

Embassy of India

Abu Dhabi

Subject : Update on Changes in UAE Labour Law & other related developments

CHANGES IN LABOUR LAWS

- Nationality – based Quota and Emiratisation Policy – Termination of Expat PROs
- New Sponsorship Transfer Policy
- Six – Month Immigration Ban to Continue

IMPORTANT DEVELOPMENTS

- Three Firms to Manage New Labour Scheme – Labourers City Scheme
- Labour Insurance Scheme under study
- Health Insurance Coverage for Employees and their Families
- Types of Visas facilitating Entry into the UAE
- Stricter Penalties on Absconders
- Illegal Trade in Residency Visas
- Crackdown on Companies involved in Visa Racket

Nationality – based Quota and Emiratisation Drive – Termination of Expat PROs

Background

The total population of UAE is estimated to be 4.23 million of which 2/3 rd (2.79 million) are immigrants from foreign countries including India, Pakistan, Egypt, Philippines, Sri Lanka, Bangladesh, Iran, Palestine, Sudan, Jordan, Lebanon and Syria. Indian emigrants in UAE stand at 1.2 million.

Out of 2.79 million expatriate community, about 2.3 million are skilled / unskilled workers, the largest section engaged in construction field.

50 % (1.15 million) of the workers is from India, more than half of them hailing from Kerala.

According to the UAE Minister of Labour and Social Affairs, there are 100,000 vacancies in the local labour market every year while the country suffers unemployment of 26,000 nationals. In order to provide employment to unemployed UAE nationals seeking jobs in the country, the Ministry of Labour and Social Affairs had introduced job quota system for nationals under 'emiratisation programme' in April 2004 issuing Cabinet Decree No. 1/259.

The UAE Government is targeting 100 % nationalization in Government organizations. Banking and insurance sectors and companies employing more than 50 people all have Emiratisation targets set by the UAE Government they must meet.

The Cabinet Decision No. 19 of 19 th July 2005 had made the classification of companies regarding diversification of culture stipulation. It had classified companies into three categories – 'A', 'B' and 'C' categories – specifying that companies under 'A' category are those which have 30 % or less of their workers from the same nationality; companies under 'B' categories would be those having between 31 % to 74 % and companies under 'C' categories are those which have more than 75 %. Under the classification system, the Ministry of Labour will, for the first time, have a data base on the percentage of UAE national workforce in the private sector.

Another Cabinet decision announced subsequently had set different official labour transaction fees according to these three categories under which category 'A' will pay the least. Companies employing UAE nationals will also pay less for official transactions. A list detailing criteria on which private companies will be assessed to avail of special treatment concerning labour transactions will be issued shortly. The list will specify evaluation parameters, mainly emiratisation percentage, nationality – based quota and compliance with labour laws and regulations for companies on which private firms are classified.

New Development – Termination of Expatriate PROs

The UAE Government is giving more and more stress on Emiratisation. The replacement of thousands of expatriate PROs (Public Relations Officers) with UAE national PROs in private companies is part of the emiratisation and employment drive. The Ministry of Labour issued a Ministerial decision on 6 th September 2005 asking companies that

have more than 100 workers to employ UAE national PROs, male or female, with effect from January 2, 2006. From this date, the Ministry will not accept any transactions unless submitted by a UAE national PRO.

The Ministry has decided to restrict the period of validity of expatriate PRO cards in the country to one year against the normal practice of three years when they come up for renewal. The expatriate PROs would be expected to impart training to the national PROs and prepare them for the eventual take over of the profession during the one year period. Also, the renewal fee for expatriate PRO cards has been made four times more than that for a national PRO. The fee was increased to Dhs.500/- for nationals and Dhs.2000/- for expatriates from just Dhs.200/- for both.

New Sponsorship Transfer Policy

All workers can change their sponsorship – with approval of existing sponsor

On July 19, the Cabinet issued a decision that all categories of workers can transfer sponsorship, but under certain conditions. Sponsorship may be transferred with the approval of the Minister of Labour and Social Affairs or anyone acting on his behalf, provided the worker meets the following conditions :

- Approval of the existing sponsor
- Approval of the new sponsor
- Worker has a valid residence visa stamped on his passport
- Workers must have a valid labour card
- It should be ensured that the job for which the change of sponsorship is required could not be filled by any UAE national or GCC jobseeker registered with the competent authorities.

