

Job contracts are employee friendly



LEGAL VIEW
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I work as an operations supervisor in a company in Dubai. In my labour contract they have mentioned nine hours as my duty time from 9am to 7pm while I hardly get any break. The maximum time I get is around 20 to 25 minutes to have my lunch. Moreover, I am not paid overtime for the one extra hour I work every day. Since I am the one who is taking care of HR/Operations/Admin I need clarity on whether on completing my contract I can demand my overtime. In my internal employment offer, they have split my salary and mentioned my basic as Dh2,500 and overtime as Dh1000 per month while on my labour contract it is Dh4,000 basic. No overtime is mentioned.

It is understood that you have been working as an operations supervisor at a Dubai based entity and that your working hours are nine hours each working day and that your job responsibilities include handling matters pertaining to human resources, operations and administration. Further, it is noted that in accordance with your offer letter, your basic

salary is Dh2,500 and overtime is Dh1000, while your basic salary is mentioned as Dh4,000 in your labour contract. It is assumed that your employment is subject to provisions of the Federal Law No 8 of 1980 on the Regulation of Labour Relations (the "Labour Law").

Further to your questions, it may be advised that in accordance with the provisions of the Labour Law, the maximum normal hours of work has been prescribed as eight hours a day or alternatively 48 hours a week. The working time may be increased to nine hours a day depending on the place or the nature of work. This is in accordance with Article 65 of the Labour Law which states as follows:

"The maximum normal hours of work of adult workers shall be eight a day or 48 a week. The hours of work may be increased to nine hours a day in commercial establishments, hotels and cafes and of guard duties and any other operations where such increase is authorised by order of the Minister of Labour and Social Affairs. The daily hours of work may be reduced in the case of ar-

duous or unhealthy operations by order of the Minister of Labour and Social Affairs.

The normal hours of work shall be reduced by two during the month of Ramadan.

The periods spent by a worker in travelling between his home and place of work shall not be included in his hours of work."

However, it may also be advised that the payment for overtime work shall also depend upon your designation and the nature of your work, as there are certain areas of work which have been exempted from the applicability of the rules pertaining to payment for overtime work. This is in accordance with Article 72 which states:

"The provisions of this chapter shall not apply to the following classes of persons:

1) Persons holding responsible managerial or supervisory positions, if such positions confer upon the holders the powers of an employer over workers. The categories in questions shall be specified by order of the Minister of Labour and Social Affairs.

2) Workers constituting the crew of seagoing ships and persons employed at sea and enjoying special conditions of service on account of the nature of their work, except dock workers engaged in loading and unloading and related operations."

In view of this, since you are working in a supervisory capacity, the rules pertaining to normal working hours as prescribed in the Labour Law may not apply to you.

Further it may be noted that where there occurs a conflict between concurrent provisions in the offer letter and the employment contract, the provision which is more beneficial to the employee shall be applicable. Therefore, the basic salary as provided under the employment contract shall be applicable as it is more beneficial to you.

Visa, ID within 60 days
I joined on September 27 in an accounting firm as an accountant according to my entry permit. But till now my company has not applied for my Emirates ID and medical and my visa is also not stamped. Now the company owner is asking me to do marketing work. When I refused he is threatening to cancel my visa, and my passport is with the company. Can you tell me what can I do in this situation?

It is understood that you had commenced employment as an accountant at an accounting firm based in the UAE in September, but till date your employer has not arranged for your medical test, affixing visa on your passport and your Emirates ID. Further to this,

your employer is urging you to commence marketing work although it is not a part of your responsibilities.

Pursuant to your questions it may be advised that, under the prevailing labour regulations of the UAE, all employers are liable to arrange for the compulsory medical check-up followed by stamping of visa and application for issuance of Emirates ID of an employee within 60 days of his entry in the country. In the event an employer fails to do so, he shall be liable to penalties. This is in accordance with the provisions of the "Cabinet of Ministers Resolution No. (10) - of 2012 Regarding Fees and Fines on Services Provided by the Ministry of Labour."

In view of the aforementioned, you may now insist that your employer expedites the procedure

for stamping your employment visa failing which he may be liable to penalties for each day of delay. However, if he fails to do so, you may complain to the Ministry of Labour against your employer. Also, it may be advised that your employer shall under no circumstances, have the right to retain your passport without your consent, whether during your employment or for stamping of visa for an unreasonably long period of time. This is prohibited in accordance with the prevailing laws of UAE.

In the event your employer refuses to hand over your passport, you may immediately report the matter to the Ministry of Labour and subsequently to the police for recovery of your passport from your employer.

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