

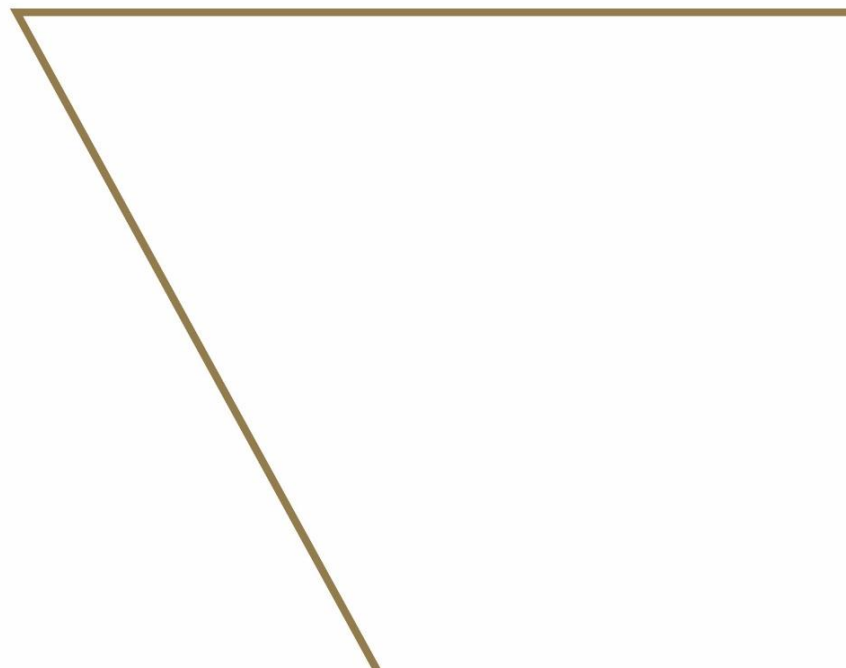
Information on the employment framework in ADGM during the Coronavirus (COVID-19) Crisis

Frequently Asked Questions

Registration Authority

Employment Affairs Office

2 April 2020



Introduction to Abu Dhabi Global Market

Abu Dhabi Global Market (“**ADGM**”) is a broad based international financial centre, established pursuant to federal decree no. 15 of 2013 and Abu Dhabi Law No. 4 of 2013 in the Emirate of Abu Dhabi. With its own civil and commercial laws based on English common law, ADGM offers the local, regional and international business community a world-class legal system and regulatory regime.

ADGM Employment Affairs Office

The Registrar of the ADGM Registration Authority, with the assistance of the Employment Affairs Office (“**EAO**”) is responsible for the administration of the Employment Regulations 2019. The Employment Affairs Office is a dedicated office within ADGM that assists in providing non-binding information and guidance, stakeholder liaison and promoting best practice on employment matters.

Purpose of these FAQs

The object of the Frequently Asked Questions (“**FAQ**”) is to provide guidance to ADGM entities and employees of ADGM entities in relation to the possible challenges that are arising due to COVID-19. This is a non-binding indicative guide and should be read together with the Employment Regulations 2019 and their subordinate rules and any other relevant regulations and enabling rules, which may change over time without notice.

For more information, please visit the EAO webpage available at:
<https://www.adgm.com/operating-in-adgm/employment-affairs-office>

For further information or enquiries, please contact us via email at: eao@adgm.com

Frequently Asked Questions

The EAO recognises that employers and employees are facing unexpected challenges during the Coronavirus (COVID-19) pandemic. We have compiled a list of commonly asked questions for your reference:

1. What are my rights if my employment is terminated, without cause, during the COVID-19 pandemic?

If your employer terminates your employment, without cause, your employer in accordance with the ADGM Employment Regulations 2019 (“**Regulations**”) is required to:

- either allow you to serve your notice period **or** pay you in lieu of notice;
- pay you for any vacation leave days you have accrued but not taken; and
- pay your end of service gratuity.

Upon termination of employment, the employer is required by the Regulations to pay all sums due to the employee within 14 calendar days.

2. How are my termination rights calculated (for termination without cause)?

Notice period:

If an employee has been employed for a continuous period of less than three months, or the employee is still on probation, the minimum notice requirement is seven calendar days.

If an employee has been employed for a continuous period of three months or more, the minimum notice requirement is 30 calendar days.

