

Ministry of Labour acts to regulate the employment of UAE nationals in the private sector



By Sara Khoja and Bronwyn Colgan

The UAE has a national population of approximately 1.5 million, with an estimated 14,000 UAE nationals employed in the private sector. The majority of staff is therefore expatriate workers sponsored by their employer for work permit and residency visa purposes. The UAE government has sought to encourage the employment of UAE nationals in the private sector by applying labour market tests, quotas for the employment of UAE nationals and most recently the Ministry of Labour issued a Ministerial Resolution regulating the termination of UAE nationals' employment in the private sector.

Labour market test

The federal employment law sets out a general duty on an employer to consider UAE nationals first, then nationals of Arab countries and then other individuals for any vacancy. There is no procedure or guidance on recruitment such as a duty to advertise in certain publications or apply a particular interview or recruitment process.

In practice, the Ministry of Labour will monitor the recruitment and employment of UAE nationals as it is under a duty not to approve a work permit application unless the individual has professional competencies or educational qualifications which the UAE is in need of and provided its records show that among the UAE nationals registered within its employment section, there are no unemployed nationals capable of performing the work.

Quotas for UAE nationals and reservation of roles in the private sector

The following industry specific quotas for UAE nationals' apply: 4 percent in banking, 5 percent in insurance, and 2 percent in trade sector firms. A business not meeting these targets is subject to higher administrative fees from the Ministry of Labour and the Immigration Department.

Businesses employing more than 100 workers must engage a UAE national as Public or Government Relations Officer to liaise with the Ministry of Labour and the Immigration Department on sponsorship and employment issues. Human Resources Managers and Personnel Managers should also be UAE nationals.

Further, the National Human Resources Development and Employment Authority monitors the application of quotas and employers must supply information on their compliance in July and January each year.

Termination

The February decree makes it unlawful to terminate a UAE national's employment other than for poor performance or misconduct. In the event of a restructure it will be unlawful to terminate a UAE national's employment if there is an expatriate worker performing the same role as the UAE national and whose employment is not terminated. An employer must inform the Ministry of Labour 30 days before the proposed termination thereby initiating a mediation process to be completed within 15 days of the notification.

The Ministry of Labour will produce a report with recommendations on the situation and if it decides the termination was unlawful it will refer it to the Labour Court. The employer's ability to obtain new work permits or residency visas will be frozen until the dispute is resolved.

It is expected that greater regulation will be introduced to protect the position of UAE nationals and other Gulf Cooperation Council state nationals with the GCC committed to creating a common labour market in the near future.

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