

inBrief



New Labour Regulations Take Effect January 1, 2016

By Charles Laubach | 1 December 2015

A number of recently announced initiatives could introduce potentially significant changes to the rules governing the workforce in the UAE.

Earlier this year, the Ministry of Labour promulgated Ministerial Resolutions Nos. 764, 765 and 766 of 2015. According to the reports of Ministry of Labour spokesmen that appeared in the local press, the new resolutions were designed to deter a number of undesirable practices. Chief among these was the practice by recruiters of luring potential employees to the UAE with attractive job offers, only to change the terms of employment when the new recruits arrive.

Specifically, Ministerial Resolution No. 764 of 2015 requires that an employee sign an offer letter in advance of being recruited and that the signed offer letter support the application for the employee's residence visa and labour permit -- an application that the employer must submit to the concerned authorities in the UAE. A signed offer letter must also support an application to hire a new employee from the local labour market.

The new Resolution not only ensures that the employment contract will be consistent with the original offer letter. It also ensures that the employment contract must be followed in all respects. As regards employers that maintain collateral agreements, the Resolution provides that, "No new clauses may be added to the stated contract unless they are consistent and comply with the Ministry's legal requirements, do not conflict with other clauses of the standard contract and are approved by the Ministry."

Of course, many employers use international employment contracts and detailed HR policies to supplement the brief standard employment contracts that are required by the Ministry of Labour. Provisions in such collateral documents that are inconsistent with the official registered contract would be

The Author



Charles Laubach
Partner
claubach@afриди-angell.com
Tel: +971 4 330 3900

Charles is well versed in all aspects of UAE and DIFC employment matters and assists clients in preparing employment documentation, and advises on compensation schemes, incentive schemes, confidentiality and non-compete clauses, and workforce reduction programmes. He assists with the employment aspects of mergers, acquisitions and other corporate restructurings, and handles contentious matters. His numerous publications on the subject include Littler Mendelson's *Guide to International Employment and Labor Law*, and the UAE chapter in *Labour & Employment*, published by Getting the Deal Through. He is a member of the Pennsylvania and D.C. Bars.

unenforceable. It could now be the case that such collateral terms will be unenforceable if they are not approved in advance by the Ministry of Labour.

Resolutions Nos. 765 and 766 facilitate the transfer of employees within the UAE. They do this by providing, in Resolution 765, clear criteria as to when the authorities may deem an employment relationship to have ended. Ending an existing employment relationship is a pre-requisite to allowing an employee to seek work with another employer. Of course, most employment relationships end with the routine cancellation of an employee's labour permit and residence visa, a process that is not disturbed by the new resolutions.

Specifically, Resolution No. 765 provides that the employment relationship ends if:

- The employer misses payroll for 60 days or otherwise fails to meet its contractual and legal obligations to its employees.
- The employer becomes inactive, provided that this is verified by a labour inspection and provided further that the employee reports the same to the Ministry.
- The employee files a labour complaint with the Ministry, which is referred to court, which in turn pronounces a final ruling in favor of the employee awarding the employee no less than two months' salary, or indemnification for arbitrary or early termination, or other benefits denied by the employer, or end of service gratuity.

Resolution 766 addresses the conditions under which an employee may transfer from one employer to another. It was previously the rule (with limited exceptions) that an employee would have to complete 12 months of service with an employer before he would be eligible to transfer to another employer. This general provision has now been reduced to six months.

Other initiatives also have an impact on the labour market. A Federal Law enacted this year, Federal Decree-Law No. 2 of 2015, is designed to criminalize acts of discrimination and hatred. Although not expressly directed at the workplace, this would apparently criminalize discriminatory hiring practices, if they were based on distinctions of religion, creed, doctrine, sect, caste, race, color or ethnic origin.

As a final matter, the requirement for employer provided medical insurance coverage is being introduced in phases in the Emirate of Dubai. Coverage was imposed on employers with more than 1000 employees in 2014, and employers with between 100 and 1000 employees in 2015. All other employers will be subjected to the same requirement by the end of June 2016. ■

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