

## **TERMINATION OF EMPLOYMENT CONTRACT**

### **Article 113**

- 1- if both parties agree to its termination, on condition that the worker's consent is given in writing;
- 2- on the expiry of the period prescribed in the contract, unless the contract is expressly or tacitly extended in accordance with the provisions of the Labor Law;
- 3- if either of the parties of a contract concluded for an unspecified term, expresses his intention to terminate the contract; provided that the provisions of the Law regarding the period of notice are observed and on grounds accepted for the non-arbitrary termination of the contract.

### **Article 114**

The employment contract shall not be terminated with the death of the employer, unless the subject of the contract is related to the person thereof. However, the employment contract shall be terminated with the death or complete disability of the worker and such by virtue of a medical certificate approved by the competent health authorities in the State.

Should the worker with a partial disability be capable of performing other works that are consistent with his health condition, and should such works exist, the employer shall transfer the worker upon the request thereof to such a work, and pay him the wage normally paid to the workers with the same title, and such without prejudice to the rights and compensations due to the worker by virtue hereof.

### **Article 115**

Should the employment contract be of a determined term, and the employer rescind same for reasons not set forth in Article 120, he shall be bound to compensate the worker for the damage incurred thereto, provided that the compensation amount does not exceed in any case the total wage due for the period of three months or for the remaining period of the contract, whichever is shorter, unless otherwise stipulated in the contract.

### **Article 116**

Should the contract be rescinded by the worker for causes not set forth in Article 121, the worker shall be bound to compensate the employer for the loss incurred thereto by reason of the rescission of the contract, provided that the amount of compensation does not exceed the wage of half a month for the period of three months, or for the remaining period of the contract, whichever is shorter, unless otherwise stipulated in the contract.

### **Article 117**

1 – The employer and the worker may terminate the employment contract with undetermined term for valid grounds at any time subsequent to the conclusion of the contract, and such after notifying the other party thereof in writing at least thirty days prior to the termination thereof.

2 – With regards to day workers, the notice period shall be as follows:

a – One week should the worker have worked for a period of six months at least and one year at most.

b – Two weeks should the worker have worked for a period of one year at least.

c – One month should the worker have worked for a period of five years at least.

### **Article 118**

The contract shall remain valid for the notice period referred to in the preceding Article, and shall be terminated with the expiry thereof. The worker shall be entitled to his complete wage for such period on the basis of the last paid wage. He must perform his job during said period should the employer so requires.

It shall not be permissible to agree on the exemption for the notice provision, or on the reduction of the period thereof. However, the agreement on the extension of such period shall be permissible.

### **Article 119**

Should the employer or worker fail to notify the other party of the termination of the contract, or should such party reduce the notice period, the notifying party shall pay to the other party a compensation known as compensation in lieu of notice, even if such failure to notice or such reduction of the period does not cause damage to the other party. Such compensation shall be equal to the wage of the worker with regards to the entire notice period or the reduced part thereof. The compensation in lieu of notice shall be calculated on the basis of the last wage paid to the worker for the monthly, weekly, daily or hourly-paid workers, and on the basis of the average daily wage set forth in Article 57 hereof with regards to the payment per piece.

## Article 120

The employer may dismiss the worker without prior notice in any of the following cases:

a – Should the worker assume false identity or nationality, or submits false certificates or documents.

b – Should the worker be appointed under probation, and the dismissal occur during or at the end of the probation period. c – Should the worker commit an error resulting in colossal material losses to the employer, provided that the Labour Department is notified of the incident within 48 hours of the knowledge of the occurrence thereof.

d – Should the worker violate the instructions related to the safety at work or in the work place, provided that such instructions be written and posted in a prominent location, and that he is notified thereof should he be illiterate.

e – Should the worker fail to perform his main duties in accordance with the employment contract, and fail to remedy such failure despite a written investigation on the matter and a warning that he will be dismissed in case of recidivism.

f – Should he divulge any of the secret of the establishment where he works.

g – Should he be convicted in a final manner by the competent court in a crime of honour, honesty or public ethics.

h – Should he be found in a state of drunkenness or under the influence of a narcotic during work hours.

i – Should he assault during the work the employer, responsible manager or co-worker.

j – Should he be absent without valid cause for more than twenty non-consecutive days in one year, or for more than seven consecutive days.

### **Article 121**

The worker may leave work without notice in the following cases:

- a – Should the employer breach his obligations towards the worker, as set forth in the contract or the law.
  
- b – Should the employer or the legal representative thereof assault the worker.

