The Ministry of Human Resources and Emiratisation (MOHRE) has issued the Ministerial Resolution No. 281 of 2020 (Resolution) on 29 March 2020. The Resolution regulates remote working in the private sector during the Covid-19 crisis. The Resolution is the first binding legal source on remote working. It clarifies how employers and employees should implement flexible working structures. This article provides an analysis of the Resolution.

1. What has happened so far?

Even though the concept of remote working is not unfamiliar in the United Arab Emirates (UAE), it was not widely practiced before the outbreak of the Covid-19 virus. However, in light of the precautionary measures adopted by the UAE's government and to minimise the disruption to work, on 26 March 2020, the Ministry of Human Resources and Emiratisation (MOHRE) issued Ministerial Resolution No. 279 of 2020. The resolution was issued to increase the stability of employment in the private sector. Ministerial Resolution No. 279 of 2020 regulates that private companies should implement a remote working system before granting paid or unpaid leave or agreeing on temporary or permanent salary reductions (Ministerial Resolution No. 279 of 2020).

Following this, on 29 March 2020, MOHRE passed Ministerial Resolution No. 281 of 2020 (Resolution) to regulate remote working in the private sector. The Resolution also includes a brief guide, added as an annex to the Resolution, on how to implement remote working structures.

2. What are the essential requirements under the Resolution?

The Resolution requires that a maximum of thirty percent (30%) of the workforce of private entities is allowed to be physically present in an office or a workplace at any given time. The Resolution emphasises that a remote working system should be implemented, and the majority of employees whose presence is not physically required at the premises should be encouraged to work from home (Art. 1 Resolution).

Moreover, if a business operates service centres, it should ensure that no more than 30% of the capacity is occupied at any given time, whilst ensuring that proper controls are in place to maintain sufficient distance between clients, continuous
sterilization of devices and facilities (Art. 1 Resolution).

The Resolution entails that a remote working system should apply to all employees and workers whose jobs do not require their physical presence at workplaces. However, priority to work remotely should be given to

- pregnant women;
- employees aged 60 and above;
- people of determination;
- employees with respiratory and chronic diseases; and
- employees with children in Grade 9 and below (Art. 4 Resolution).

3. Which activities are exempted from the 30% rule?

The Resolution provides that the activities related to infrastructure projects, catering, communications, energy, health, education, banking, food industries, hospitality, health supplies, manufacturing, and cleaning companies are exempted and can continue to operate in full capacity and are exempted from the 30%-rule (Art. 3 Resolution).

4. What are the obligations set out in the Resolution?

General obligations to prevent the spread of the Covid-19 virus

Art. 2 of the Resolution lays out several measures employers in the private sectors must take:

- All employers, irrespective of their commercial activity, must ensure that all preventive and precautionary measures issued by the government are followed by workers whose work requires their presence in the workplace or labor accommodation if the accommodation is provided by the employer. These measures include but are not limited to regular sanitization and maintaining distance a safe distance of 2 meters (Art. 2(a) Resolution).
- Employers must provide screening devices at their entrances to take temperature and check symptoms of the virus among the workforce daily. The screening must be carried out twice, every day, before entry in the morning and upon return from evening shifts (Art. 2(b) Resolution).
- Additionally, if an employer provides transportation to employees from accommodation to the workplace and vice versa, employers must introduce mechanisms to ensure that the vehicle’s capacity does not increase 25% at any given time (Art. 2(c) Resolution).
- Furthermore, employers should prevent all gatherings and suspend all cultural, sports, and social activities in the workers’ accommodations (Art. 2(d) Resolution).
- Employers should also reduce the number of workers in the canteens at the workers’ accommodation during meals and must ensure a safe distance of at least two meters is maintained between workers (Art. 2(e) Resolution).
- Employers should prohibit suspected cases from going to work or entering their accommodations, and such suspected cases must be reported to relevant health authorities on an immediate basis (Art. 2(f) Resolution).
- The Resolution also stresses that if an employer is involved in the activities of delivery of goods and services to customers, it must
implement health conditions and controls issued by the competent authorities (Art. 2(g) Resolution).

**Obligations regarding carrying out business remotely**

The Resolution stipulates that all private entities should use smart and electronic applications, immediately upon the commencement of their activities through remote work. Businesses should also provide electronic mechanisms for support and assistance (Art. 5 Resolution).

Private entities that provide support governmental bodies should discuss with these clients directly how to ensure business continuity (Art. 6 Resolution).

**Obligations regarding the organization of a remote working system for employees**

The Resolution further provides that all employers in the private entities must implement the procedures set out in the guidelines of the Resolution. Such methods include the following measures:

- Providing the technical tools necessary to complete the work remotely through the use of smart and electronic systems.
- Defining efficiency and productivity mechanisms, standards and timeframes for all tasks assigned to the worker.
- Defining the mechanisms of remote work management in terms of determining the working hours, whether a specific channel with a given time, or a flexible time during the day, week, or month.
- Ensuring the provision of a secure technological environment for the completion of the work remotely whilst ensuring the privacy and confidentiality of data is maintained.

- Follow up on workers who work remotely in order to confirm their assigned obligations of remote working hours and to complete the tasks assigned to them.
- Facilitate remote workers’ communication with their colleagues in work, the management, and the leadership who is required to communicate with them to perform the tasks and to access information and systems required to perform the job, as well as provide video chat systems.

The guidelines also include procedures that must be followed by the employees. These include the following:

- Acquiring the employer’s consent to work remotely.
- Reporting whenever requested to do so by the employer.
- Performing the tasks according to the specified time frames for completion.
- Being available to answer all calls and e-mails and to ensure continuous communication according to business requirements.
- Maintaining confidentiality concerning information and documents.
- Maintaining records with regard to the employee’s productivity.
- Preserving the work devices provided by the employer and returning it whenever directed by the employer.
- Reading and complying with the privacy policy of remote workers.
5. Conclusion

Prior to the issuance of MOHRE’s Resolution, there was no legal guidance on remote working. There is no question that Resolution No. 281 of 2020 will set the standard for future legislation in this respect. This having been said, it should be noted that the Resolution was issued under enormous time pressure. While the annexed guideline sets out comprehensible obligations for employers and employees, the definition of the industries exempted from the 30% rule could have been clearer. Regardless of this, the Resolution gives reasonably precise guidance on how employers and employees should implement remote working structures.

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