

Want to switch jobs without notice period? Know your rights



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LEGAL VIEW

Q: I am on a limited term renewed contract working as a teacher at a private institution in Dubai. As per the terms of the contract, I am required to serve a three-month notice period if I am to resign. My queries are:

1. If I do not complete the three-month notice period after I tender my resignation, what are the consequences? Will there be a labour ban?
2. If I don't serve my notice period, will I still get gratuity for the years I served?
3. Is there a penalty for not serving the notice period? How is it calculated?
4. Can I use my existing annual leave (unused ones) to compensate for my notice period?

A: Pursuant to your queries, we assume that you are employed in a private educational institution based in mainland Dubai. Therefore, the provisions of Federal Law No. (8) of 1980 regulating employment relations in the UAE (the 'Employment Law') and the provisions of 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.


If the employee does not serve the stipulated notice period mentioned in the contract, he or she has to compensate the employer by paying the amount equivalent to the period for which the notice period is not served.

This is in accordance with Article 119 of the Employment Law.

Employment ban

However, an employment ban may not be imposed on you if you serve three months of notice period to your employer when you resign or if you pay compensation in lieu of notice to your employer in case you do not serve

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 Article 1 of the Employment Law defines remuneration as entire salary, including the allowances payable to the employee by the employer annually, monthly, weekly or daily basis.

the stipulated notice period.

This is in accordance with Article 1 (I) (4) of the Ministerial Decree No. 766 of 2015, which states: "Either party acts unilaterally to terminate the employment relation following its renewal (irrespective of the period the employee has been in the employment of the employer and irrespective of the date of renewal) provided that:

"a. The terminating party notifies the other party in writing of his/her intent to terminate the contract in accordance with the notice period that was agreed to by the two parties, not to be less than one month and not to exceed three months. If renewal of the contract occurs prior to this decree entering into effect, and the two parties had not agreed to a notice period, then the notice period shall be three months.

"b. The terminating party continues to honour the contractual obligations for the duration of the notice period.

"c. The terminating party indemnifies the other party in the amount that was agreed to by the two parties, not to exceed the equivalent of three months of gross wages; if renewal of the contract occurs prior to this decree entering into effect, and the two parties had not agreed to the amount of indemnification ... Indemnification is set at the equivalent of three months of gross salary."

Gratuity

Further, as you are on a limited term of employment contract, you may not be entitled to gratuity from your employer in the event you resign before the end of the current employment contract as you have not completed continuous five years of

service. This is in accordance with Article 138 of the Employment Law, which states, "If an employee under a contract with limited period leaves his work at his own option before the end of the contract period, he shall not be entitled to end of service gratuity unless the period of his continuous service exceeds five years."

Salary calculation

In the event you do not serve the stipulated notice period of three months', upon resignation, you may have to pay gross salary as

compensation to your employer for the period for which you have not served the notice.

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Article 79 of the Employment Law states that an employee is eligible for remuneration for the number of annual days leave remuneration which is not availed by the employee.


File a complaint if ex-wife breaches divorce agreement conditions

Q: I got married in 2014 in India and got divorced in October 2018 as per a mutual agreement. I agreed to pay Dh3,000 per month to my now three-year-old son. According to the terms we signed, I could visit my son once a week for an hour. My ex-wife and son went to India in August, but she came back to the UAE without him. Please advise how I can bring my son back to Dubai so I can at least visit him once a week.

A: Pursuant to your queries, we assume that you had obtained a mutual divorce from your ex-wife from the Personal Status Court of Dubai and the mutual agreement is duly attested by the court. We further assume that the said mutual agreement is an integral part of the mutual divorce judgement. Therefore, the provisions of Federal Law No. (28) of 2005 on Personal Status (the Personal Status Law of UAE) are applicable.

It should be noted that it is the responsibility of an individual who is the party to the Personal Status Court judgement to abide by the judgement and the terms and conditions which are mentioned in the agreement. Further, it may be noted that, even though your ex-wife has custody of your three-year-old son, usually in the UAE, the

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 It is the responsibility of an individual who is the party to the Personal Status Court judgement to abide by the judgement and the terms and conditions which are mentioned in the agreement.

father is the guardian of their children. We assume that your son is residing in the UAE under your sponsorship.

You may request your ex-wife to bring your son back to the UAE as you have a mutual agreement acknowledged by the Personal Status Court which mentions that you are entitled for weekly visitation rights. In the event your ex-wife disagrees to bring your son back to the UAE, you may approach the Personal Status Court and file a complaint against your ex-wife for breaching the terms of the mutual divorce agreement.

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