### **Article 122**

The termination of the employment of the worker by the employer shall be deemed arbitrary should the cause of termination not be related to the work, in particular, should the termination of the employment of the worker be made by reason of the filing by the latter of a serious complaint before the pertinent authorities or a valid claim against the employer.

### **Article 123**

As amended by Federal Law no. 12 dated 29/10/1986:

- a – Should the worker be arbitrarily dismissed, the competent court may order the employer to pay compensation to the worker. The court shall assess such compensation, taking into account the type of work and the extent of damage incurred to the worker as well as the duration of employment and after the investigation of the work conditions. In all cases, the amount of compensation shall not exceed the wage of the worker for a period of three months calculated on the basis of the last due wage.
  
- b – The provisions of the preceding paragraph shall not breach the right of the worker to the gratuity entitled thereto and the compensation in lieu of notice provided for herein.

### **Article 124**

The employer may not terminate the employment of the worker for his medical unfitness before the exhaustion thereof of the leaves legally due thereto. Any agreement to the contrary shall be deemed void even if concluded prior to the coming into force hereof.

### **Article 125**

The employer shall give the worker, upon the request thereof and at the end of his contract, a certificate of end of service gratis in which the date of commencement and termination of the employment, the total duration of employment, the type of work performed, the last paid wage and supplements, if any, shall be mentioned.

The employer shall return any certificates, documents or tools belonging to the worker.

### **Article 126**

Should a change occur in the form of the establishment or the legal headquarters thereof, the employment contracts valid at the time of the change shall remain valid between the new employer and the workers of the establishment. The employment shall continue and the original and new employer shall be jointly liable for a period of six months for the execution of the obligations arising from the employment contracts during the period preceding the change. Upon the lapse of the said period, the new employer shall solely bear such liability.

### **Article 127**

Should the work entrusted to the worker enable him to meet the clients of the employer or know the business secrets thereof, the employer may require from the worker not to compete with him or participate in any competing project upon the termination of the contract. For the validity of such agreement, the worker shall be twenty one years old at least upon the conclusion thereof, and the agreement shall be limited, with regards to time, place and type of work, to the extent necessary for the protection of the legal interests of the employer.

### **Article 128**

Should the non-national worker leave work without a valid cause prior to the end of the contract with definite term, he may not get another employment even with the permission of the employer for a year from the date of abandonment of the work. No employer may knowingly recruit the worker or retain in his service during such period.

### **Article 129**

Should the non-national worker notify the employer of his desire to terminate the contract with undetermined term, and leaves work before the expiry of the legally prescribed notice period, he may not get another job, even with the permission of the employer and such for a period of one year from the date of abandonment of the work. No employer may knowingly recruit the worker or retain in his service during such period.

### **Article 130**

Non-national workers obtaining prior to the employment in another job the consent of the Minister of Labour and Social Affairs in accordance with the authorization of the original employer shall be exempt from the provisions of Articles 128 and 129.

### **Article 131**

The employer shall, upon the termination of the contract, bear the expenses of repatriation of the worker to the location from which he is hired, or to any other location agreed upon between the parties. Should the worker, upon the termination of the contract, be employed by another employer, the latter shall be liable for the repatriation expenses of the worker upon the end of his service. Subject to the provisions of the preceding clause, should the employer not repatriate the worker and not pay the expenses of such repatriation, the competent authority shall do so at the expense of the employer. Such authority may recover such expenses by means of attachment.

Should the reason of the termination of the contract be attributable to the worker, the latter shall be repatriated at his own expense should he have the means therefore.

### **Article 131 – Bis**

Added by Federal Law no. 12 dated 29/10/1986:

1 – In the implementation of the provisions of the preceding Article, repatriation expenses shall mean the price of the travel ticket, as well as the rights of the worker, stipulated in the employment contract or the regulations of the establishment with regards to the travel expenses of his family and the cost of shipping of his personal effects.

2 – In the event where the employer provides the worker with accommodation, the worker shall vacate the accommodation within thirty days from the date of termination of the employment thereof. 3 – The worker shall not delay the vacation of the accommodation beyond the said period for any reason whatsoever, provided that the employer pays the worker the following:

a – Expenses provided for in clause 1 of the present Article.

b – End of service gratuities and any other entitlements undertaken by the employer in accordance with the employment contract, establishment policies or the law.

4 – Should the worker contest the amount of the said expenses and entitlements, the competent labour department shall specify such expenses and entitlement in an expedite manner within a week from the date of notification thereto, provided that it notifies the worker thereof upon their specification.

5 – In such case, the thirty-day period referred to in clause 2 of the present Article shall run as of the date of the deposit by the employer of the specified expenses and entitlements into the treasury of the Ministry of Labour with the knowledge of the Labour Department.

