United Arab Emirates

Afridi & Angell

New UAE emiratisation regulations

One of the trends to emerge during the economic downturn in the UAE was a call for increased protection of UAE nationals during redundancy exercises. While some market observers suggest that a recovery is under way, emiratisation programmes remain a key government priority. Emiratisation is typically seen in governmental or quasi-governmental entities, such as government ministries or state-owned banks.

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On November 29 2010 the Ministry of Labour released Ministerial Resolution 1187 of 2010 (MR 1187), which represents an effort to increase the participation of UAE nationals in private sector professional roles.

MR 1187 provides a carrot-and-stick approach to a number of labour market initiatives put forward by the Ministry of Labour in recent years. In addition to setting forth penalties and black points for violations of labour regulations, MR 1187 provides an incentive for private sector emiratisation by reducing the bank guarantees companies are required to provide for sponsored employees.

In brief, MR 1187 classifies companies into three classes based on the composition of its staff. A Class 1 company (i) has a workforce comprised of at least 20% "professional employees"; (ii) meets the minimum wage requirements for each of the three types of professional employees (as defined by the Ministry of Labour); and (iii) employs not less than 15% UAE nationals in its professional staff. The Emirati employees must also be registered in the state-run pension and social security programmes.

Class 2 organisations are divided into three sub-categories based on the level of "cultural diversity" of the staff. A company whose level of non-compliance with cultural diversity standards is (i) less than 25% falls in Class 2A; (ii) between 25% and 50% falls in Class 2B; and (iii) greater than 50% falls in Class 2C. The Ministry of Labour may promote a company to a higher level in Class 2 without a corresponding increase in the diversity of its staff if (i) 20% of its workforce is comprised of professional workers; (ii) it meets the minimum wage requirements for such professional workers; and (iii) at least 10% of its professional staff is comprised of UAE nationals.

As mentioned, MR 1187 includes a classification table for labour and administrative regulatory violations. In addition to stipulating the applicable fines, companies violating UAE labour regulations, such as failing to implement the UAE's Wage Protection System or violating the midday work ban, receive black points that can result in the reduction of a company's rating. Certain offences, such as making a false emiratisation claim, providing substandard employee accommodation or committing human trafficking offences will result in a company being immediately relegated into Class 3.

MR 1187 is designed to work in concert with Cabinet Resolution 26 of 2010 (CR 26) which regulates company classification and bank guarantees that a company must deposit with the Ministry of Labour with respect to its employees.

Class 1 firms are exempted from providing bank guarantees, while all other classes must post Dhs3,000 ($817) per employee, to a maximum of Dhs1.5 million for Class 2A; Dhs3 million for Class 2B; Dhs5 million for Class 2C; and Dhs10 million for Class 3. For a large organisation, a higher class rating can result in a significant reduction in the bank guarantee requirement.

Emiratisation programmes in the private sector are often impractical and difficult to implement. However, the approach to emiratisation in MR 1187 and CR 26 is more business friendly than the government mandated employment of nationals elsewhere in the Gulf region.

It remains to be seen how effective MR 1187 will be in achieving the Ministry of Labour's stated objective of increasing professional jobs available to UAE nationals or in increasing regulatory compliance by UAE companies.

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