

# Covid-hit companies allowed to cut staff salary permanently




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LEGAL VIEW

“Establishments that wish to temporarily reduce the salary of a non-national employee during the mentioned period shall take the following actions:

1. Conclude a ‘temporary additional addendum’ to the employment contract between both parties, in accordance with the template attached to the resolution, provided that it shall expire at the end of its term or enforceability of this resolution, whichever comes first.

## Know the law

 If your employer decides to reduce your salary without an agreement with you, then you may file a complaint with the MoHRE.

2. Renewing the addendum referred to in Clause 1 of this article shall be in agreement between both parties.

3. The addendum referred to in Clause 1 of this article shall be executed in two copies, each party holding a copy, and the employer shall commit to present it to the ministry whenever asked.”

Based on the aforementioned provision of law, both you and your employer should mutually agree to (i) a ‘temporary additional addendum’ to your employment contract, as per the template attached with the ministerial resolution which shall end upon the duration mentioned in the ‘temporary additional addendum’ or upon the end of the Covid-19 crisis period; (ii) renew the ‘temporary additional addendum’ in agreement between you and your employer; and (iii) two copies of the ‘temporary additional addendum’ shall be executed, one copy being in your possession and other being in the possession of your employer, and your employer shall be obliged to present the ‘temporary additional addendum’ to the MoHRE when required.

The said ministerial resolution is effective from March 26, 2020. This is in accordance with Article 9 of the ministerial resolution, which states: “This Resolution shall be published in the Official Gazette and shall come into force as of its date of issuance (March 26, 2020).” Therefore, your employer may reduce your salary from April 1 if you consent to reduction in your salary effective April 1 by signing ‘Temporary Additional Addendum’ to your original employment contract.

You may approach your employer and come to a consensus related to the terms of reduction of your salary for the Covid-19

crisis period. However, in the event your employer does not adhere to the provisions mentioned in the Ministerial Resolution and decides to reduce your salary without mutual agreement with you, then you may file a complaint against your employer with the MoHRE.

## Employer must hand over passport upon worker's request


**Q** My employer has terminated my employment and my passport is still in the custody of my company. I had requested my employer to return my passport and they said that it will be handed over to me when I leave the UAE. Can an employer withhold the passport of its employees as there are no inbound and outbound passenger flights in the UAE due to the Covid-19 crisis?

**A** The practice of employers withholding the passports of their employees is prohibited under Circular No. 267 of 2002 issued by the Ministry of Interior (MoI) - unless it is carried out by the judicial authorities in accordance with relevant provisions of the prevailing laws of the UAE.

However, if an employee consents to handing over his passport to the employer, then such possession of the employee’s passport by the employer shall not be deemed unlawful, provided the worker’s consent is obtained in writing and the company agrees to return the passport at his request.

Therefore, as you are requesting your employer to hand over your passport to you, the employer is obligated to do the same. If your employer refuses to return your passport, you may file a complaint with the Ministry of Human Resources and Emiratization and at a police station.

## Know the law

 If an employee consents to handing over his passport to the employer, then such possession of the employee’s passport by the employer shall not be deemed unlawful

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**Q** I am employed by a mainland company in Dubai Media City. On April 15, I received an e-mail from my employer informing me of a reduction in my basic salary by 35 per cent until the current Covid-19 pandemic prevails. The reduction will be effective from April 1. Are companies allowed to slash salaries from a retrospective date? Does the employer have the right to reduce my salary claiming it to be ‘temporary’, but does so for an indefinite period? My employment is related to sales; and commission is one of the components of my salary. My employer is reducing my salary stating that the market conditions are not good. However, my sales targets are not reduced by my employer.

**A** It is understood that your salary reduction is in accordance with the Ministerial Resolution No. (279) of 2020 concerning the employment stability in establishments of the private sector during the application of precautionary measures to control the novel coronavirus outbreak, issued by the Ministry of Human Resources and Emiratization (MoHRE).

The provisions of the ministerial resolution are applicable to the expatriates employed in the mainland companies of UAE until the Covid-19 crisis prevails.

This is in accordance with Article 8 of the ministerial resolution which states that: “The provisions of this resolution shall be applicable to a non-national employee during the mentioned period of applying precautionary measures.”

An employer may reduce the salary of the employee temporarily or permanently if affected by the current Covid-19 crisis. This is in accordance with Article 2 (4) & (5) of the ministerial resolution which states:

“Establishments affected by the precautionary measures referred to above, who wish to reorganise its employee relations, shall take the following measures gradually, and in agreement with the non-national employee:

- Temporarily reduction of salary during the mentioned period
- Permanent reduction of salary.”

As your employer opts to reduce your salary until the Covid-19 crisis prevails, it is assumed that the reduction may be temporary in nature and not permanent. Article 5 of the ministerial resolution allows an employer to reduce the salary of an employee and states the procedures to do so. It states: