

NEWSLETTER 2/2018 (November 2018)

In the last 6 months, the legal framework for employment relationships and visas in the UAE has seen various changes. These measures are largely aimed at developing the legal framework and making the labor market more attractive. In this newsletter we will discuss some of these new regulations.

A. Legal Developments in the UAE Employment / Visa Sector:

In the following we will provide a chronological overview of the most important legal developments for employment and visa matters in the UAE:

1. *Part Time Work*
2. *Emirati Nationals in the Private Sector*
3. *Bank Guarantee Replacement*
4. *New Visa Rules and Categories*
5. *Freelance Permits*
6. *New Human Resources Law for Dubai*

1. Part Time Work

The UAE Ministry of Human Resources and Emiratization (hereinafter referred to as “MoHRE”) is granting part time work permits effective March 1st, 2018.

The change in legislation has been introduced by Ministerial Resolution No. 31 of 2018 Introducing Part-Time Employment Contract System (hereinafter referred to as “**Resolution**”). Based on this Resolution, employees will be able to work part time on two or more jobs without the requirement of obtaining the consent of their primary employer.

However, this Resolution is only applicable for employees of first and second skill level. Those are professions that require a scientific or technical degree or management skills with a university degree or at least a 2 to 3-year higher education following high school.

All part-time employment contracts will be subject to the applicable laws and executive regulations issued by the MOHRE, i.e. duration of contract (limited or unlimited), leave, end of service, salary etc.

Although the employee is not required to obtain the prior consent of his primary employer, the MOHRE will notify each employer (primary and all secondary) with regard to any granted part-time work permit. According to Art. 7 of the Resolution, the employee is also obliged to inform his employers accordingly.

Another interesting provision of the Resolution is contained in Art. 5. According to this provision, the primary employer cannot prevent the employee from working with a competitor even if non-compete clauses and confidentiality clauses have been agreed on between the employer and the employee. An employment with a competitor can only be prevented by obtaining a court order. This provision may result in a significant loss of intellectual property, human capital and confidential business and client information for the primary employer. Any prevention in advance might also not be possible as any notification of another part-time job will be communicated after the work permit has been granted. Until a court order has been obtained, valuable information could have already been passed on.

This new Resolution of the MOHRE is a welcomed step toward opening the labor market and making it more flexible. However, it remains to be seen if the liberal approach of the MOHRE can be preserved or if restrictions – especially with regard to working for a competitor – will be imposed later on.

2. Emirati Nationals in the Private Sector

The new Ministerial Decree Number 212 of 2018 on Regulation of Employing Nationals in the Private Sector has been published in the Official Gazette and entered into force on 28 June 2018. It covers recruitment, on-going support of UAE nationals and termination. The purpose of the decree is to consolidate the national manpower in the private sector and promote ‘Emiratization’.

The decree provides for UAE national employees to be employed on a two-year contract which may be extended by mutual agreement. Once the UAE national is hired, the recruiting company is obliged to submit all required documents to the MoHRE to issue a work permit. Subsequently, the MoHRE will issue the employee an ‘Emirati package’ that will include among other things, a work permit, employment contract and a Guide of the Rights and Obligations of Private Sector Workers.

The Decree sets out very important rules for terminating the employment with the Emirati national.

Employment contracts can be terminated by mutual agreement or if the contract has not been renewed upon expiry. Unilateral termination is possible, provided that the parties observe the provisions of the UAE Labor Law and the acceptable reasons to cancel the contract. The Decree explicitly regulates cases in which termination will be considered as invalid. In detail, termination is invalid in case that employer employs a non-national worker for the same work performed by the terminated Emirati national. Further, termination will be considered invalid if the employer terminates the employment contract for a reason not related to work.

The Decree includes two major novelties: In case of termination, no prior approval from the MoHRE is required anymore. Moreover, if the termination will be considered arbitrary, the employer has the obligation to re-instate the Emirati national. In case of violation of the re-instatement obligation, the employer will be imposed with a fine of AED 20,000.

A fine of AED 20,000 will also be imposed on employers who employ dummy Emirati nationals for the sake of any inspection by the MoHRE.

3. Bank Guarantee Replacement

Any company licensed in the UAE mainland and wishing to employ a person had to pay a bank guarantee in the amount of AED 3,000 to the MoHRE for each employee when applying for the employee`s work permit. Once the employee has left the company, the bank guarantee could either be used for another employee or got refunded.

