

Help! I'm out of job and unable to pay alimony



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LEGAL VIEW

Q: I have a complicated issue. I got divorced five years ago and my ex-wife and two children live in Dubai. As part of our divorce agreement, I pay Dh5,000 as monthly maintenance for my children. However, I have been unemployed for the last seven months and am struggling to make ends meet. My ex-wife is still working, but has threatened to file a case if I do not pay the monthly maintenance. Can I expect any legal protection in this situation as I am without a job and genuinely unable to pay? Please help.

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 (the Personal Status Court) and the mutual agreement signed between you and your ex-wife is duly attested. Further, we assume that the said mutual agreement signed by you and your ex-wife 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 mentioned in the agreement.

Therefore, you are obligated as a father to pay monthly Dh5,000 to your ex-wife towards the maintenance of your children. Further, it is the responsibility of the father to maintain his minor children in the UAE. This is in accordance with Article 78 (1) of Personal Status Law of UAE.

Therefore, based on the aforementioned provision of law and the mutual divorce agreement signed between you and your ex-wife, you may be liable to pay to your ex-wife the maintenance amount related to your children. In the event of failure to pay the amount as agreed in the mutual divorce agreement, your ex-wife may open an execution case in the Personal Status Court against you.

However, considering that you have been unemployed for the last seven months owing to which you are finding it difficult to pay the maintenance amount of Dh5,000, you may approach the Personal Status Court and file an application/case in this regard. You may have to submit relevant documents, including your employment termination letter, copy of your bank statement and proof that your ex-wife is currently employed.

The Personal Status Court shall issue its judgment on your application. It is recommended that you approach a legal counsel in the UAE for further advice.

How to get signing authority if your partner in UAE firm is abroad

Q: I have been a UAE resident for the last 14 years. My elder son had invested in a business in partnership with an Arab national. The said partner is stuck in another country and is unable to travel back to the UAE. However, he is the signing authority for the company and many payments are pending. What is the legal process for my son to transfer the signing authority to his name while the partner is away? Can it be done in the partner's absence?

A: Pursuant to your queries, we assume that your son and his Arab business partner are shareholders in the share capital of a limited liability company (LLC) incorporated in the UAE. Further, we assume that the business partner is the manager in the LLC. Therefore, the provisions of Federal Law No. (2) of 2015 on Commercial Companies (the Companies Law) are applicable.

It should be noted that in the UAE, an LLC's day-to-day affairs are run by the manager. This is in accordance with Article 83 of the Companies Law. Your son as a partner in the LLC may not be able to manage the company's affairs as his name may not be mentioned as the manager in the memorandum of association of the LLC.

However, as your son's Arab business partner is outside the UAE, your son may request the partner to issue a power of attorney, authorising your son to represent him before any government authority; to sign any documents and forms of whatsoever nature

and description; change the signatory for the bank account of the LLC; manage day to day affairs of the LLC; and amend the memorandum of association of the LLC in order to replace your son as the manager.

This power of attorney should be notarised and legalised by the Ministry of Foreign Affairs and the UAE embassy in the country where your son's Arab business partner is currently located. Thereafter, it must be attested by the Ministry of Foreign Affairs and International Cooperation in the UAE. Upon the completion of these attestations, the power of attorney must be legally translated to Arabic by an authorised translator in the UAE. It also has to be attested by the Ministry of Justice.

Simultaneously, your son's Arab business partner needs to send his resignation as the manager of the LLC to the partners and the copy of this may be submitted to the relevant authority in the UAE. This is in accordance with Article 85 (2) of the Companies Law.

This resignation should also be notarised and legalised by the Ministry of Foreign Affairs and the UAE embassy in the country where the current manager resides.

However, in the event your son's Arab business partner does not cooperate in granting the power of attorney to your son, then you may approach the relevant court in the UAE which has jurisdiction and file a case, wherein you may request the court to change the authorised signatory or manager of the LLC to manage its day to day affairs.

This is in accordance with Article 85 (1) of the Companies Law, which states, "Unless the Memorandum of Association of the company or the contract appointing the manager provides otherwise, the Manager shall be dismissed by Decision of the General Assembly, whether the Manager is a partner or not. The Court may dismiss the Manager at the request made by one or more partners in the company if the Court deems that such dismissal is justified."

It is recommended that you approach a legal counsel in the UAE for further advice.

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