

Uniform employment law for 7 emirates



LEGAL VIEW
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My wife is on a dependent visa and has been working as a marketing manager in a company for the last 1.5 years. She is currently drawing a salary of Dh12,200 per month. She is a post-graduate and is on an unlimited contract. Recently, she got a job offer from a better company with higher salary package and is planning to resign from her current organisation. The new com-

pany has also agreed to give her the employment visa. I have a few queries: 1) As she has not completed 2 years with the current organisation, can she leave without any hassles? 2) Also, can the current company take any sort of action against her as per the UAE Labour Law? 3) Since her current labour card will be cancelled, would it lead to any sort of penalties or ban on her?

She is currently working in Dubai, while the new company is in Sharjah. 4) Are the labour laws different in the two emirates and are the labour laws different for those having dependent visa and employment visa?

As your wife is currently working under an unlimited period employment contract, she may leave her current employment by serving a 30-day notice period, in accordance with Article 117(1) of the Labour Law, which states: "Both the employer and the worker may terminate a contract of employment of unlimited dura-

tion for a valid reason at any time following its conclusion by giving the other party a notice in writing at least 30 days before the termination."

There are no further formalities to be undertaken by your wife.

However, your wife shall be entitled to only a fraction of her end-of-service benefits, in accordance with Article 137 of the Labour Law which states: "Where a worker who is bound by a contract of unlimited duration leaves his work of his own accord after continuous service of not less than one year and not more than three years he shall be entitled to one-thirds of the severance pay provided for in the preceding article; where the continuous period of service exceeds three years but does not exceed five years, he shall be entitled to two-thirds of such severance pay; where the continuous period of service exceeds five years, he shall be entitled to the full severance pay."

Subsequently, the current employer of your wife may not take any legal action against her if she resigns from her employment before completion of two years of continuous service.

However, it shall be prudent on the part of your wife to check if she had signed on any non-competitor agreement with her current employer or if there is any clause in her employment contract which may impose any restrictions upon her to take up employment with a competitor of her current employer. Under such circumstances, the current employer may have the option to claim certain damages from your wife on account of breach of non-compete clause.

Further, your wife may not have to face a labour ban during processing of a new labour card as she is a post-graduate and her new employment shall be offering her the requisite amount as salary.

This is in accordance with the Article 4 of the Ministerial Resolution No (1186) for 2010 on "Rules and Conditions of Granting a New Work Permit to an

Employee after Termination of the Work Relationship in Order to Move from One Establishment to another" which states: "As an exception to the provision of Item No. (2) of Article (2) of this Resolution, the Ministry may issue a work permit to the employee without requiring the two year period in the following cases:

a. In the event that that the employee is starting his new position at the first, second or third professional levels after fulfilling the conditions for joining any of these levels according to the ministry rules, and provided that his or her new wage is not less than Dh12,000 at the first professional level, Dh7,000 at the second professional level and Dh5,000 at the third professional level."

It may also be advised that, in the UAE there is a uniform federal legislation on employment issues which is applicable in all the seven emirates of the country. While certain free-zones have their own employment laws and regulations, the latter are also generally modelled on the federal law on most matters and as such the Federal Law No 8 of 1980 serves as the guiding principle for settlement of all labour disputes in the country.

Settlement case appeal

My husband was terminated by his company in March 2013, and he filed a case in Dubai court (company was in Dubai Free Zone) for his dues and settlement. After the judgment he appealed again, because he

was not happy with what they were offering him. Now for certain reasons he wants to withdraw the case: What is the procedure now? Will he be entitled to what was offered before?

It is understood that your husband was terminated from his employment in March 2013 and he had filed a case at the Dubai Courts claiming his end of service benefits.

Subsequently, he filed an appeal against the judgment of the Court of First Instance. However, he now wishes to revoke the appeal filed by him at the Court of Appeal.

For the purpose of addressing your question it is assumed that the previous employer of your husband was represented before the Court of First Instance.

Pursuant to your question, it may be advised that your husband may revoke his appeal before the Court of Appeal.

For revocation of his appeal, he may file an application at the court withdrawing the appeal filed by him at the next hearing of the case.

Subsequently, if the petition for withdrawal is accepted by the honourable court, the appeal shall stand revoked.

Further, the judgment pronounced by the Court of First Instance shall be held as final and your husband shall be entitled to the end-of-service benefits based on the judgment pronounced by the Court of First Instance, unless the previous employer has bonafide grounds to contest the judgment of the court.

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