

Employment Law - What's On the Horizon? A Round Up of Legislation Introduced Over the Summer Months

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2016 kicked off with three new Ministerial Decrees which formed part of the UAE Labour Law reform (see our January 2016 Law Update). Shortly afterwards, the previously named Ministry of Labour was given a make-over and renamed the Ministry of Emiratization and Human Resources (the 'Ministry').

In the past few months alone, the Ministry has issued six new Decrees. While these Decrees have been issued, until such time as they are published in the UAE official gazette (issued monthly), there could still be changes to them and/or they may not subsequently come into force. At the time this Article went to print, the August gazette had not been issued.

Key themes amongst the recent legislation seem to be a drive to increase the employment of UAE Nationals in the private sector in line with Emiratization and greater protection for low income workers. Given the recent activity, we thought it timely to set out a summary of these recent developments.

Housing for Low Income Workers

Ministerial Resolution Concerning the Commitment of Establishments to Provide Accommodation to their Workers (Resolution No. 591 of 2016) requires employers (with 50 or more employees) to provide accommodation for employees whose total monthly earnings are less than AED2,000. Employers who do have employees who earn under this threshold should look to provide accommodation or alternatively to increase the salaries of those employees.

Status - The Resolution is available on the Ministry's website and was formally published in the June official gazette. The Resolution itself confirms it will come into force on 1 September 2016 but that the requirement to provide the accommodation will come into force six months after the Resolution was issued i.e. 31 December 2016.

UAE Data Entry Clerks

Ministerial Resolution Concerning Data Entry Clerks (Resolution No. 710 of 2016) imposes a requirement for any companies with 1,000 or more employees to register with Tas'heel (the Ministry's online service) details of at least two UAE Nationals in data entry related positions.

Essentially, the Resolution introduces a requirement for employers to create and have in place two dedicated data entry roles which must be filled by UAE Nationals.

Status - the Resolution was formally published in the July official gazette and the requirement to have UAE national data entry clerks will come into force from 1 January 2017.

UAE National Health and Safety Officers in the Construction Industry

Ministerial Resolution Concerning Occupational Health and Safety Officers at the Construction and Industrial Sector (Resolution No. 711 of 2016) requires construction companies with 500 or more

employees to appoint a UAE national as a Health and Safety Officer.

Status - the Resolution has been published on the Ministry's website but has not yet been published in the official gazette. On the assumption that it is gazetted this year, the requirement will come into effect on 1 January 2017.

Work Permits for Students

Ministerial Resolution Concerning the Employment and Training of Students (Resolution No. 713 of 2016) introduces a new short-term work permit for students.

The new work permit will be issued for a duration of three months and will enable students between the ages of 12 -18 years, who are residents in the UAE and under the sponsorship of a guardian/parent to work for no more than six hours a day. Students are however banned from working in certain sectors such as mining, petroleum refineries, bars etc.

The introduction of this short-term work permit is a welcome one as employers who have wanted to offer internships or similar work placement opportunities to the younger generation of workers found themselves restricted by the lack of a work permit for such purpose.

Status - the Resolution has been published on the Ministry's website but has not yet been formally gazetted. Once gazetted, employers will be able to start applying for this type of work permit.

Penalties for Late Payment

Ministerial Decree Concerning the Protection of Wages (Decree No. 739 of 2016) stipulates that as of 1 October 2016, all companies employing 100 or more staff must pay their employees within 10 days of the payment due date registered in the government monitored Wage Protection System ("WPS"). In practice, however, a company will not face any repercussions until the 16th day of non-payment and penalties will vary depending on how many days the salary has been overdue.

Where salary is 16 days overdue, the Ministry will stop issuing new work permits to the company on the 16th day and the company will therefore be unable to hire new employees. If the company pays the salary within 29 days of the due date, the ban on new work permits will be lifted. However, if the salary remains overdue on day 30, the Ministry will send this case to the judicial authority, which may decide to:

- downgrade the company category to a level which requires higher bank guarantees; or
- temporarily stop the employer from registering any new companies.

The company category (as determined by the Ministry) determines the amount of bank guarantee the company needs to provide in respect of each new employee it hires. Lower category companies pay higher bank guarantees.

Furthermore, during any period where salary remains unpaid, the company will not be able to hire any new employees.

In the event salary remains unpaid for 60 days, the Ministry will issue fines of AED 5,000 per unpaid employee up to a maximum of AED 50,000. Where the salaries have been outstanding for over 60 days, even once the employer pays the salary the ban on new work permits will remain in place for a further 60 days from the date the salaries are then paid.

Although the Decree predominately applies to employers with 100 or more employees, if a smaller employer repeatedly fails to pay salary in a timely manner (more than once in a year) the above sanctions can also be applied to employers with under 100 employees.

Status - the Decree has been published and is available on the Ministry's website. However, it has not yet been formally gazetted. It will come into force on publication in the official gazette.

In the News - Maternity Rights

It has been reported in the press that a new national committee has been set up to review maternity rights in the UAE. The review is intended to implement the Government's 'Gender Balance Index' which aims to ensure men and women in the UAE are on a level playing field.

At present, it is unknown whether the law will extend the amount of statutory maternity leave (currently just 45 calendar days) or if it will look to offer mothers greater protection or more rights in relation to their maternity leave and subsequent return in the workplace. However, rest assured we will provide readers with updates as and when they are available.