Under the decision which came into effect from 11 th September 2005, the transaction fees will be charged as per details given below :

Transaction Fee (Dhs.)	New Sponsor Cat. A	New Sponsor Cat. B	New Sponsor Cat. C	Minimum Service Rendered	No. of transfers allowed during entire stay in UAE
Approval	1500	2500	3500	1 year	Unlimited

internal labour
permit for PhD
& MA

Approval of 3000 3500 4000 2 Years 2

internal labour
permit for BA
or equivalent

Approval of 5000 5500 6000 3 Years 1

internal labour
permit for all
other groups

Sponsorship transfer fees of workers above 60 years and belonging to any of the three workers' categories is Dhs.5000/- regardless of the category of the new sponsoring company as well.

In all cases, the approvals of the previous and new sponsors are a must. The new employer will have to pay the transfer fees.

The Minister of Labour and Social Affairs or anybody acting on his behalf may exempt workers from the service period conditions provided an additional fee of Dhs.3000/- is paid.

The Minister also has the right to approve the transfer of sponsorship for all categories of workers on condition they are transferred to another company owned by the same person in the same Emirate. In this case, the sponsorship transfer fee would be Dhs.500/- per person.

If the Ministry accepts an application, the worker then has 60 days to complete all formalities. If formalities are not completed within the period, the application will be cancelled. The worker will have to apply afresh and pay the fees again.

Sponsor's nod not needed on visa transfer in six conditions

The sponsorship transfer will be granted without the need to get the first sponsor's approval in six conditions. The ministerial order which came into effect from 10 th September 2005 in implementation of Article No. 5 of the Cabinet Decision No.18 of 2005 has specified six conditions when the Ministry will grant sponsorship transfer without the need for the sponsor's approval :

- For unpaid workers in the private sector, the Ministry of Labour and Social Affairs will grant sponsorship transfer to them if their complaints

of pending wages for three months or more are upheld after a joint investigation by the Labour Relations and Inspection Departments of the Ministry.

- If the worker filed a complaint to the Ministry which was later transferred to the Court, the Ministry will grant the worker a sponsorship transfer based on a relevant judicial order.
- Sponsorship transfer will also be granted by the Ministry in case of the closure of the company following the death of its owner. The closure should be documented before the Ministry.
- Sponsorship transfer will be granted by the Ministry should the ownership of the company be transferred to another establishment. This means that the worker of a sold company will be transferred by the Ministry without the approval of the seller, under the name given by the buying company. This is also applicable in case of mergers between companies. The ownership transfer of the company should be proved in documents before the Ministry. If part of the company was sold to another company, workers of the sold part of the company can be granted exemption for sponsorship transfer.
- The closure of the company against an administrative or judicial decision gives the Ministry the right to grant sponsorship transfer to the workers.

The Minister will endorse sponsorship transfer for cases that are recommended and submitted to him by the concerned departments of the Ministry.

The other conditions referred above in the first paragraph on this chapter should also be fulfilled.

Sponsorship Transfer Formalities

- Sponsorship transfer form, copies of the endorsed signatures of the old and new sponsors, a copy of the worker's passport and labour card, and an attested copy of the worker's academic certificate should be submitted to the Ministry by the new sponsor.
- The relevant Ministry's employee should check the documents and ensure that all stipulations have been met. The transaction shall be immediately processed with either approval or rejection

- should there be missing documents. The application should be re-submitted after completing the missing documents.
- The new sponsor should pay the sponsorship transfer fees and furnish the necessary bank guarantee if the category of the company was B or C.
 - The new sponsor should apply for a labour card.
 - The new sponsor should cancel the worker's old labour card.

Six-Month Immigration Ban to Continue

The Ministry of Interior used to put an automatic six-month ban on expatriates if they cancelled their employment / residence visas or left their jobs. The decision to lift the immigration ban that came into effect on 21 st August 2005 has brought some relief to expatriate community. It would enable the people to return to UAE on a visit visa even if they got a labour ban. The main advantage of the new decision is that people can still come back and visit their friends and relatives. But expatriates who violated the country's Immigration and Residence Laws would still face the entry ban.

Article 6 of the Cabinet Decree No. 18 of 2005 annulled Decree No. 30 of 2001 pertaining to the entry ban. The Cabinet also authorized the Ministry of Labour and Social Affairs to put together necessary regulations to implement the decision on the ban.

Subsequently, iris scanning has also been stopped. Besides, the names of expatriates with cancelled visas will no longer be on the administrative lists nor will their passports be stamped with the ban. The ban to enter the UAE will only be applicable on expatriates who violate laws governing the entry and residence of foreigners. Such violators would face the entry ban administratively for a multitude of reasons and in line with existing laws and regulations.

