

UAE – COVID-19 UAE Ministerial Resolution to Safeguard Employment Stability in the Private Sector

On 26th March 2020, the Ministry of Human Resources (MOHRE) issued Resolution No. (279) of 2020 on the Employment Stability in the Private Sector During the Period of Application of Precautionary Measures to Curb the Spread of Novel Coronavirus (the Employment Stability Resolution). To date, this resolution is still applicable.

To whom does the resolution apply?

The Resolution is aimed at protecting the non-UAE employees for the duration of COVID-19 precautionary measures and is intended to be effective until such precautionary measures are fully removed. The Resolution set the steps to be followed by employers, some of them being subject to employee's consent, in a gradual way.

What are the steps applicable under the Resolution?

1. Implement remote working: Employers shall take necessary measures to allow employees to perform their work remotely and prioritize tasks that don't require physical presence. This first measure aims to allow employees to remain on full employment.

Even while the capacity of the total employees within the work premises has been successively extended during the past few weeks, employers are encouraged to keep the capacity of physical presence on a strict need-to basis. Customers capacity are still limited in most of the shops and office to respect safety and distancing guidelines.

2. Grant paid leave: Requiring employees to take a period of paid leave is not new and employers have always been able to unilaterally set an employee's holiday dates under Article 76 of the UAE Labor Law. This measure should be prioritized over unpaid leave in order to maintain the subsistence to employees for as long as possible.

3. Grant unpaid leave: An employer cannot unilaterally impose unpaid leave on an employee but they can request and seek the agreement of an employee to obtain unpaid leave. Before this new resolution, the only permissible unpaid leaves are those related to sick leave, maternity leave or pilgrimage leave.

This measure aims to allow employees to maintain employment rights while releasing him/her from work obligations. Such an agreement on unpaid leave should be clearly documented and be unambiguous in relation with its reasons, term and expectations.

As an extension of the humanitarian support programs made available by the UAE government, employers shall enable foreign labor to leave the country and return home temporarily, while on unpaid leave, subject to travel approval.

4. Temporary salary reduction: The Resolution states that businesses seeking to temporarily reduce the salary of an employee during the said period shall sign an additional annexure executed between both parties and limited to the agreed-upon term. This measure aims to allow the employee to maintain employment rights while reducing temporarily the work activity for the employee and the financial burden on the employer.

5. Permanent salary reduction: Under Article 6, employers seeking to permanently reduce the salary of an employee should first obtain the ministry's approval to do so by applying for "change of a job contract's data" according to effective procedures.

6. Redundancy: Termination of an employment contract shall follow the UAE Labour Law, as to notice period, end of service benefits and reason of termination as applicable following the type of employment contract (i.e. limited or unlimited contract).

Additionally, the Resolution grants specific protection for categories of employees in cases of so called “redundancy”. Should an employer identify a surplus of workforce as a result of the pandemic situation, the employer will also have to register the employee on the Virtual Labor Market, an electronic and smart system operated by the Ministry of Labor allowing issuance of temporary work permits for those employees who temporarily transfer their employment to another employer.

Finally, the Resolution provides that the employer must continue to provide the permanent sponsorship to an outgoing employee in addition to housing and specific allowances until the employee either leaves the UAE or obtains a permanent work permit from another employer.

Final consideration

The steps taken by the Ministry in respect of the Resolution (as highlighted above) are part of the wider measures taken by the UAE government to support businesses, investors, citizens and residents during the global pandemic. This includes the automatic extension of residency visas expired after the 1st of March 2020 and waiver of penalties for UAE residents unable to come back to the UAE prior the usual maximal 180 days exit period allowed.