



Part-Time Working Arrangements Now Possible in the UAE

The UAE Ministry of Human Resources and Emiratisation (MHRE) has recently issued Ministerial Resolution No.31 of 2018 Introducing Part-Time Employment Contract System (the Part-Time Resolution). In this bulletin, we discuss how the Part-Time Resolution facilitates part-time working and how employers can deal with the key issues.

Background

Historically, UAE immigration laws have prevented employees from working for any UAE entity other than the entity which sponsors them for UAE residence visa and work permit purpose without the express approval of the MHRE (normally by way of temporary work permit).

In addition to the immigration-related restrictions, UAE Federal Law No.8 of 1980, as amended, (the Labour Law) does not specifically recognise the concept of part-time working, which has resulted in uncertainty (and therefore disputes) when calculating a part-time employee's statutory entitlements (such as end of service gratuity and holiday pay).

However, in an effort to improve worker mobility in the UAE, the Part-Time Resolution will now potentially allow Emiratis and expatriates to work legally for two or more MHRE-registered employers at the same time.

The Part-Time Resolution

The Part-Time Resolution allows an employee employed under an existing part-time employment contract (which is an employment contract under which the employee's working hours are less than eight hours per day or 48 hours per week) to be employed by several other MHRE-registered employers (the Secondary Employers) without the consent of their primary employer (the Primary Employer), provided the employee:

1. is a skilled worker (i.e. works in a job requiring a bachelor's degree or diploma);
2. obtains a part-time work permit from MHRE;
3. works no less than 20 hours per week for their Primary Employer; and
4. does not work more than an aggregate of more than 48 hours per week, or more than 144 hours every three weeks, without the approval of the MHRE.

If an employee is issued a part-time work permit, the MHRE will notify the Primary Employer (and any other employers).

We understand that the MHRE will likely introduce a prescribed form part-time employment contract. Although it does not expressly state this, it would appear likely that the Part-Time Resolution will only apply to employees where the Primary Employer (and Secondary Employer) falls under the jurisdiction of the MHRE.

Dealing with remuneration and benefits

The Primary Employer will be liable for a part-time employee's entitlement to end of service gratuity, holiday pay any other remuneration on a pro-rata basis according to the employee's working hours as set out in their part-time employment contract with the Primary Employer (although the Part-Time Resolution does not contain any specific guidance on how to undertake these calculations).

However, the Part-Time Resolution states that the employee and the Secondary Employer may contractually agree terms relating to the end of service gratuity, annual leave and any other remuneration in respect of the employee's employment by the Secondary Employer. This is surprising in that it appears to open the door for the Secondary Employer to provide an employee with entitlements which are less generous than those provided for in the Labour Law (albeit the employee will enjoy the full benefits under the Labour Law from the Primary Employer).

Visa and sponsorship

The Primary Employer will continue to be the employee's sponsor for UAE residence visa purposes, and will therefore continue to be responsible for:

1. maintaining the employee's visa;
2. paying for all visa and hiring-related costs; and
3. providing the employee with private medical insurance in accordance with the applicable law.

Arbitrary dismissal compensation

The Part-Time Resolution states that, save for provisions relating to remuneration and leave, the Labour Law will apply to an individual's employment with a Secondary Employer. Accordingly, Secondary Employers could potentially be liable for arbitrary dismissal compensation if it terminates an employee's part-time contract in breach of the Labour Law.

Key issues for employers to consider

The Part-Time Resolution expressly states that a part-time employee will not be prevented from being employed by a Secondary Employer as a result of any obligations relating to confidentiality

and non-competition imposed on them by their Primary Employer (unless the Primary Employer obtains a Court Order to this effect).

This will likely be of considerable concern to employers worried about the disclosure of their confidential information or trade secrets by part-time employees who decide to work for a competitor. To reduce this risk, and to prepare for part-time working generally, we recommend that employers:

1. undertake an audit to identify which of their employees have employment contracts which refer to working hours of less than eight hours per day or 48 hours per week (and who could therefore attempt to utilise the option of part-time working under the (Part-Time Resolution));
2. ensure that employment contracts (company and MHRE) accurately reflect employees' working arrangements;
3. ensure that company employment contracts include clear and express obligations relating to:
 - o the protection of the employer's confidential information and trade secrets; and
 - o the mandatory disclosure of conflicts of interest and third party engagements;
4. if necessary, restrict certain employees' access to the company's confidential information;
5. introduce a part-time working policy which clearly sets out:
 - o a notification procedure in the event that an employee wishes to undertake part-time work for another employer (whilst an employee does not, strictly speaking, require consent, this will help employers to manage the process);
 - o the requirement for an employee to obtain a part-time work permit prior to undertaking any part-time work;
 - o a part-time employee's obligations;
 - o the very serious consequences under UAE law for an employee who discloses their employer's confidential information and/or trade secrets; and
 - o how other policies and procedures will apply to part-time employees.

Conclusion

Whilst the Part-Time Resolution may pose some challenges, it will also provide opportunities for employers to:

1. resource their operations with part-time employees;
2. cut costs by reducing the working hours of existing staff (who are more likely to agree to such changes now that they have the opportunity to work for another employer); and
3. deal with resourcing issues pre and post completion of a corporate merger or acquisition.

At a time when companies are looking to reduce costs, part-time working could provide an ideal solution. It may also encourage greater recruitment and fluidity within the existing labour market in

the UAE. However, as approval for the part-time permits rests with the MHRE, the extent to which part-time working arrangements become a wide-spread practice remains to be seen.

If you would like any assistance in preparing for the implementation of part-time working across your workforce, please get in touch.

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