

# Worked on a public holiday? You'll get comp off, bonus



## LEGAL VIEW ASHISH MEHTA

**Q:** We work in an interior contracting company and, on the occasion of National Day, a holiday was declared for the workers and subcontractors on December 2. We understand that National Day is a public holiday for all, including the private sector. However, our client raised objections and complained that delays had been caused to a project we were working on due to the leave given to the employees. What is the law regarding this?

**A:** It may be noted that the UAE National Day is a public holiday as per the prevailing laws and regulations of the UAE, and that employees working in the private sector shall be entitled to a paid leave for one day.

Article 74 (g) of the Federal Law No. 8 of 1980 regulating employment relations in the UAE (the 'Employment Law') states: "Each employee shall be entitled to official holiday with full pay on National Day for one day."

However, in case of an emergency or circumstances where work is necessary, the employer may call upon his employees to work on a public holiday. Under such circumstances, the employer is liable to grant his employees compensatory leave in respect of such days on which the employees had to work, in addition to a bonus that must be equal to 50 per cent of each employee's remuneration.

This is in accordance with Article 81 of the Employment Law, which states: "Where the circumstances of the work make it necessary for an employee to work on a public holiday or rest day in respect of which he is entitled to full or partial pay, he shall be granted compensatory leave in respect of such days, together with a bonus equal to 50 per cent of his remuneration. If he is not compensated for such days by leave, his employer shall pay him a bonus equal to 150 per cent of his basic remuneration in respect of the days worked."

In view of these provisions of the

Employment Law, as discussed, employees are entitled to paid leave on public holidays. If they have to work on these days, they shall be entitled to compensatory leaves and bonus.

### Visa becomes invalid 6 months after exiting UAE

**Q:** My son had been working in the UAE for the last 20 years. He went to Pakistan for a holiday, but could not return or apply for an extension of his leave as his son suddenly fell ill. It has been over six months now. We are assuming that his UAE employment and residence visa have been automatically cancelled. Can he return to the UAE on a fresh visit visa? What's the procedure to know if there are any problems or case filed against him?

**A:** The rules regarding the expiry or cancellation of visa can be found in the Federal Law No (6) for 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 'Federal Residency Law'), read with the provisions of the Ministerial Decision No. (360) of 1997 on the issuance of the Federal Law No. (6) of 1973 concerning the entry and residence of foreigners (the 'Federal Residency Rules').

In view of your queries, it may be noted that residence or employment visas for expatriates in the UAE may be deemed to have been cancelled if the individual stays outside the UAE for a continuous period of six months.

This is in accordance with Article 61 of the Federal Residency Rules, which reads as follows:

"The residence permit granted to the foreigner shall be deemed to have been cancelled if the period of his stay outside the country exceeds six months."

However, there are certain exceptions to this rule, which are stated under Article 62 of the Federal Residency Rules.

"As an exception from the provisions of Article (61) hereof, the residence permit shall continue to be valid until the end of its term for the following categories:

- The foreigner wives of UAE national.
- Servants accompanying UAE nationals delegated to study abroad.
- Servants and escorts of UAE national patients travelling or sent for medical treatment abroad.

### Know the law



The residence permit granted to a person shall be deemed cancelled if the period of his stay outside the country exceeds six months.

- Foreign patients (and their escorts) who are travelling or sent for medical treatment abroad, holding valid residence permits, provided that they present a medical report approved by the Ministry of Health or the Medical Services of the Armed Forces or Police.
- Servants of the members of the diplomatic and consular missions representing the state abroad, and employees of such missions holding residence permits in the state.
- Foreigners delegated by the public sector corporations to attend training or specialisation courses, or those working in their employers' offices abroad, and their families holding valid residence permits in the state.
- Servants of the members of the ruling family in the UAE, who are serving their houses abroad, and who are holding valid residence permits in the state.
- Students studying in one of the universities or institutes abroad."

However, it may be noted that your son may not qualify for any of the exceptions cited, and it may be presumed that his visa may have already been cancelled.

Considering these circumstances, your son may contact his employer in the UAE, regarding his current status and if his employer would like to continue the employment relationship with him. If the response is positive, then the employer may arrange for a fresh employment visa for your son. Otherwise, your son may re-enter the UAE on a visit visa.

It may be advisable for you to engage a legal practitioner in the UAE, who may check with the competent authorities if there are any cases filed against your son, or if there are any impending issues regarding his entry to the UAE.

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### Know the law



Where circumstances make it necessary for an employee to work on a public holiday or rest day, he shall be granted compensatory leave in respect of such days, together with a bonus equal to 50 per cent of his remuneration.