

# You can refuse work that's not specified in your job contract



**ASHISH MEHTA**  
LEGAL VIEW

**Q** I work at a big UAE firm as an information technology (IT) specialist. However, I have a much lower 'occupation' status on my visa. My boss had assured me that I would be given an official status after a few months on the job. That was four years ago. My current salary is about two per cent of the designated pay for the work I do. Also, I was not given any contract. Now, my employer keeps sending people to train, but they are not competent enough. Do I have the right to refuse to train them? The roles in my department require highly skilled personnel.

**A** Pursuant to your queries, we assume that you are a qualified IT engineer and are employed in a mainland establishment based in the UAE. Therefore, the provisions of Federal Law No. (8) of 1980 regulating employment relations (the 'Employment Law'); Ministerial Decree No. (766) of 2015 on rules and conditions for granting a permit to an employee for employment by a new employer (the 'Ministerial Decree No. 766 of 2015'); and Ministerial Order No. (13) of 1991 on the organisation of the transfer of sponsorships of non-national labours and the rules governing the same (the 'Ministerial Order No. 13 of 1991') are applicable.

It may be noted that your employment responsibilities to your employer will be in accordance with the designation mentioned in your UAE residence visa and the work permit registered with the Ministry of Human Resources & Emiratisation (MOHRE). Accordingly, the designation mentioned in your UAE residence visa and the registered work permit shall be your actual designation for legal purposes. Therefore, you may refuse to train individuals, as this may not form a part of your work assignment as agreed upon between you and your employer.

Further, should you choose to leave your current employment and join a new employment, your employer may not be in a position to impose an employment ban on you as you hold a qualification of an engineer. This is in accordance with Article 2 of the Ministerial Order No. 13 of 1991.

In furtherance of the above, an employment ban may not be imposed upon you if you resign from your current employment by serving the notice period mentioned in your employment contract. As you are uncertain whether you have signed your employment

contract, it is recommended that you approach the MOHRE and request them to provide you with a copy.

The contract may mention the notice period to be served by the employer and the employee if they wish to terminate the employment contract.

Article 1 (I) (4) (a) (for limited period of employment contract) and Article 1 (II) (2) (for unlimited period of employment contract) of the Ministerial Decree No. 766 of 2015 mentions the requirements of an employee if he intends on resigning from his current employer to join a new employer.

Based on the aforementioned provisions of law, you may resign from your employment by serving the relevant notice period mentioned in your employment contract. However, if you intend to resign from your employment without serving the notice period, you may be obligated to compensate your employer by paying a compensation in lieu of the unserved notice period.

## Know the law



Should you choose to leave your current employment and join a new employment, your employer may not be in a position to impose an employment ban on you as you hold a qualification of an engineer.

## No notice period needed if one quits work over unpaid wages

**Q** I have been working at a firm in Dubai Healthcare City Authority for over three years. I have not been paid for eight months. My employer does not intend to pay the money and claims he has none. All my colleagues are facing the same issue. I have managed to secure a job with a different employer and want to change my visa sponsorship. Can I do this without signing a document stating the I have received all my dues?

**A** Pursuant to your queries, as you are employed in a company which is regulated by Dubai Healthcare City Authority (DHCA), the provisions of Federal Law No. (8) of 1980 regulating employment relations (the 'Employment Law') and Ministerial Decree No. (766) of 2015 on rules and conditions for granting a permit to an employee for employment by a new employer (the 'Ministerial Decree No. 766 of 2015') are applicable.

It may be noted that in the UAE, an employee may leave his employment without notice if the employer does not fulfil his

## Know the law



An employee may be granted a new work permit if it is determined that the employer has failed to meet his legal or contractual obligations, including but not limited to, when the employer fails to pay the employee's wages for more than 60 days.

obligations towards the employee. This is in accordance with Article 121 of the Employment Law.

You may file a complaint with the Customer Protection Unit (CPU) of the Dubai Healthcare City Authority - Regulatory (DHCR) and request the CPU to allow you to work for your new employer. This is in accordance with Article 1 (III) (1) of Ministerial Decree No. 766 of 2015.

Based on the aforementioned provision of law, upon filing a complaint with the CPU related to non-payment of salaries, you may also submit to them the copy of your offer letter from your new employer.

Consequently, the DHCA may cancel your current work permit and it may not close your complaint against your employer regarding non-payment of salaries along with your end of service benefits. If your employer does not agree on settlement by paying your pending salaries and end of service benefits, the CPU may provide you with a letter addressed by DHCA to the relevant court which has jurisdiction to hear your employment case in the UAE.

Further, once the DHCA cancels your current work permit, you may approach the General Directorate of Residency and Foreigners Affairs in the emirate of Dubai and cancel your current UAE residence visa sponsored by your employer. Upon the cancellation of your UAE residence visa, you may inform the same to your new employer and request them to apply for your new work permit and UAE residence visa.

However, you may still file an employment case against your employer in the court which has jurisdiction to hear the employment matter in the UAE based on the letter issued by DHCA addressed to the court regarding the employment complaint filed by you.

**ASHISH MEHTA** is the founder and Managing Partner of Ashish Mehta & Associates. He is qualified to practise law in Dubai, the United Kingdom and India. Full details of his firm on: [www.amalawyers.com](http://www.amalawyers.com). Readers may e-mail their questions to: [news@khaleejtimes.com](mailto:news@khaleejtimes.com) or send them to Legal View, Khaleej Times, PO Box 11243, Dubai.