

# Arbitrary denial of maternity benefits by employer is illegal



## LEGAL VIEW Ashish Mehta

*I am a qualified veterinary doctor and was working in a company in the UAE for over a year. I am now nine months pregnant and the HR is telling me to resign on my own accord, so that they do not have to pay my maternity and other benefits.*

*If I resign, it will be a big loss for me and they will cancel my medical insurance too. Is this legal for them to do so? I am on a limited contract for two years.*

Pursuant to your queries, your employer cannot request or force you to resign from your employment; instead, they have an option to terminate you from your services upon compensating you for arbitrary termination.

You are entitled for maternity leave in accordance with Article 30 of Federal Law No. 8 of 1980 regulating Employment Relations in the UAE. It states: "A female employee shall be entitled to maternity leave with full pay for a period of 45 days, including the period preceding and the period following her confinement, on condition that she has been in her employer's service for a continuous period of not less than one year. If she has not completed the aforesaid period of service, she shall be entitled to maternity leave with half pay."

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### Know the law

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ternity leave, a female employee may be absent from work without pay for a maximum period of 100 consecutive or non-consecutive days, if such absence is due to an illness preventing her from resuming work. The illness also has to be confirmed by a medical certificate issued by the competent health authority. She is also entitled to the leave if the health authority confirms that the illness was caused by the women's work or confinement.

The leave provided for in the

preceding two paragraphs, shall not be deducted from other periods of leave.

You may consider not resigning. In the event your employer compels you to resign, you may contact the Ministry of Human Resources & Emiratization to file a complaint against your employer.

### Overstaying in UAE while legal ruling is under execution

*I filed a case against my employer for delayed salaries over six months in October 2017 and obtained a verdict in my favour against him in December 2017. The judgement became conclusive in mid-January, and the execution phase will start sometime in February.*

*The problem I am facing is that it appears the salary payment issues will linger due to the employer's financial troubles.*

*I have had no income since last March. Till now, I have not found a new job and my residency will expire in February along with the old employment permit.*

*Please advise on the following: 1. Am I allowed to overstay until the legal ruling's execution takes place? 2 During overstay, what will happen to my rent lease, Dewa and DU services?*

*3. If I found work during the overstay period, am I allowed*

*to renew residency or will there will be some sort of ban?*

Pursuant to your queries, you are allowed to overstay until the legal ruling's execution takes place, as it is the responsibility of the employer to settle your dues and cancel your visa.

Further, during your overstay period, the Dewa and DU services will continue to be active until the authorities contact you requesting you to submit the copy of new Emirates ID and valid UAE residence visa. However, if the execution is under process and your residential visa has expired, you may provide a copy of the court judgement and details of the judgement's execution to Dewa and DU, so that they may continue to provide you the utilities.

The same applies to the rental contract too. If you find a new employment during your overstay, you should get your current visa cancelled and request your new employer to apply for your work permit and residence visa. There shall be no employment ban on you as your overstay is due to your ongoing employment case.

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