothing but water is now a seven-star hotel.

The unprecedented rate at which the UAE has changed has reaped numerous rewards. Money generated from tourism, real estate and retail flows through Dubai, filling the reservoirs in the economy that a diminishing oil supply was in danger of creating. Dubai International Financial Centre has ensured that the emirate is now on the radar – if not the letterhead – of every major corporation in the world. Abu Dhabi is also proving a considerable draw to foreign investors and international business.

But such rapid growth has created problems. The credit crunch has exposed the fallibility of the region's frenzied approach to construction and the evidence of inadequate transportation is visible every day on Dubai's roads. The expatriate workforce that has flocked to the region in its droves has thrown up more issues. Familiar with the working practices of western jurisdictions, lawyers and business people from the UK, US and Australia often bring with them expectations that the UAE is still in the process of addressing. Supply is playing catch-up with demand in some sections of society and it will take a while before the necessary infrastructure is completely in place to support the level of business activity the region already commands.

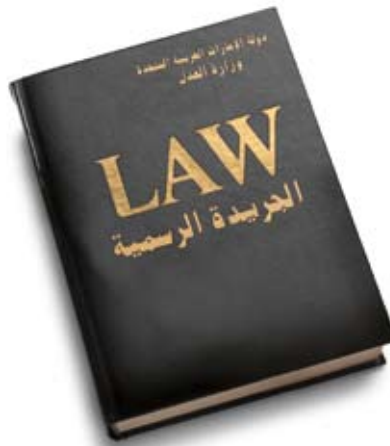
For the many lawyers who have descended on the region in recent years from the west, one of the main differences they have encountered in the UAE is in accessing information. In the UK, for example, bills go through the House of Commons and the House of Lords where, if passed, they receive royal assent and become acts of parliament. All the laws published in the UK are then published by The Stationery Office, which is under licence from main Queen's copyright suppliers The Office of Public Sector Information (OPSI). Legal publishers, law firms and whoever else can then subscribe to regular feeds to keep them updated on all developments.

The position in the UAE is more complicated. For a start, laws are issued at both a federal and emirate level – the UAE federal government legislates on matters that affect the whole country and each emirate is authorised to regulate on "local matters". There is no single repository of information for legislation – either federal- or emirate-wide – rather the federal government and each individual emirate issues on a monthly basis a hardcopy Official Gazette to publish their recently issued laws. Further complicating matters for the many English-speaking lawyers practising in Dubai, Abu Dhabi and other parts of the UAE, is that all laws are published in Arabic, meaning they need to be translated.

The system can cause problems: "We have physically driven to some emirates where they don't issue the gazette and have spoken to the relevant people to retrieve photocopies of those laws," reveals one Dubai-based lawyer. And, as a result, has prompted many firms

to look to develop their own processes and procedures to locate, translate, interpret and catalogue UAE legislation.

UAE law firm Hadeef is one of the oldest and most-established players in the legal market, having been in the region since 1980. It has developed over the years its own system for navigating the many layers of legislation, though even now describes the process as "complex". The firm relies on a variety of sources for alerts to new legislation – the official gazettes, several subscription-only websites and government-backed newspapers, such as *Gulf News* – are among its main channels of information. And once the firm is aware of a new law, next comes the issue of getting hold of a copy of it: "a challenge" according to the firm that it overcomes by again relying on a combination of both government sources and unofficial channels.



**“While the official language of the UAE is Arabic, the language of business is English”**

#### **LOST IN TRANSLATION**

Translating legislation from the original Arabic into English causes problems even for firms that traditionally enjoy a higher complement of native Arabic speakers than their international counterparts. "While the official language of the UAE is Arabic, the language of business is English. Documents therefore need to be translated, which poses its own challenges," explains Doris Matlok, knowledge and technology manager at Hadeef. "First, you have to know that someone has the language capabilities to speak Arabic and English fluently and can write in both languages. Second is the technical aspect – knowing all the legal terms."

Matlok explains that there are different ways of approaching the translation of legal documents. "There is a literal approach where you translate the words precisely – ie, word for word. That creates problems in that things can be taken out of context or may be not translated correctly. There is also a purposive approach – where it's the purpose of the provision that is translated, rather than simply a word-by-word translation."

Hadeef favours a combination of the two approaches and also uses in-house or external

translators, depending on the specific piece of legislation. "For shorter pieces we may just use our resources internally – depending on availability. Some of the lengthier pieces of legislation will go to an official outside translator."

Most other firms take a similar approach. London-based law firm Clyde & Co also uses a combination of internal expertise and external translation houses, and like Hadeef, has encountered difficulties. "The very nature of translation is that it is subjective," says Xanthe Carr-Boyd, Clyde & Co's knowledge and information manager, based at the firm's Dubai office. "A fundamental issue of translations in the Middle East is that there is no common agreed glossary of terms. Translators and translations vary from country to country. For example Arabic in the Gulf is very different to Arabic in Lebanon or Egypt. Even if it's only a small difference in the translation of terms, it could be critical."

DLA Piper's Rebecca Kelly, a senior legal consultant at the firm's Dubai office, says it is a case of trial and error as to which translation companies firms come to rely on. "We use private translation companies in the UAE familiar with translating UAE laws and have a team of

people in-house, including our lawyers, that then quality check those translations. You can easily recognise when an external translation company simply runs a document through automated translation software – you get to recognise usual quirks. For example, ‘Jebel Ali’ is often translated as ‘Mountain Ali’, so we always review and amend the translations,” she says.

