

Salary cut amid Covid: Can it be extended indefinitely?



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LEGAL VIEW

Q If my company keeps extending the temporary pay cut, is there anything I can do legally? I have been on a pay cut since June 2020 and we are working from home. Can the employer force us to work from office without our full salaries?

A Pursuant to your queries, we assume that you are employed in a mainland company based in the UAE. The Ministry of Human Resources and Emiratisation (MoHRE) had issued Ministerial Resolution No. (279) of 2020 concerning the employment stability in establishment of the private sector during the application of precautionary measures to control novel coronavirus outbreak (Ministerial Resolution No. 279 of 2020).

Therefore, the provisions of the Ministerial Resolution No. 279 of 2020 are applicable.

The employer in the UAE may apply the provisions of Ministerial Resolution No. 279 of 2020 if it is affected by the pandemic and may reduce the salary of its employees as agreed with the employee. This is in accordance with Article 2 (4) of the Ministerial Resolution No. 279 of 2020.

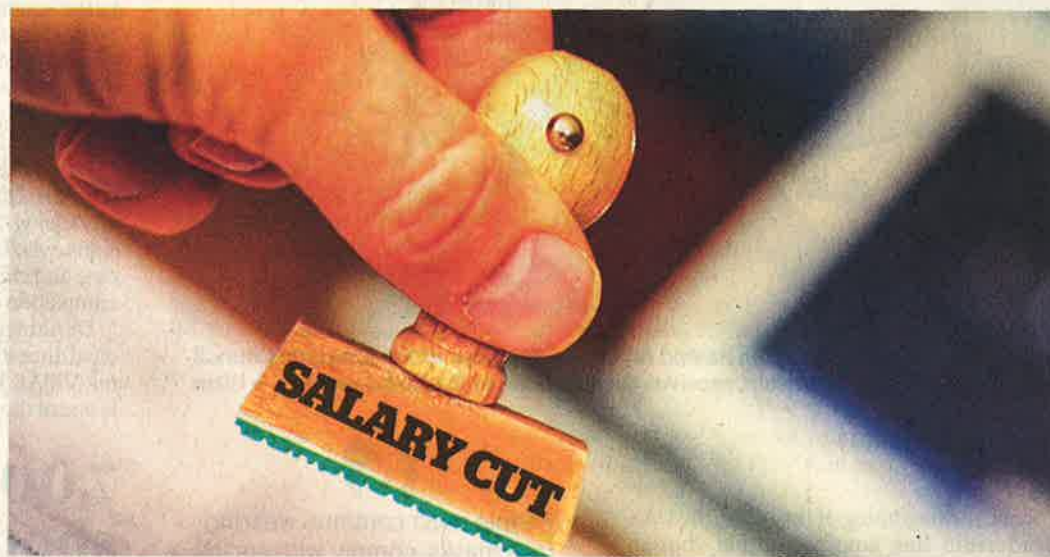
Based on the aforementioned provision, you may have signed the 'Temporary Additional Addendum' agreeing on the reduction of your salary since June 2020. This is in accordance with Article 5 (1) of the Ministerial Resolution No. 279 of 2020.

It should be further noted that an employer may also reduce the salary of its employee permanently upon agreeing with the employee and on approval by the MoHRE. This is in accordance with Article 6 of the Ministerial Resolution No. 279 of 2020.

The aforementioned provision is still applicable as the MoHRE has not withdrawn it. Further, the Ministerial Resolution No. 279 of 2020 is silent in respect of the place of work. Therefore, if your employer calls upon you to work from office, you may have to abide by it. However, your employer must take precautionary measures in office and safety of the employees is of utmost importance.

You may be deported for working on a visit visa

Q I am in Dubai on a visit visa. I have renewed my visa twice in the hope of finding a job. My daughter, who is 19 years old, is here on a visit visa, too. She is trying to find a part-time job to support herself. Is it legal for students on visit visas to work in the UAE?



A Pursuant to your query, it may be noted that the provisions of Federal Law No. (6) of 1973 concerning immigration and residence as amended by virtue of Law No. (7) of 1985; Law No. (13) of 1996; and Federal Decree - Law No. (17) of 2017 (the Immigration Law) are applicable. Further, the provisions of the Federal Law No. (8) of 1980 regulating employment relations in the UAE (the Employment Law) may be applicable as well.

At the outset, it should be noted that it is illegal to work in the UAE without a valid work permit issued by the MoHRE or any of the free zone authorities.

This is in accordance with Article 11 of the Immigration Law. Further, Article 13 of the Employment Law, states: "Employees who are not UAE nationals may be employed in the UAE only after approval of the MoHRE and the obtainment of a work permit in accordance with the procedures decided by MoHRE. Work permits may only be granted if the following conditions are fulfilled:

a. That the employee has the professional competence of educational qualifications that are needed by the State.

b. That the employee has lawfully entered the country and complies with the conditions stipulated by the residence regulations in force in the State."

Based on the aforementioned provisions of law, your daughter who is a student, may not work while she is residing in the UAE on a visit visa. To be employed in the UAE, your daughter must first obtain a work permit from the MoHRE or any relevant free zones in the UAE. Thereafter, a UAE residence visa is issued by the General Directorate of Residency and Foreigners Affairs. In the event your daughter is employed while she is residing on a visit visa in the UAE, it may be termed as illegal. Her employer may be liable to penalties.

This is in accordance with Article 34 (1) of the Im-

migration Law, which states: "A fine of Dh50,000 shall be imposed on any person who has used foreigners who is not under his sponsorship without complying with the terms and conditions prescribed for the transfer of sponsorship or without obtaining the necessary permit. The penalty shall be imprisonment and a fine of Dh50,000 in case of return to the same act.

"The sponsor shall be punished with the same penalty stipulated in the two preceding paragraphs of this section if he does not employ the sponsored person or let him work for others without following the legal procedures prescribed for such act."

Further, the court may not only deport an individual who is employed while residing on a visit visa in the UAE, but also the person who employs him/her. This is in accordance with Article 34 (1) (6) of the Immigration Law, which states: "The court shall in all cases order to deport the violating foreigner, and shall also deport the foreigner who hired or accommodate the same when return to the same act."

Therefore, it is advised that your daughter obtains a work permit and a UAE residence visa sponsored by her prospective employer in the UAE even if she intends to work on a part-time basis in the UAE. On the other hand, as a parent, once you obtain a residence visa in the UAE, you may apply in order to receive a residence visa for your daughter under your sponsorship. Thereafter, you may grant an NOC to her prospective employer.

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