

COVID-19: THE MINISTERIAL RESOLUTION NO. (281) OF 2020 REGULATING THE REMOTE WORK IN PRIVATE SECTOR DURING THE PERIOD OF APPLICATION OF PRECAUTIONARY MEASURES TO CURB THE SPREAD OF CORONAVIRUS

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By: Mohammad Rwashdeh, Nazanin Aleyaseen, James Lightley-Hunt

The UAE Federal Government has continued to implement temporary, but significant, changes to UAE labour law to account for the developing COVID-19 situation. Following its recent enactment of Ministerial Resolution No. 279 of 2020 concerning temporary modifications to labour relations during the period of precautionary measures to contain the spread of COVID-19, the Ministry of Human Resources and Emiratization ("MOHRE") has now enacted Ministerial Resolution No. 281 of 2020 ("Ministerial Resolution"), which concerns private-sector remote working requirements applicable during the same period. The Ministerial Resolution applies across the seven Emirates that make up the UAE, with the exception of the common-law financial free zones within Dubai and Abu Dhabi: Dubai International Financial Centre and Abu Dhabi Global Market, which are governed by their own labour laws.

The Ministerial Resolution requires private-sector employers to reduce their workforce physically present at business premises to the minimum necessary for business operations, subject to a maximum amount of 30% of total workforce being in attendance. Businesses must also reduce the number of customers visiting their premises to a maximum amount of 30% of the premises' seating capacity. However, certain critical business activities are exempted from these particular requirements, provided that all applicable health and safety measures are satisfied and that the other provisions of the Ministerial Resolution are complied with. The following business activities are exempt:

- Infrastructure project works:
 - Road and bridge works;
 - Water supply and sewerage, power networks and telecommunications;
 - Construction sites and construction/contracting companies;
 - Engineering consultancies;
- Catering businesses: food co-operatives and food sale outlets;
- Energy companies: oil/gas companies, refineries, power plants, gas and fuel retail stations;
- Education sector: schools, universities and colleges;

- Financial sector: banks, currency exchange and cash transport firms;
- Food industry: manufacture and distribution of food;
- Hospitality sector: hotels, restaurants and catering companies;
- Sterilisation and cleaning products manufacturing, medical supplies manufacturing and cleaning companies; and
- Health sector: hospitals, pharmacies, pharmaceutical manufacturing, clinics and all medical services.

The Ministerial Resolution also introduces mandatory measures that apply to all business sectors, including in respect of worker accommodation and transport provided by employers, including:

- Providing frequent screening at worker accommodation and workplace entrance points for high temperatures and other symptoms of COVID-19;
- Preventing employees with suspected symptoms of COVID-19 from working or entering workplaces or worker accommodation and reporting suspected cases to the health authorities;
- Preventing employee gatherings and all cultural, sporting and social activities in worker accommodation;
- Reducing the number of employees present in worker accommodation canteens and implementing safe distancing measures in canteens.

Appended to the Ministerial Resolution is a temporary guide regulating remote working, setting out the respective obligations of employers and employees. Employers are required to:

1. Provide the necessary technical tools to permit remote working;
2. Put in place mechanisms and standards of competence and productivity expected of employees and to specify timeframes for the delivery of tasks assigned to employees;
3. Put in place mechanisms for the management of remote working, such as determining working hours and whether set hours or flexible hours are to apply;
4. Ensure the availability of technical systems that allow for safe remote working and ensuring data privacy and confidentiality and security of login details;
5. Monitor employees working remotely to ensure working hours are followed and assigned tasks are completed; and
6. Facilitate the communication of employees working remotely with their colleagues, management and leadership in order to perform assigned tasks, access information and other platforms necessary for work and to provide video conferencing.

Employees working remotely are required to:

7. Obtain their employer's approval for remote working;
8. Report to their workplace whenever requested;
9. Perform assigned tasks within timeframes specified;

10. Be contactable by mobile telephone or email and utilise communication methods to ensure continuous communication;
11. Maintain the confidentiality of information and documents and perform work during working hours;
12. Provide employers with demonstrable measures of achievements and productivity;
13. Maintain devices provided by employers for remote working in good condition, and to return them whenever requested; and
14. Review and comply with privacy policies applicable to remote working.

As with the other employment measures taken by the MOHRE, as well as the wider economic measures implemented by the UAE Federal Government to combat the impact of COVID-19, it is difficult to say how long the requirements set out in the Ministerial Resolution will be effective for. However, the practical guidance on the implementation of remote working is welcome in a country in which remote and flexible working arrangements are not yet well developed across the board, and may continue to influence working practices once the immediate threat of COVID-19 has receded.

KEY CONTACTS



MOHAMMAD RWASHDEH
SPECIAL COUNSEL

DUBAI
+971.4.427.2742
MOHAMMAD.RWASHDEH@KLGATES.COM



NAZANIN ALEYASEEN
PARTNER

DUBAI
+971.4.427.2707
NAZANIN.ALEYASEEN@KLGATES.COM

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