Kelly is arguably one of the most informed people in the region on access to legal information. Over the past 18 months or so, Kelly has helped to oversee the development of DLA Piper’s legislation library – a mammoth task, which has seen the firm locate, translate, categorise and put into a searchable electronic format around 2,500 UAE laws to date.

### LEGAL LIBRARIES

Jim Delkousis, DLA’s Dubai-based head of litigation and arbitration, explains the rationale behind the decision to create the resource: “In any jurisdiction transparency and access to law is very important. When I arrived here a couple of years ago, I was told that locating laws was difficult. But in order to practise law efficiently and in a way that we had been accustomed to in the past, we needed immediate access to the law. We needed that resource to ensure that we could deliver top-quality advice efficiently and effectively.”

The firm therefore embarked on the huge undertaking of creating its own central repository of UAE legislation – an ongoing process as the resource is continually updated. Kelly explains that once the relevant UAE legislation and associated documents have been located and translated, they are then quality checked in-house and categorised according to the UAE ministerial departments and areas of law that are covered. DLA then sends the electronic files to document conversion company Affinitext, which inserts into the text cross-references, hyperlinks and screen readability functionality.

This is a hugely simplified version of what is an extremely meticulous, time-consuming process. But the result is a fully searchable online legisla-



DLA'S JIM DELKOUSIS: 'ACCESS TO LAWS IS IMPORTANT'

tion library that can be accessed from anywhere via a secure internet connection. Executive council decisions, subordinate legislation and amendments to pieces of legislation are all on the database, which also includes the original Arabic text, so users can refer back to the source. Jim Delkousis estimates that DLA has in its online library about 95 per cent of UAE legislation, as soon as something is identified that the firm has missed, it is located and uploaded.

Other firms have endeavoured to develop similar resources – though on different scales. Doris Matlok at Hadeef explains that the firm stores electronic read-only versions of laws in Arabic and English on the firm’s knowledge management database, which its lawyers can access. This is selective rather than comprehensive. “It’s pretty solid,” says Matlok. “There are a lot of minor laws that have an application in a commercial law environment, so we tend to focus on the laws applicable to our business.”

Hadeef has also recently released internally its version of online information resource *Wikipedia*, which it has dubbed ‘Hadeefpedia’. “This tries to combat one of main issues in the region – getting a handle on what the laws are in this jurisdiction, what they mean, how they’re interpreted and how they’re applied. It’s a one-stop shop for legal resources and information in the UAE; a collaborative web-based tool where users can browse, search, and edit content. There is a workflow process in place where someone submits changes and then they go through an approval process from a senior lawyer. That way the content stays vibrant, accurate and up to date,” Matlok says.

Carr-Boyd at Clyde & Co is rather vague about how many laws the firm has on its online legislation library, estimating the total amount as “thousands”. “We have a database that meets the needs of the firm,” she says. “Some of the laws we don’t have a need for, so we haven’t translated every single law. But if we need it, we can get it.”

She describes a firm that has taken the approach of translating and cataloguing every single law as “drastic”, stating that recently some of the big firms and new entrants have gone down that route in order to “get a quick grip on the situation”.

Hadeef’s Doris Matlok and Clyde & Co’s Carr-Boyd believe it won’t be long before established legal publishers identify a potential gap in the UAE market as far as legislation is concerned. And it looks like they are right: “LexisNexis sees the UAE legal publishing market as a dynamic area with both current and future opportunities,” says Susan Sidebotham, a London-based developer at legal publishing giant LexisNexis. “We are investigating ways to enhance the availability and dissemination of legal intelligence in the GCC states, covering key areas such as corporate, real estate and financial services law. Pivotal to this is gaining an in depth understanding of the day-to-day needs of legal practitioners so we can provide high-quality, intuitive and trusted services that our customers demand and expect.”

DLA Piper’s Jim Delkousis believes that, for the moment at least, the legislation library the firm has created sets it apart from its regional rivals. “Before we developed the legislation library, everyone knew how difficult it was getting access to laws and their English translations. There was almost the sort of mentality whereby everyone was on the same level so it was sort of OK. Now we don’t have that excuse anymore.” ●

### Locating the law

*How do law firms find out about new legislation?*

- *through the official gazettes. These are generally published monthly on an emirate and federal level and always in Arabic.*
- *via regional press. The government sometimes floats potential changes through regional media such as online information provider Emirates News Agency (WAM) and daily newspaper Gulf News.*
- *through subscription-only websites, such as English-language [www.emiratilaw.com](http://www.emiratilaw.com) and Arabic counterpart [www.mahamoon-uae.com](http://www.mahamoon-uae.com).*
- *from private translating companies. Some external translation firms have their own repositories of laws.*
- *being involved in drafting. Some firms are approached by the government to assist in the drafting of new laws, which alerts them to the fact new legislation is imminent.*
- *via government and client relationships. Contacts will sometimes alert firms to proposed new legislation.*
- *through word of mouth. News of new legislation filters from law firm to law firm.*

CONTRIBUTOR KATHRYN YOUNG IS EDITOR OF THE BRIEF

# Answers Fast

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