Should the worker not vacate the accommodation after the elapse of the said thirty-day period, the Labour Department shall cooperate with the pertinent authorities in the emirate to take the necessary administrative measures for the vacation.

6 – The provisions of the present Article shall not prejudice the right of the worker of contestation thereof before the competent court.

### **Arbitrary dismissal**

Arbitrary or unfair dismissal takes place when an employer terminates an employee or forces him to resign without any justifiable reasons.

According to Article 122 of the UAE Labour Law, arbitrary termination of an employee happens when an employee is fired for reasons not related to work performance, or when the employee files a valid complaint against an employer, which made the latter terminate him maliciously.

Article 120 of the UAE Labour lays out the reasons for which termination without notice is lawful.

If an employee believes that he has been dismissed illegally, he can complain to Ministry of Human Resources and Emiratisation. The ministry will try to solve the issue amicably. If an amicable settlement is not reached, the case will be referred to the respective court.

As per Article 123 of the UAE Labour Law, if arbitrary dismissal is proven, the court will order the employer to pay a compensation to the employee. The court will assess the value of compensation taking into account the type of work, the extent of damage incurred to the employee and the duration of the employment. In all cases, the amount of compensation must not exceed the wage of the employee for a period of three months, calculated on the basis of the last wage the worker is entitled to.

In addition to compensation, the employee can claim his gratuity, notice period dues or any other unpaid dues he is entitled to from his employer.

## **TERMINATION OF UNLIMITED CONTRACT: THE MYTH & THE FACT**

Confusion always arises when it comes to the termination of an unlimited contract – especially amongst employers. There are numerous employment myths often relied upon either to the disadvantage of the employer or the employee. One of these myths is that an employer is free to terminate an unlimited employment contract, after giving the prescribed notice, without any reason whatsoever. This myth actually stems from the wrong interpretation of Article 117 of the Employment Law. Article 117 which reads as follows:

“1- Both the Employer and the Employee may terminate a Contract of Employment of unlimited period for a valid reason at any time following its conclusion by giving the other party notice in less than 30 days before the termination.

2- In case of Employee working on a daily basis the period of notice shall be as follows:

1. a) one week if the Employee has been employed for more than six months but less than one year; b) two weeks, if the Employee has been employed for not less than one year; c) one month if the Employee has been employed for not less than five years.”

A careful reading of the Article above will reveal that an employer’s right to terminate an unlimited contract is not free but rather conditional on the existence of a “valid reason” for such termination. This requirement has been stressed in section 3 of Article 113 that the unlimited contract may be terminated mutually by either party only: “if the provisions of the law regarding the period of notice and valid grounds for termination are observed”.

The inquiry will then be on what is considered to be a valid reason for terminating an unlimited contract, what is the criteria for specifying or determining such valid reason and who has the authority to determine whether a reason for termination is valid or not?

We have already established that a contract of employment (whether limited or unlimited) may be terminated by employers with immediate effect for reasons provided in article 120 of the Employment Law. Other than these situations, the Employment Law provides that a valid reason for terminating an unlimited contract should be any reason that is “work related”. Article 122 of the Employment Law provides the following:

“A worker’s service shall be deemed to have been arbitrarily terminated by his employer, if the reason for the termination is irrelevant to the work, and more particularly, if the reason is



that the worker has submitted a serious complaint to the competent authorities or has instituted legal proceedings against the employer that have proven to be valid”.

From the above, it is clear that the right of termination of an unlimited contract under the Employment Law is not an unfettered right and is subject to the requirement that an employer demonstrates the existence of a valid reason for such termination.

We do represent Employees (not Employers) across all emirates in the United Arab Emirates for all kinds of cases with respect to employment issues and disputes. We can guarantee you to get your claim in your hands within a short span including the deserved compensation, if you are arbitrarily dismissed or terminated on the grounds of redundancy whether your contract is limited or unlimited, whether the company is in main land or free zone, whether the company is semi government or governmental organization. Our experts in human resources and lawyers are well versed in UAE's relevant laws hence we give appropriate advice to our clients and represent in relevant tribunals and courts. We work on the concept of “No win, No fees”. We charge you a small advance upfront and the balance will be charged only when the claim is awarded. We can get the employee his/her all End of Benefits (Gratuity, Leave salary, Repatriation charges, any other dues like Unpaid salaries, Overtime, etc.), Notice period pay (mentioned on the labour contract) without working and 3 months Gross Salary as compensation regardless of the nature of the contract (Limited or Unlimited) and regardless of the structure of the organization (Main land companies, Free zone companies, Semi-Government organizations or Government organizations)