

The emerging normal: navigating UAE employment issues amidst the COVID-19 pandemic

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It is now well established that the novel coronavirus (**COVID-19**) pandemic will have enduring consequences for all aspects of daily life. For many businesses worldwide, survival will ultimately depend on their ability to resume some level of operations as quickly as possible. For the UAE this is no different, with the government's recent relaxation of some COVID-19 precautionary restrictions welcomed by business owners, particularly in the Emirate of Dubai. But as businesses adapt to the "new normal" which begins to emerge, the welfare of their workforce and the wider population must be kept at the forefront of decision making. Employers must therefore take a pragmatic approach to resuming their business operations whilst keeping abreast of the evolving UAE regulations aimed at minimising any further spread of COVID-19.

This article provides an overview of:

- the framework the UAE government have put in place to promote stability in the UAE workforce during the COVID-19 pandemic; and
- the various additional reporting obligations and safety measures placed on employers in the UAE in response to the COVID-19 pandemic.

Employment stability measures

In March 2020, the Ministry of Human Resources and Emiratisation (**MOHRE**) released two directives to address employment stability concerns in the wake of the COVID-19 pandemic. The first is focused on measures which will ensure employment stability of UAE nationals in the private sector. The second is aimed at non-nationals and requires employers to work with their employees in order to implement the following progressive measures as an alternative to termination:

- remote working arrangements
- grant paid leave to employees
- grant unpaid leave to employees
- temporarily reduce employee salaries
- permanently reduce employee salaries.

The last 3 measures would require the agreement of the affected workers. The directive also includes some workforce mobility measures by allowing employees placed on unpaid leave to be registered within a "Virtual Labour Market". This allows employees who are surplus to their employer's current needs to temporarily work for another employer upon approval of the MOHRE. The original employer must however remain responsible for all employer entitlements other than salary (e.g. health insurance and, where applicable, housing or other allowances).

In April 2020 a directive was also issued by the President of the DIFC which contained broadly similar measures as those described above. However, an employer need only provide an affected employee with 5 days written notice of any “Emergency Measures” it is to implement during the “Emergency Period” (currently until 31 July 2020); no employee consent will be required. Further, DIFC employees who contract COVID-19 or are quarantined due to COVID-19 concerns will receive sick leave benefits outside of their normal entitlement.

Employer reporting obligations

The Communicable Diseases Law was introduced in 2014 and places clear obligations on both individuals and employers which are aimed at reducing transmission of communicable diseases. This law was amended in March 2020 to include COVID-19 within its scope. In an employment context, an employer (or more specifically, the direct superior of the relevant employee) must immediately notify either the UAE Ministry of Health and Prevention (the **MOHAP**) or the nearest Emirate level health authority (i.e. Dubai Health Authority or Health Authority – Abu Dhabi) within 24 hours of becoming aware that an employee has either a known or suspected case of COVID-19. The Implementing Regulations of the Communicable Diseases Law mandate that any such notification must contain specific information. In practice, the employer should immediately contact the relevant health authority on one of the numbers set out below to obtain guidance as to the most appropriate action for the circumstances. In all cases the employee should be denied entry to (or immediately removed from) the workplace.

- MOHAP: 800 1111
- Dubai Health Authority: 800 342
- Health Authority – Abu Dhabi: 800 1717 (Estijba Service)

Whilst it would be prudent to keep the relevant employee informed of notifications being made to the relevant health authorities and request their full co-operation, an employer’s reporting obligation will override certain individual privacy rights in this circumstance. This position is supported by the recently implemented Health Data Law which confirms that consent to disclosure of an individual’s private health related information is not required where it is being done as part of preventative or curative measures for public health purposes.

Remote working and workplace safety measures

The MOHRE has also issued a directive on remote working practices and other safety measures. This has been supplemented for the Emirate of Dubai with reopening protocols following the recent announcement as regards relaxation of certain restrictions and the partial lifting of the 24 hour curfew which severely restricted movement for Dubai residents. The key points of these combined measures are set out below. Please note, the Dubai reopening protocols contain several industry specific requirements – these have not been covered due to the general nature of this alert. We would be happy to provide guidance on these if required.

Workplace capacity and remote working

All private sector workplaces (with the exception of those which fall into the vital sectors e.g. health, banking, telecommunication, food supply) are permitted to have a maximum of 30% of their total workforce attend the workplace at any one time and for no more than a maximum of 8 hours per day. All other workers should work remotely with priority given to pregnant women, those over 55 years old, people with special needs, those suffering from respiratory problems or chronic diseases and mothers of children in grade 9 or less.

Employers must provide the necessary equipment for employees to work remotely and must ensure a technologically safe environment for employees to complete work remotely. Employees must

obtain permission from the employer to work remotely and should adhere to all confidentiality requirements of their workplace. They must be available for calls or other electronic communications as needed to fulfil their duties. Evidence that an employee has completed assigned tasks must be readily available.

Entrance health checks

Employers must provide checkpoints at the entrances of both workplaces and labour accommodation for employees (and any visitors) to have their temperatures checked and be monitored twice daily (in the morning and evening) for presence of any other symptoms synonymous with COVID-19. Separate guidance from the MOHAP indicates that individuals with a temperature of 38 degrees Celsius or more should be referred to the relevant health authority. Anyone displaying any symptoms synonymous with COVID-19 must be refused entry to the workplace.

Distancing and other safety measures

A two metre distance must be maintained by staff and visitors in all common areas, elevators and service desks. Elevators must operate with no more than 30% of their typical capacity. Face masks must be worn by all staff and visitors at all times whilst in the office.

All common areas of building and office premises must be regularly sanitised, including toilets after each use. Hand sanitisers must be installed by companies at conspicuous places around the office with face masks also provided for employee/visitor use. No specific guidance has been given on the type of mask required. In the absence of further clear guidance, any standard disposable face masks should satisfy this requirement.

Workplace transport

Any company transport to and from employee accommodation to the workplace must operate with no more than 25% of normal capacity. A safe distance should be maintained by all employees in transit. Whilst not specified, it would be prudent to ensure that all other work related transport / journeys (not just those to and from employee accommodation) comply with this requirement.

Penalties for breach

Various penalties can be imposed for breach of the recent directives. In particular, administrative penalties of between AED500 and AED50,000 can be imposed for non-compliance which may be doubled in the case of reoccurrence. In light of the broad powers granted to the relevant authorities to impose such penalties, business owners should be vigilant in both monitoring their employees for companies and further government directives for any additional requirements.

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