

New UAE rules will benefit both companies and workers



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The UAE's leadership has introduced and implemented various measures to contain the spread of Covid-19 and to protect and safeguard the health of everyone in the UAE. Although the aforesaid measures have certainly yielded promising results in containing the spread of the Covid-19 pandemic, the inherent nature of the pandemic has left employers across the globe in a vulnerable and difficult position who continue to report a decrease in their revenues which may result in redundancies.

During such challenging times and taking into consideration the plight of numerous employers and the financial predicaments they may face, the UAE Ministry of Human Resources and Emiratization (MOHRE) on March 26 issued Ministerial Resolution No. (279) of 2020 concerning the employment stability in establishments of the private sector during the application of precautionary measures to control novel coronavirus outbreak, with an objective to bring employment stability and sustenance of employers in the private sector.

The business of an employer in the private sector may be adversely impacted due to Covid-19. In this regard if an employer is undergoing financial and economical burdens, the employer may apply permitted measures to ease and reduce the employment costs being incurred by: allowing its employees to work remotely; granting paid leave; granting unpaid

leave; temporarily reducing the salary; and permanently reducing the salary of employees.

The interpretation of the provision may be construed in a way that obliges the employer to apply the measures gradually from the first measure of applying a remote working system on its non-national employees to the last measure of permanently reducing the salary of its non-national employees. Therefore, the employer may not be able to directly take a measure without applying and exhausting the previous measure. If an employer chooses to apply a measure which may be deemed to be severe, the employer shall have to establish that all alternative measures have been applied previously.

However, with the issuance of Ministerial Resolution, an additional ground is temporarily added that allows an employer and non-national employee to reach an agreement regarding the non-national employee to go ahead on an unpaid leave. An employer cannot force its employee to take unpaid leave.

While an employer is now provided with the option to temporarily reduce the salary of its non-national employee during the application of precautionary measures, it may be pertinent to note that the employer and the non-national employee must (i) agree to a 'Temporary Additional Addendum' to the original employment contract between the em-

ployer and the non-national employee, as per the template attached with Ministerial Resolution which shall end upon the duration mentioned in the Temporary Additional Addendum or upon the end of the period of applying precautionary measures; (ii) renew the Temporary Additional Addendum in agreement between the employer and the non-national employee; and (iii) two copies of the Temporary Additional Addendum shall be executed where both the non-national employee and the employer shall have a copy each and the employer shall be obliged to present the Temporary Additional Addendum to the MOHRE when required.

Further, an employer who is undergoing immense financial difficulties that has resulted in the deterioration of its financial position may choose to permanently reduce the salary of its non-national employee. However, the employer shall first have to apply for the 'Amend Contract' service to obtain the approval from the MOHRE.

In view of the foregoing, it may be noted that an employer who abides by the procedures stipulated under Ministerial Resolution shall be allowed to reduce the salaries of its non-national employee, temporarily or permanently provided the employer and the non-national employee are in agreement.

Registering the details of the non-national em-

ployee whose services are not required by their current employer on the MOHRE's 'Virtual Employment Market System' shall allow the non-national employee to work for another employer on a rotation basis within the UAE after the non-national employee procures the requisite work permits. However, the employer who originally employed the non-national employee shall be required to continue paying the non-national employee's allowances such as housing and other allowances that had been agreed upon between the employer and the non-national employee except for the non-national employee's basic salary until the non-national employee procures the requisite authorisation to work for another employer or until the non-national employee leaves the UAE. This may be a deterrent to employers who may consider terminating their employees.

On the other hand, during the suspension on the issuance of new work permits for non-national employees outside the UAE, an employer who seeks to recruit non-national employees, should list their vacancies and search the database of registered non-national employees on the 'Virtual Employment Market System'.

The Ministerial Resolution shows the relentless efforts being made by the UAE government to provide relief, support and assistance to employers and non-national employees in this time of global adversity.

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