

inBrief



Part-time Work

By Charles Laubach | 26 March 2018

Now that the Ministry of Human Resources and Emiratisation has issued the new regulations addressing part-time employment, let us take a closer look at what this means.

The new measure is Ministerial Resolution 31 of 2018. It does not address part-time work as such, but rather part-time work for someone other than the employee's regular employer. Before this new measure was promulgated, the Labour Law accommodated part-time work for an employee working for only a single employer. Nothing in the Labour Law prevented an employee from working, say, 6 hours in lieu of 8 hours a day, as long as the employer agreed.

But a problem arose when an employee sought another job outside normal working hours. The laws of the UAE require that a person may be employed only by the party that sponsors the employee's labour permit. Working for a party other than the sponsor of one's labour permit presents multiple violations, on the part of each of the two employers and on the part of the employee.

The Ministry had procedures for granting approvals on a case-by-case basis for this kind of part-time employment, provided that the employee's "regular" employer issued a non-objection certificate. But now it appears that the Ministry will issue approvals on a more routine basis.

The new Resolution applies to an employee who is hired as a part-time employee, with working hours of less than 8 hours a day and 48 hours a week. (There is scope in the Resolution for a temporary increase up to 60 hours per week when necessary, provided that the Ministry consent to the same based on the employee's request, and provided that employee be given at least one day off per week.) The new Resolution applies only to employees at skill level 1 or skill level 2. Skill level 1 employees hold bachelor's or master's degrees and are employed in professional positions. Skill level 2 employees hold technical diplomas or certificates and are employed in technical or supervisory positions.

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Charles has practiced as a legal consultant in the UAE since 1986. He advises on general corporate matters, contracts and government procurements, project finance, employment, and international trade controls. He has many years of experience practising as an employer-side labour and employment lawyer and is well versed in all aspects of UAE and DIFC employment matters. He assists with the employment aspects of mergers, acquisitions and other corporate restructurings, and handles contentious matters. Charles is a member of the Pennsylvania and DC Bars. He holds a JD and an MA from the University of Pennsylvania, an MA from the University of London School of Oriental and African Studies, and a BA from Dartmouth College.

When an employer specifically hires an employee on such a part-time basis, the relationship is memorialized by a form of part-time employment contract promulgated by the Ministry. A part-time employee serving under such a contract may work on a part-time basis for a second employer, provided consent for the arrangement is obtained from the Ministry. Each employer remains responsible to pay to the employee the salary agreed in the applicable employment contract. The primary employer remains responsible for the employee's statutory benefits such as annual leave and end of service gratuity.

An employer who hires an employee on this basis as a principal employer must therefore be aware that the employee will be able to seek other part-time employment with the consent only of the Ministry. The employer would not be able to prevent the employee from obtaining part-time employment elsewhere by imposing non-compete or confidentiality provisions. Accordingly, this would not be an appropriate employment relationship for an employee that had access to significant employer or client data or other intellectual property.

Although the new Resolution will only apply to a small portion of the workforce in the UAE, the additional flexibility that the Resolution introduces must be welcomed. ■

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