

Summertime working in the UAE

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Introduction

Restrictions on working hours during the summer were first introduced in the UAE in 2007 and, as a result, accidents on construction sites dropped by more than 50% throughout July and August of that year compared with the same period in 2006. Based on this significant decrease it came as no surprise that the restrictions were retained.

Ministerial Decision 443 of 2010 imposed the restrictions in 2010, taking steps to extend the summer working restrictions so that they applied from June 15 to September 15. Ministerial Decision 543 of 2011 (the Decision) was issued on 29 May 2011 and sets out the details of this year's restrictions. While there is nothing particularly new or surprising in this year's restrictions, this article serves as a useful reminder of the extent of the restrictions, exceptions that may apply and the penalties for non-compliance.

The Effect of the Resolution

As with the 2010 Decision, it is compulsory for companies to give labourers who work in open areas (such as construction sites) a two and a half hour break between the hours of 12.30pm and 3.00pm. These restrictions will be effective from 15 June to 15 September. Labourers working in open spaces must not work between these hours and employers are required to provide a shaded area in which labourers can rest during this period.

In addition, daily working hours must not exceed 8 hours in any 24 hour period and any labourers working in excess of these hours will be entitled to be paid overtime rates for any such additional hours worked. Employers must also display details of labourers' daily shift schedules as these may be viewed by inspectors checking compliance in accordance with the Decision. These shift schedules must be displayed in both Arabic and the labourers' local language.

The Decision also repeats the requirement imposed on employers that they must protect workers from occupational injuries and diseases that may arise during working hours and also against fire and other such hazards that may be a result from the use of machinery and other work tools.

Exception for Technical Reasons

Administrative Decision 15 of 2011 sets out details of certain types of work which, because they cannot be stopped for technical reasons, are exempt from the restrictions. These types of work include:

- Spreading asphalt mixtures and pouring concrete if it is not possible to do or complete the work at other times;
- Necessary works to prevent risk or repair emergency damage, failure or loss, including repairs required to:
 - o Water supply lines;
 - o Sewage lines;
 - o Power supplies;
 - o Hindered traffic on public roads;
 - o Gas or petroleum supply lines.
- Work which, due to its impact on flowing traffic and services, requires a permit for round-the-clock work

from a competent government authority for its completion, including the following:

- o Disconnection or diversion of main traffic routes;
 - o Disconnection of power;
 - o Disconnection of telecommunication lines.
- Any other work as approved by the Undersecretary.

Where work cannot be stopped for technical reasons, the works may continue throughout the period between 12.30pm and 3.00pm. In this situation employers must provide the following:

- Cold drinking water according to the number of workers and the rules of public health and safety;
- Thirst quenching drinks and citrus fruits and other items approved for use by the UAE health authorities;
- First aid at the site;
- Appropriate industrial cooling facilities; and
- Shades to protect workers from direct sunlight.

Penalties for non-compliance

The penalties for non-compliance will be similar to those previously applied. First time offenders will be subject to a fine of AED10,000 and will be downgraded to a Grade C company in Category II on the Ministry's grading scale (this takes into account factors such as the diversity of the workforce and the number of Emirati nationals employed) for a period of 3 months unless the company is already a Grade C Category II company, in which case no further work permits will be issued for the company for a period of 6 months.

In the case of a second breach, the company will be fined AED15,000 and will again be downgraded to a Grade C Category II company and will not have any new work permits issued for 6 months, unless the company is already a Grade C Category II company in which case, no work permits will be issued for 9 months. For a third breach the company will be fined AED20,000, will again be downgraded to a Grade C Category II company and will not have any new work permits issued for 9 months unless the company is already a Grade C Category II company, in which case, no further work permits from the company will be issued for a period of 12 months.

It is envisaged that inspectors will visit construction sites and other such places where work is performed in the open elements to ensure companies are complying with the reduced working hours and whether the details of shift patterns worked are being properly displayed. It remains to be seen whether a sufficient number of inspectors will be available to properly enforce the Decision.

Whilst the levels of fines are not particularly high, downgrades to a Grade C Category II company could mean that higher application fees are imposed on applications made to the Ministry of Labour. Additionally, the prohibition against obtaining new work permits for the requisite periods of time could have a significant impact on companies tendering for new work if they will not have sufficient existing resources to meet their proposed commitments.

The Affect on Contractors

Contractors will have been in the position to prepare for the introduction of the restrictions on working hours for some time so they should come as no surprise. Indeed most contractors to whom we have spoken have welcomed the move provided it is implemented across the board and is properly enforced. Contractors should therefore have already allowed for the reduced working hours in their programmes, thus avoiding any potential difficulties surrounding claiming extensions of time resulting from reduced working hours.

Consideration will no doubt have been given, in the months leading up to the introduction of the Decision,

as to whether labourers should be transported away from the site during the restricted hours or whether adequate shade and other facilities can be provided on site.

Other factors contractors are sure to have already considered to assist them in the management of the UAE summer heat could include rescheduling activities (where possible) to cooler parts of the day, providing increased amounts of drinking water for labourers, reducing the demand on workers by minimising manual work through the use of mechanical aids, and ensuring the availability of first aid stations and personnel who are trained to recognise and deal with the effects of heat exhaustion and other related conditions.

Conclusion

The UAE summer heat has long been recognised as a significant factor affecting construction work in the country and the introduction of restrictions on working hours during the hottest part of year has significantly improved safety in the construction industry. This has also been recognised in other countries, with Bahrain and Saudi Arabia having followed suit with the introduction of their own summer working restrictions. It is surely only a matter of time before similar restrictions are imposed in other Gulf countries.

All reputable contractors working in the industry will already be aware of the natural loss of productivity that occurs each summer in the UAE and will be familiar with measures that are put in place to ensure their workers remain safe and as productive as possible during this period. Whilst the summer working restrictions do impose additional requirements, they generally serve to extend safety precautions that reputable contractors already had in place during the hotter months in an effort to maintain best practice throughout the construction industry.

However from 15 June, the Decision will carry the force of law and all contractors will need to ensure their compliance in order to avoid incurring penalties that could affect their business long after the summer has ended.