Domestic help have been excluded 'temporarily' from the new decision and their case will undergo further scrutiny by the authorities.

But, the Ministry of Labour and Social Affairs will not issue a new work permit to workers whose visas have been cancelled unless at least six months elapse after the cancellation date of the worker's labour card. The decision came in Article No. 11 of a Ministerial Order Decision No. 826 issued on 11.9.2005 by the UAE Minister of Labour and Social Affairs.

The six-month waiting period does not apply to government departments or free zones.

Three Firms to Manage New Labour Scheme – ‘Labourers City Scheme’

The Ministry of Labour and Social Affairs will select three private sector companies to operate its planned labourers city scheme. In May this year, the UAE Labour Minister had given the go ahead on a proposal that labourers for large construction projects should be supplied through one Ministry-authorized agency and that a purpose built living space should be set up for them by the Government. Construction companies would then take their workers from the Government source rather than independently recruit them.

The Ministry will select one company to recruit and supply workers to other contracting companies across the country. Another company will run the workers city while a third company will construct the city and maintain its infrastructure.

One company will sponsor these workers, accommodate them in workers city and lend them to other contracting companies. The company would also look after the workers when a given project is over before it lends them again to another company.

It has not yet been decided where workers city will be built. The scheme will initially start in the Emirate of Dubai where there are more than 4,500 major contracting companies. It will extend to include other Emirates across the country in later stages. The privatization of the labour supply market will tackle many challenges facing the Ministry of Labour at present. The challenges include the problem of loose or absconding workers, non-payment of wages and workers’ right abuse.

Labour Insurance Scheme under Study

The Ministry of Labour and Social Affairs is currently studying the introduction of labour insurance system in accordance with international practices, whereby a certain amount could be deducted from salaries of workers in the private sector which would be returned to them at the end of their service. The proposed labour insurance project will be based on agreements among the employer, employee and Government represented in the Ministry of Labour. Singaporean experience will be one of models for this project, including the

theoretical, legal and application aspects. The labour insurance project will also represent pension authority for employees of the private sector.

The scheme will have greater effect in preserving the rights of workers, settle potential labour disputes before they occur. It will be a genuine gauge for workforce and will put an end to differences over contracts and salaries. The project will solve loan related problems and non-payment of loans, a tactics resorted by many after availing of million of Dirhams from banks. A link will be established between loan amount that could be offered to a worker and his subscriptions.

The labour insurance system will require the Ministry to make comprehensive assessment about firms regarding their professional structure through evaluation of their financial, management and internal work systems. Such an assessment will solve current problems including labour escape cases and visa trading, particularly by labour recruitment companies.

Dr. Ali Bin Abdullah Al Ka'abi, Minister of Labour and Social Affairs has assigned the job to Dr. Khalid Al Khazraji, Under Secretary in the Ministry to supervise the team which will study the proposed labour insurance scheme. The study will take six months. The Ministry would later prepare a memo on the labour insurance project to submit it to the Cabinet. If endorsed, the Ministry would also consider possibility of setting up an independent authority to supervise the implementation of the labour insurance scheme. The consultant team will comprise of a number of corporations from the private sector and public agencies and their priority will be specification of the amount to be deducted from the salary of a worker.

Under the scheme, the employer will be required to pay monthly subscription for his workers. The balance statement would be shown to the workers every six month to make them aware of their subscription amounts. The workers will be paid his cumulative dues from subscriptions when he leaves the country or at the end of service.

Health Insurance Cover for Employees and their Families

President, HH Sheikh Khalifa bin Zayed Al Nahyan, in his capacity as Ruler of Abu Dhabi, has issued a law that makes it compulsory for employers and business owners in Abu Dhabi to provide health insurance coverage for their employees. Sheikh Khalifa issued Law No. 32 of 2005 on 10.9.2005 which covers all non-UAE nationals and their

families who live in Abu Dhabi. The law can also be applied to UAE nationals upon a decision by the Abu Dhabi Executive Council.

Employees of companies and establishments which have their own medical institutions licensed by the Abu Dhabi General Authority for Health Services to offer medical services to their employees will be exempted from the provisions of this law, provided the decision regarding the exemption is issued by the authority.

Non-UAE women married to UAE nationals, children of UAE women married to non-UAE nationals and arrivals in the UAE on tourist visas are excluded from the provisions of this law. Any other categories exempted by a decision from the authority along with an approval from the Executive Council, are also exempt from this law.

All employers are obliged to participate in the health insurance system and should insure their employees.

Under the scheme, the employer should insure the employee, his wife and three of his children under 18 years. Sponsors must subscribe to the health insurance scheme for their workers as of the date of their arrival in the country. Residence visas for expatriates should be issued or renewed only after subscription to the insurance scheme.

Health insurance companies should pay the expenses of the health services for the insured. These companies are not allowed to own, run or participate in the management of medical institutions or provide any curative services. Medical institutions are not allowed to own, run or participate in the management of health insurance companies as well.

Health establishments in the government sector will undertake to provide medical services to the insured, while private health institutions will have to obtain a license from the authority to provide such services to the insured. These institutions will offer their services under the supervision of the authority. All health institutions should provide medical and curative services to the insured in compliance with standards of professionalism and ethics. Medical institutions should provide the insured with the medical services they need in case of emergency, and then they can collect the cost incurred from the insurance companies.

Exemptions : The compulsory health insurance scheme covers medical check-ups and primary healthcare provided at clinics and medical

centres, laboratory tests and X-rays, regular dental treatment , excluding artificial structures and orthodontics, medicines and expenses of the insured, including the patient and one companion. Pregnancy and delivery treatment, physical health programmes and spa are not included in the scheme. It will also not cover expenses of any disease or injury resulting directly from the insured's nature of occupation.

Types of Visas facilitating Entry into the UAE

The Ministry of Labour and Social Affairs and the General Department of Naturalization and Residency at the Ministry of Interior have introduced a new category of visitors for specific work missions. A completely new type of visa called 'Mission Visa', issued to those who enter the country for temporary jobs with permission of Labour Ministry and with specialized qualifications, will be valid for three months and will be renewable only once. The need of the UAE labour market for certain expertise and skills necessitated this category introduced for accomplishing a specific mission without the need to open the door for extra workers.

Under the Mission Visa, expatriate workforce with special qualifications will be able to work in the country without an employment visa. It caters mainly to companies that require highly skilled workers especially in the oil sector. Also it is considered to be a good move to counter illegal employment while on visit visa. The Cabinet approved Mission Visa last month under its decision No.16 for 2005, amending some provisions of decision No.6 of 1994 regarding the amendment and introduction of fees levied for transactions processed by the Departments of Naturalisation and Residency and Traffic.

The companies will have to apply for the Mission Visa to the Ministry of Labour which may decide to issue the visas based on the skills needed and the size of the project. Earlier companies used to bring in temporary workers and specialists on visit visas which is illegal.

The permit by the Labour Ministry is issued for three months for a fee of Dhs.1,100/- per person and can be renewed for another three months with an additional fee of Dhs.1,100/-. The new visa is issued for three months against a fee of Dhs.600/- and can be renewed for another three months against an additional fee of Dhs.1,200/-.

Details about all the existing visa types, including the visit visa and mission visa, are given below :

Visit Visa		It must be sponsored by an individual such as a relative or an establishment. The application is submitted by the sponsor with all required documents. It is issued for Dhs.100/- for two months and is renewable for another month for a fee of Dhs.500/-.
Tourist Visa		It is available for tourists sponsored by tour operating companies and hotels. It is issued for 30 days for a fee of Dhs.100/- and an additional Dhs.10/- for delivery. This is non-renewable.
Special Entry Visa	Mission	This is issued for a non-renewable 14 days for a fee of Dhs.220/- and a delivery charge of Dhs.10/-. Commonly known as a transit visa, it is collected by the visitor upon arrival. It is issued to businessmen and tourists sponsored by a company or commercial establishment or a hotel licensed to operate in the UAE
Mission Visa		The newly added type of visa, it is issued for the purpose of temporary work in the country. It is issued for a maximum of 180 days with a combined fee of Dhs.1,800/-. It is issued for three months against a fee of Dhs.600/- and can be renewed for another three months against a fee of Dhs.1,200/-.
Transit Visa		It is issued to travelers transiting through UAE airports. It is issued for 96 hours and must be sponsored by an airline operating in the UAE. The visitor must have a valid ticket for onward flight. There is no charge for this permit.
Multiple Entry Visa	Entry	It is an option for businessmen who are frequent visitors to the UAE and who have a relationship with a reputable company here. This multiple visa is valid for six months from the date of issue and costs Dhs.1,000/- . However, each visit must not exceed 30 days. The visitor must enter the UAE on a visit visa and obtain the multiple entry visa while he / she is here.
Residence Visa		A residence visa is required for those who intend to enter the UAE to live indefinitely with a person who is already a resident. It is issued to the immediate kin of a resident for three years for a fee of Dhs.300/-. The resident permit becomes invalid if the resident remains more than six months at a

time out of the country. Parents of residents are issued residence visas after special approval with a renewable validity of one year for a fee of Dhs.100/- for each year. A refundable deposit of Dhs.5000/- has to be paid for each parent.

Investor Visa It is issued to an expatriate investor in partnership with a local. The foreign investor must hold a minimum stake of Dhs.70,000/- in the share capital. Like the residence visa, it is issue for three years for a fee of Dhs.300/-.

Employment Visa Employment visa or Permit is issued by the Immigration Department to a foreign national who wishes to work for a company in the UAE upon the approval of the Ministry of Labour and Social Affairs. It allows the holder to enter the UAE once for a period of 30 days and is valid for two months from the date of issue. When the employee has entered the country on the basis of the employment visa, the sponsoring company will arrange to complete the formalities of stamping his residence.

Stricter Penalties on Absconders

The Government is likely to impose more stringent penalties on employees reported absconding with Labour authorities. The penalties could include an imprisonment term the duration of which will largely depend on the absconding period and the damage the company incurred due to the employee decamping. The Labour authorities will stop tracking an employee reported absconding if he showed up within 90 days of the filing of the absconding report. The authorities will provide labourers with an adequate grace period to show up and clarify the reasons for their disappearance. This sanction period aims to verify employers claims about absconding employees. Labourers are now provided ample time to prove they were not running away from their employers if they want to settle their problems through legal channels.

The step would block the way for some unscrupulous employers who intentionally submit false reports against their employees as absconding to cause them damage. The Ministry of Labour would not make arbitrary decisions on workers reported absconding, taking into consideration the remarkable rise in false reports on run-away

labourers the Ministry of Labour has lately received. More than 20,000 employees were reported absconding over the past seven months.

If the absconding employee was caught working for another sponsor, the recruiting company will be penalized for violating Labour Laws and Regulations for employing a run-away worker. The companies found involved in fabricating reports to make the authority believe the employee has ran away, will have their file suspended while all their labour transactions blocked. The Ministry may ban the employee from entering the country on either visit or employment visa for a specific duration that would be defined later.

Illegal Trade in Residency Visas

Low-level corruption in Labour Ministry is enabling companies to abuse permit quota. Some companies illegally trading in residency visas are exploiting an information gap between the Labour Ministry and Departments of Residency and Naturalisation which allows them to bring more workers into the country than their quota permits. Some small companies, set up as fronts to trade in visas for expatriate workers, had developed a conveyor belt system to fire workers after they arrive. This allowed them to bring in replacements from abroad and make more money on visas.

The Ministry of Labour and Social Affairs permits small companies a set quota of workers they can hire from abroad. When they cancel a worker's labour permit, they can hire another worker to fill that quota. The Ministry's computer system cannot check if the company has also cancelled the worker's residency visa which is done at the Department of Residency and Naturalisation in each Emirate.

Genuine companies dismissing workers alert the Department in their Emirate. This ensures the worker either cancels the residency visa and returns home or obtains another job offer and becomes the responsibility of a new sponsor. Companies set up as a front to trade in visas often do not cancel residency visas for several reasons. The worker may not be aware his work permit has been cancelled and could complain. Other companies fear the Department's scrutiny. The practice was heavily abused in Al Ain, Fujairah, Dubai and Abu Dhabi.

It is people who are aware of the system's gaps – employees who allow customers to abuse it without asking questions. It is corruption. Such incidents would reduce now. Employees who were involved in corruption used to hide such things with paper work but now they will

not be able to do so any more since the Department is going to maintain database electronically.

Crackdown on Companies involved in Visa Racket

Private companies applying for new employment visas will not be issued work permits unless they meet certain conditions set by the Ministry of Labour and Social Affairs. Companies applying for new work permits will have to prove, among other conditions, that the volume of their business required additional workforce. This move is aimed at cracking down on companies involved in the visa racket, letting a large number of unskilled labourers in the labour market which is now considered to be a drag on the national economy.

The Ministry would deal strictly with companies indulging in such malpractices. According to Dr. Khalid Mohammed Al Khazraji, Under Secretary in the Ministry of Labour, unorganized labour in the country accounted for 60 per cent of the total expatriate labour force. Compliance with Labour Laws & Regulations regarding payment of wages and occupational safety, in addition to the record of the companies vis-à-vis labour disputes will also be thoroughly investigated before issuing new employment visas.

The Labour authorities seem to be very keen to protect the rights of new employees by making sure that the company is capable of properly recruiting them and safeguard their interests. If the firms fail to meet these requirements, employment visa applications will be turned down.