As this practice could have an impact on the cash flow of companies, this administrative practice of paying bank guarantees shall now be replaced with insurances covering any outstanding wages, compensations and return tickets up to an amount of AED 20,000. The new insurance scheme has been announced in June 2018 by the Cabinet and came into effect in October 2018. The insurance shall cost the employer AED 60 per year per employee and would need to be presented to the MoHRE when applying for a new work permit.

It should be noted that the respective Cabinet Decision has not been published yet. Hence, it remains to be seen how the changes will be implemented.

4. New Visa Rules and Categories

As part of its efforts to control the issuance of visit and tourist visas and maintain a high level of attractiveness to visit and invest in the UAE, the Cabinet has introduced various changes to the visa rules. Two of the most anticipated introductions are the so-called job seeker visa and the visa for retirees. The job seeker visa gives the holder the opportunity to stay in the country for a period of either 3 or 6 months in order to look for a job. After the expiry of the visa, the person has to leave the country. Which conditions have to be fulfilled in order to apply for the job seeker visa is not quite clear. A security deposit might have to be deposited with the immigration authority.

In order to apply for the retiree visa, the applicant has to be over the age of 55 and has to present one of the following financial means:

- property with a market value of at least AED 2 Mio.
- monthly income of at least AED 20,000
- financial savings of at least AED 1 Mio.

Other introductions include:

- 10 years visa for professionals working in healthcare sector, science, engineering or research
- 5 years visa for students.

However, it should be noted that although part of the new introductions are already being implemented, the respective Cabinet Decision has not been published yet.

5. Freelance Permits

As a result of increasing demand for employee flexibility as well as a more balanced work-life relationship, freelance activities are on the rise. In order to facilitate this demand and support the Dubai's program to establish an innovation and talent hub, Dubai Creative Clusters Authority (DCCA) has re-launched its freelance program as "Go Freelance" (gofreelance.ae) in June 2018.

Currently, freelance permits are issued for the education, technology and media sector. Licenses cost AED 7,500 per year and include access to the Business Center. For additional AED 3,250, freelancers may apply for a residence visa which also allows them to sponsor their family.

However, it should be noted that – in accordance with the Company Regulations of the DCCA – freelancers are only allowed to work within the geographical boundaries of the free zone.

Nonetheless, freelance licenses are a step towards making professional activities more legal and provide more flexibility for the employees. It remains to be seen, whether freelancers will get more opportunities and freedom with regard to their licenses and the restrictions imposed by law.

6. New Human Resources Law for Dubai

In July 2018, the Dubai Government announced a new Human Resources Law (“HR Law”) for all employees working in public bodies and authorities which will come into effect on 01.01.2019.

The new HR Law will abrogate the existing human resources law as well as all related directions, resolutions and decrees and shall make the government ensure the attractiveness of the government as an employer.

A few of the key amendments are:

- extended annual and sick leave
- more maternity leave and a new paternity leave
- travel allowance for the employee and the whole family
- days off for participating in national competitions or sports
- full time, part time and temporary (under 1 year) employments
- official working hours from 7.30 until 14.30 from Sunday to Thursday.

B. HR Survey

The **German Emirati Joint Council for Industry and Commerce (AHK)** and **DePARTer - The German Headhunter** are conducting the fourth annual HR Survey to identify the current salary structures and HR trends in the UAE. Participants from all nationalities and professions living in the UAE are welcomed to take part in the survey. The results of this HR Survey will help create an overview of different salary levels in various industrial sectors in the UAE and will assist you to identify if your current salary reflects current market conditions. To begin, please click on the link to access the

survey: <https://www.hrsurvey-uae.com/>. It will take you less than 5 minutes to contribute your personal evaluation to this study. The survey will be completely confidential and will be used for legitimate research purposes only.

C. Upcoming SCHLÜTER GRAF Events

- Business breakfast on *employment & HR regulatory changes*: **Thursday, 8 November 8.30-10.30am**, Citadel Tower – Offices 2001-2005 Business Bay, Dubai (**fully booked**)
- Business breakfast on *inheritance matters*: **Thursday, 15 November 9.00-10.30am**, Citadel Tower – Offices 2001-2005 Business Bay, Dubai
- Business breakfast on *drafting & negotiating commercial contracts*: **Thursday, 29 November 8.30-11.00am**, Citadel Tower – Offices 2001-2005 Business Bay, Dubai

To register please contact us at events@schlueter-graf.com.

This newsletter constitutes an overview of legal developments and neither constitutes legal advice nor replaces legal consultation. The team at SCHLÜTER GRAF will gladly support you in case of any questions.

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