



## Tightening of Emiratisation Practice in the UAE: What you now need to consider when hiring new employees

Since mid-2019, the Ministry of Human Resources & Emiratisation ("MoHRE") has been pushing ahead with the so-called Emiratisation. Consequently, applicants of Emirati nationality must now be considered more frequently when filling vacancies. Therefore, employers meet new challenges. We will inform you below about what needs to be taken into account when recruiting new employees.

### **Which companies have already had to comply with Emiratisation regulations in the past?**

According to Article 14 of the Labour Law of the United Arab Emirates ("UAE"), work permits are only to be issued to expatriates if no Emirati citizens with suitable qualifications currently seeking employment are registered with the authorities.

Pursuant to the wording of the provision, this condition applies without restriction to all employers which fall under the jurisdiction of the MoHRE, i.e. to all companies licensed in mainland UAE, outside a free zone. In practice, however, only companies in certain sectors or of a certain size had been affected by Emiratisation before, whereby in principle they had to achieve a certain quota of Emirati employees. For example, a quota of 4% applied to banks and a quota of 5% to insurance companies. Companies with 50 and more employees had to meet a quota of 2%.

### **Which companies are affected by the new, stricter Emiratisation practice?**

Up until now, Emiratis have been mainly working in the public sector. With the Vision 2021, the UAE has set itself the goal to increase the local workforce in the private sector.

In order to reach this target, significantly more companies under the jurisdiction of the MoHRE are now included in the scope of Emiratisation. An algorithm determines which employers are affected. At present, factors such as the activities of the company, the qualifications of the employees already employed by the company and the level of salaries currently paid are taken into consideration. Experience suggests that - at least at the moment - the algorithm excludes companies with less than ten employees.

The only decisive factor for the potential applicability of the new Emiratisation practice is that a new work permit is applied for. It is therefore irrelevant, for example, whether the MoHRE is involved in connection with an employee already working for the company. This may be the case if an employee who was previously sponsored by her husband shall now receive her residence visa through the employer. Since the work permit must also be reapplied for, the stricter administrative procedures take effect.

The new practice does not apply to companies located in free zones of the UAE. Nevertheless, the free zone authorities are encouraged to act in the spirit of Emiratisation.

### **When is a Tawteen Centre to be involved in the recruitment process in addition to a Tas'heel Centre?**

Once the employer has selected a foreign applicant to fill the vacant position, the employer applies for the so-called Job Offer at a Tas'heel Centre as usual. However, in contrast to previous procedures, the new, stricter Emiratisation practice can now take effect.

Currently, two prerequisites have to be met for the new procedure to apply. Firstly, the job offer must refer to a job title at skill levels 1 to 3, i.e. to those professions that require a diploma as proof of qualification. Secondly, a local citizen must have registered online at Tawteen Gate, the nationwide job portal for Emiratis, for the same or a similar job title.

If both conditions are met, a message appears in the system of the Tas'heel Centre. In this case, the employer cannot proceed with the application for the job offer for the foreign applicant previously selected. Instead, he must fill out a job description for Emiratis in the online system of the Tas'heel Centre first and then take part in a so-called Open Day in one of the Tawteen Centres.

### **What is the Open Day?**

During the Open Day, interviews are conducted with the Emirati candidates. Therefore, senior members of staff involved in recruiting should attend on behalf of the employer.

Detailed information on the individual candidates will only be made available to the employer during the Open Day. For this purpose, the employer is granted access to an online system provided by the Tawteen Centre. All Emiratis participating in the Open Day are listed therein and must be classified by the employer into the categories "selected", "shortlisted" or "rejected" at the end of the Open Day.

Time and place of available Open Days will be provided by the Tas'heel Centre. It is possible that the next available date is several months away. In such case, a Tawteen Centre can be contacted to schedule an earlier date, possibly in another emirate.



### Can a local candidate be rejected?

If a candidate participating in the Open Day does not meet the employer's requirements and has therefore been classified as "rejected", the reasons for the rejection must be communicated to the Tawteen Centre.

In case the Tawteen Centre accepts the reasons given, the vacant position will be opened to an expatriate candidate. Usually on the next working day, the employer can continue with the employment of the foreign applicant originally selected at the Tas'heel Centre.

The reasons acceptable to a Tawteen Centre for opening the vacancy to a foreign candidate are at the discretion of the authority and are highly case-specific. In the past, for example, the lack of certain language skills was considered sufficient.

### In a nutshell: The most important facts

In light of the intensified Emiratisation practice of the MoHRE, you should now observe the following:

- Check whether the new administrative practice applies to your company. It solely affects employers located in the mainland of the UAE, not those in free zones, and at present merely vacant positions at skill levels 1 to 3. Further, only companies with more than 9 employees seem to be impacted.
  - Plan to fill the vacant position as early as possible. The new procedure can have significant influence on the timing of the recruitment process.
  - Inform the foreign applicant in good time about the procedure prescribed by the authorities. Thereby, you avoid creating a false impression of you as an employer and prevent the applicant from losing interest in your offer.
  - Get in touch with the concerned Tawteen Centre and explain the requirements for the position to be filled. This can shorten the process.
- Do not make a binding commitment to an expatriate applicant before the Tawteen procedure is completed.

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### 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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