



COVID-19: Effects on Employment Relationships in the United Arab Emirates

The COVID-19 pandemic has far-reaching consequences for the labour market in the United Arab Emirates ("UAE"). Employers and employees as well as authorities are facing the challenge of adapting to a constantly changing situation, introducing the right measures and being well prepared for the time after the crisis. Below, we provide you with answers to the most frequently asked questions that our clients have raised in recent weeks.

What are the employer's obligations if an employee is infected with COVID-19?

The UAE recently added COVID-19 to the list of diseases covered by Federal Law No. 14 of 2014 on Control of Communicable Diseases. This means that the employer is now obliged to notify the Ministry of Health & Prevention or the nearest health authority, such as the Dubai Health Authority, immediately of any suspected or confirmed case of COVID-19. If an employer violates such obligation, imprisonment and/or a fine of up to AED 10,000 can be imposed.

The law does not provide any information on how the infection of an employee with a communicable disease affects the course of work, i.e. whether, for example, a temporary closure of the business becomes necessary.

If an employee is suffering from COVID-19 and is therefore unable to perform work, his condition is to be classified as an illness within the meaning of Federal Law No. 8 of 1980 as amended ("UAE Labour Law"). Hence, the employee is entitled to the legally prescribed or, if more beneficial to the employee, the individually agreed paid sick leave.

In case an employee expresses reservations about going to work in the current situation, the employer should take these concerns seriously and ask for the exact reasons. Employer and employee together can look for possible solutions, such as a modification of the workplace, home office or, whether paid or unpaid, leave. However, the employee has no right to stay away from work because of a general fear of infection.

Which measures should an employer implement to prevent infection in the workplace?

It results from the employer's general duty of care to provide all employees with a safe workplace.

Against the background of the COVID-19 pandemic, this means reducing the risk of infection as far as possible. Different measures can be taken depending on the type of work. In any case, employees should be informed about COVID-19 in a language they can understand and given straightforward rules of conduct, such as regular and thorough washing of hands and keeping distance. It should also be made clear that employees who feel unwell must not attend work and should seek medical advice if necessary. Respiratory masks and disinfectants for

hands and work equipment should also be provided in the workplace. Appointments that do not necessarily have to be attended in person should be cancelled, rescheduled or held via other means of communication, such as video conference. The above measures are in accordance with guidelines published by the Ministry of Human Resources & Emiratisation ("MoHRE") on the handling of COVID-19 dated 15.03.2020.

In addition, there are currently restrictions on the number of employees who are allowed to work at the same time in one workplace. Private sector companies, which are licensed in Dubai mainland, were instructed by Dubai Economy as the responsible authority to introduce work from home for at least 80% of the workforce with immediate effect from 25.03.2020 until 09.04.2020. Excluded from this regulation are companies in the sectors of Health, Pharmaceutical, Food Retail Outlets (including Animal Feed), Industrial and Manufacturing, Construction, Contracting and Building Materials, Security Services, Logistics and Delivery Services, Supply Chain, Workshop, Cleaning Services, Cash Transport and Banking. At federal level, MoHRE ordered with Ministerial Resolution No. 281 of 2020 on 26.03.2020 that a maximum of 30% of employees may be present in the workplace. Further, MoHRE established temporary guidelines for remote work.

Which rules apply if an employee has spent his annual leave abroad and is currently unable to return to the UAE due to travel restrictions?

As of 25.03.2020, all passenger flights to and from the UAE, including transit flights, have been suspended for an initial period of two weeks in order to curb the spread of COVID-19. Several other countries had already suspended flight operations before. As a result, it may currently be impossible for employees to return to work from their annual leave in time.

The UAE Labour Law does not provide for cases where employees are unable to perform work due to circumstances beyond their control. In most cases, employment contracts do not contain stipulations for such situations either.

A pragmatic approach is therefore appropriate. If it is possible for the employee to perform his work from abroad via home office, this should be offered to the employee. If this possibility does not exist or if the employee is not willing to do so, the employer should ask the employee to extend the leave. Within the limits



of Article 76 UAE Labour Law, it is the employer's right to instruct an employee to take paid leave. If the employee's entitlement to paid leave is exhausted, it may be agreed with the employee to take unpaid leave instead. However, unpaid leave, unlike paid leave, cannot be imposed unilaterally by the employer.

Is the outbreak of COVID-19 a reason for termination of employment?

The resolutions issued by MoHRE so far do not declare COVID-19 or the consequences of the outbreak of COVID-19 as a reason for termination without notice or as a valid reason for termination with notice. Therefore, the existing regulations for the termination of employment relationships remain unchanged.

What are the options for an employer who is facing financial difficulties due to the COVID-19 pandemic?

In order to combat the economic effects of the COVID-19 crisis, various measures have already been taken in different sectors. The government has launched economic stimulus packages worth more than AED116 billion. Local banks, licensing authorities and institutional landlords also offer assistance. Employers are therefore well advised to inform themselves about the various programs and actively establish contact.

There are no regulations on short-time work in the UAE. Further, the UAE Labour Law does not provide for redundancy. With Ministerial Resolution No. 279 of 2020 of 26.03.2020, MoHRE has taken a first step towards stabilising the labour market in the private sector by temporarily allowing more flexible working structures for expatriate employees. This includes, for example, that the employer can take the following steps in coordination with the employee: home office, paid leave, unpaid leave, temporary salary reduction and permanent salary reduction. In addition, employees who currently cannot be sufficiently employed due to poor market conditions can be registered with MoHRE's Virtual Labour Market online platform. In this way, a temporary employment with another employer is possible.

Conclusion

The COVID-19 pandemic requires a high degree of pragmatism and flexibility from both employers and employees. Wherever

possible, the focus of action should be on safeguarding employment. This not only secures the livelihood of the employees, but also the economic progress of the company after the crisis period as experienced employees can be called upon without delay and at no recruitment cost. It is important that an employer informs the workforce about planned measures in a timely and comprehensible manner and that solutions are developed jointly.

Do you have questions? - We would be glad to answer them!

From our office located in the heart of Dubai, our team of German attorneys has been advising small and medium-sized companies, corporations and individuals on the laws of the United Arab Emirates for more than a decade. Our areas of expertise include corporate and commercial law (in particular business set ups), commercial agency law, employment law as well as tenancy and real estate law. We would be happy to attend to your questions as well. Contact us!

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