

Expats with expired visas may avail of amnesty until Nov 17



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LEGAL VIEW

Q: My visa expired last June, however, my employer had not paid my dues, hence my work permit had been pending for cancellation. They are finally releasing my dues tomorrow and cancelling my work permit, too. I understand that they need to pay my overstay fines, but what if they do not settle the penalties? Will there be a problem when I leave the UAE? How many days do I have to leave the country?

A: Any individual who has a UAE residence visa should leave the country or change his visa status within 30 days of cancellation, in case the visa is cancelled before its expiry.

If the visa is cancelled after its expiry, the individual should leave the UAE or change his visa status within the remaining days of the 30-day grace period, which is granted from the date of visa's expiry.

This is in accordance with Article 21 of the Federal Immigration Law: "Any foreigner whose visa or residence permit has been revoked or whose residency has expired...and has not renewed it within 30 days from the expiry date, a fine of not more than Dh100 for every day of illegal residence in the state (must be paid) as of the date of expiry of the time limit."

As your residence visa has expired in June, you may have to pay the penalty, as applicable, as we assume that you have not filed any complaint against your employer for the non-payment of your end-of-service benefits and for not cancelling your visa.

The employer may be responsible to pay the overstay fines, if the employee registers a complaint with the Ministry of Human Resources and Emiratization (MoHRE). This is in accordance with Article 11 of Ministerial Resolution No. (707) for 2006 Regarding the Rules and Procedures of Conducting Business in the State for Non-citizens. It states: "The employee shall not be charged any fees or fines for the cancellation of the sponsorship, work permit, or other fees or fines, if he desires to leave the country and initiated a communication with the ministry for the same during the required timelines as per the provisions of this resolution."

However, currently, because of the Covid-19 pandemic, you may be not required to pay any overstay

penalties, based on an announcement made by the Federal Authority for Identity and Citizenship on August 17. It said those with expired residence visas may be exempted from overstay fines, provided that they leave the UAE before November 17.

Based on this, you may request your employer to pay your end-of-service benefits and cancel your work permit and visa. It is recommended that you approach the visa issuing authority in the emirate where your employer has applied for your residency for further assistance.

Know the law



A company may be obliged to pay the overstay fines of an employee if a complaint has been filed with the Ministry of Human Resources and Emiratization

Harassing on WhatsApp is a crime

Q: My business partner is harassing me over the phone and WhatsApp. She keeps accusing me of dishonesty and uses a lot of abusive words. Can I file a complaint against her? It is causing me stress. We had a signed agreement as partners, but the trade licence only has my name and that of the other partner, as she joined after business registration. Now, our business was sold at a loss, and she is insisting on getting higher shares on the profit balance. Partners have agreed just to get rid of her. I just want the law to prevail, as per law, partners should share the profit and losses equally. Please advise.

A: As you have not mentioned the type of your company in your query, we assume that your company is based in the mainland UAE and incorporated in accordance with the provisions of Companies Law. Further, as one of your partners is allegedly harassing you over phone and WhatsApp, the provisions of the Cyber Law, the UAE Penal Law and the Criminal Procedural Law are applicable.

Abusing an individual in the UAE is a criminal offence. This is in accordance with Article 374 of the UAE Penal Law, which states: "Punishment by detention for a period not exceeding six months or by a fine not exceeding Dh5,000 shall apply if slander

Know the law



If the company's memorandum of association does not stipulate a partner's share in profits or losses, then his share shall be pro rata to his stake in the capital

or abuse is transmitted by telephone, or face to face with the victim, and in the presence of a third party.

"Punishment by a fine not exceeding Dh5,000 shall be imposed if slander or abuse occurs face to face with the victim alone without the presence of a third party." Further, any individual in the UAE who is abusing or offending any other individual through any information technology or electronic means is also a criminal offence. This is in accordance with Article 21 of the Cyber Law.

You may file a criminal complaint against your partner, who allegedly abuses and harasses you over phone and WhatsApp messenger. You may approach the police station or the public prosecution office.

Regarding the shares in your company — since you have divided the sale proceeds as per the profit-sharing ratio mentioned in the memorandum of association or as agreed upon between the partners in writing, the partner who is allegedly harassing you may not have a right to claim more than her share.

This is in accordance with Article 29 (1) of the Companies Law, which states: "If the company's memorandum of association does not stipulate the proportion of a partner in the profits or losses, his share thereof shall be pro rata to his stake in the capital. If the memorandum of association is limited to specifying a partner's share in the profits, his share in the losses shall be equivalent to his share in the profits and vice versa."

If a partner is not satisfied with the distribution of the sale proceeds, he or she may file a civil suit claiming a higher share of profit. It is recommended that you approach a legal counsel in the UAE for further legal advice on this matter.

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