

Is it now legal for unmarried couples to live together?



ASHISH MEHTA
LEGAL VIEW

Q: I have been living in Dubai with my girlfriend for the last two years. We both are UK citizens and were always worried that our staying together was not legal in the UAE. We recently read news reports in the local media which mentioned that co-habitation is decriminalised. Can I and my girlfriend continue to co-habitate? Will it be illegal? Will the authorities still impose fines for co-habitation? Can partners living together own properties in the UAE?

A: Pursuant to your queries, it may be noted that till recently in the UAE engaging in a relationship (sexual) with someone who is not married to you was a criminal offence and hence punishable by law. This is in accordance with Article 356 of the Federal Law No. (3) of 1987 related to issuance of penal code (the 'Penal Law of UAE'), which states: "Without prejudice to the preceding two Articles, the crime of indecent assault with mutual consent shall be punished by detention for at least one year; and if the crime is committed against a male or female who is under 14 years of age, or if the crime is committed by coercion, it shall be punished by temporary imprisonment." Further, cohabitation without marriage attracted deportation if the couple who are co-habiting are found guilty by the criminal court. This is in accordance with Article 121 of the Penal Law of UAE.

However, very recently, the UAE government announced reforms in the personal laws, women's safety, suicide, alcohol consumption and laws related to Good Samaritan. The changes included decriminalising cohabitation of couples who are not married. Therefore, if you are living with your girlfriend in the UAE, it may not be considered as a crime henceforth and there may be no imprisonment or penalties for co-habitation. Further, as individuals you and your girlfriend may own a property in the UAE. In the UAE, foreign nationals may own properties at designated areas in the emirate of Dubai. This is in accordance with Article 4 of Law No. (7) of 2006 concerning real property registration in the emirate of Dubai, which states: "The right to own real property in the emirate will be restricted to UAE nationals, nationals of the Gulf Cooperation Council member states and to companies fully owned by these, and to public joint stock companies. Subject to the approval of the Ruler, non-UAE nationals may in certain areas determined by the Ruler, be granted the following rights:

Know the law



In the UAE, foreign nationals may own properties at designated areas in the emirate of Dubai

- Freehold ownership of real property without time restrictions; and
 - Usufruct or leasehold over real property for a period not exceeding 99 years."
- In view of the foregoing, it may be noted that there are no restrictions in the emirate of Dubai for foreign nationals to co-own properties in certain designated areas.

How to ensure end-of-service dues are seamlessly settled

Q: I retired from a contracting company as a project supervisor last week and my employer is insisting that they will pay my final dues by transferring the amount to my Indian account next month. They are putting pressure on me to sign the visa cancellation paper. How can I get a legally valid statement from my employer that will hold them accountable in case if they do not keep their word? I have to travel to India because my daughter is getting married.

Know the law



If an employee disagrees with the terms of the employer related to payment of end-of-service benefits and if he does not sign the work permit cancellation document, the employer may approach the Mohre to cancel the employee's work permit without his signature on it.

A: We assume that you were employed in a mainland company based in the UAE. Therefore, the provisions of Federal Law No. (8) of 1980 regulating employment relations in the UAE (the 'Employment Law') and Ministerial Resolution No. (724) of 2006 on the administrative cancellation of sponsorship (the 'Ministerial Resolution No. 724 of 2006') are applicable.

It is responsibility of your employer to settle your end-of-service benefits before or at the time of you signing the work permit cancellation document. You may request your employer to settle all your end-of-service benefits before you sign the work permit cancellation document. The employer must also abide by the Wage Protection System (the 'WPS') and provide to the Ministry of Human Resources and Emiratisation (the 'Mohre'), the proof of payments to its employees related to end-of-

service benefits through the WPS. Thereby, the end-of-service entitlements are transferred to the registered bank account of the employee in the UAE or deposited with an approved exchange house where the employer has registered the WPS and the same may be withdrawn by the employee.

Based on this, your employer may only transfer your end-of-service benefits to your bank account which is registered with WPS for payment of your salary in the UAE. Therefore, you may request your employer to transfer your end-of-service benefits to your UAE bank account before you sign a document confirming receipt of all your dues.

If you disagree with the terms of your employer related to payment of your benefits and if you do not sign the work permit cancellation document, your employer may approach the Mohre to cancel your work permit without your signature on it. In this scenario, you may be notified by the Mohre. This is in accordance with Article 1(b) (3) of the Ministerial Resolution No. 724 of 2006, which states: "The sponsorship shall not be cancelled if the cancellation application was not submitted by the employee. He shall be notified to present himself within a week for the notice date to listen to his dues. If he does not come, his dues will be calculated according to the available date from the competent labour directorate, and his sponsorship shall be cancelled without the necessity to listen to him, preserving his right to all that is due to him and guaranteeing that he receives the said dues."

However, if your matter comes before the Mohre, based on the aforementioned provision of law, the employer may settle your dues before the ministry. If there is no amicable settlement, the Mohra may issue a letter to both you and your employer, which enables you to file an employment case in the court.

If you decide to sign the work permit cancellation document without receiving your dues, it is recommended that you obtain a letter from your employer confirming that they will pay your dues in your bank account in India. However, in the event your employer fails to remit your end-of-service benefits to your bank account in India, you may not be able to initiate an employment case against your employer as the matter shall no longer fall within Mohre's jurisdiction. You may, therefore, have to file a civil claim against your employer before the competent court!

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