The employer and employee may agree to a longer notice period, to waive the notice requirement or to accept a payment in lieu of notice. The requirement for notice does not apply where employment has been terminated for cause or for excessive sick leave.

End of service gratuity:

Section 59(1) of the Regulations states that if an employee completes one year or more of continuous employment, such employee is entitled to a gratuity payment upon termination unless the termination is for cause. The gratuity payment is calculated as 21 calendar days’ basic wage for each year of the first five years of employment and 30 calendar days’ basic wage for each additional year. If an employee has not completed one year of continuous employment, such employee is entitled to a gratuity payment calculated on a proportionate basis.

Payment in lieu of leave:

Section 23 of the Regulations states that if an employee’s employment is terminated, the employer will pay the employee for vacation leave they have accrued but not taken. However, if an employee has taken more leave than was actually accrued at the date of termination, the employee will be liable to pay to the employer the corresponding sum. The payment for vacation pay will be calculated using an employee’s daily wage as of their last day of employment.

3. Can an employer make an employee pay the costs of obtaining or cancelling a visa?

No. Section 4 of the Regulations stipulates that the employer must obtain, maintain and pay the cost of an employee's UAE residence visa and work permit. Section 14(2) states that the employer cannot demand or accept any sum as reimbursement for expenses the employer incurred for obtaining such residence visa and work permit.

4. Can an employer make me take unpaid leave?

The Regulations do not address unpaid leave. This is a decision to be made between the employer and the employee. You may wish to seek independent legal advice on this issue.

5. Can an employer make me take vacation leave days?

Yes. Section 24(2) of the Regulations states that the employer may require the employee to take vacation leave on specified days upon giving the employee seven days' written notice.

6. Can an employer reduce my salary temporarily or permanently?

Section 14(2) of the Regulations states that the employer cannot deduct sums from an employee's salary unless: (i) authorised by the Regulations; (ii) the employee agreed to the deduction in writing; (iii) the deduction is reimbursement for overpayment of wages; or (iv) the deduction has been ordered by the ADGM Courts.

However, in light of the current global situation, employers may have no alternative but to reduce their employees' salaries. If this is done with the employee's approval, then there is no cause for concern. If the employee does not approve such reduction, you may wish to consider referring your matter to the ADGM Courts for determination.

7. Can employees work remotely?

In accordance with the ADGM Registration Authority Circular 14 of 2020, ADGM entities must ensure that only 30% of their workforce is working at their ADGM registered office at any one time. Please review the circular for more information:

<https://www.adgm.com/documents/project/adgm/registration-authority/circulars/2020/circular-14-of-2020---maximum-proportion-of-staff-working-in-office.pdf>.

8. Can an employer agree with an employee to defer the payment of the employee's salary?

In normal circumstances, an employee is required to be paid a basic wage within seven days of the end of the relevant pay period. However, there is nothing in the Regulations that prohibits the employer and employee from agreeing to a deferred payment plan.

9. Must an employer maintain health insurance coverage?

An employer is required to obtain health insurance coverage for employees and maintain such coverage at all times during their employment.

10. Is there any specific duties that employers and employees must observe during the COVID-19 crisis?

Yes. In accordance with the Regulations employers have a duty to ensure, as far as is reasonably practicable, the health, safety and welfare at work of all their employees. Employers shall also provide and maintain a workplace that is free of harassment, safe and without risks to an employee's health. Furthermore, employers have a duty, as far as is reasonably practicable, to:

- provide information, instruction, training and supervision to employees, in English or, if necessary, another language understood by the employees, to ensure their health and safety at work;
- inform each employee in writing at the time of recruitment of the dangers, if any, connected with the employment and of the protective measures the employee shall take; and
- provide and maintain adequate and safe access to, and from, the workplace.

In addition, there are other employer duties such as ensuring that the workplace is properly ventilated by a sufficient quantity of fresh or purified air, maintaining a clean workplace environment and providing suitable and adequate sanitary conveniences in the workplace.

Employees themselves are required to comply with the health and safety instructions of their employer and take reasonable care of their own health and safety and the health and safety of other employees who may be affected by an employee's conduct.

11. Repatriation Flight entitlement

Section 63 of the Regulations stipulates that on termination of an employee's employment, the employer is required to provide the employee with a one-way repatriation flight to the employee's country of origin unless (i) the employee obtains alternative employment or visa sponsorship in the UAE within 30 days; or (ii) the employee has been dismissed for cause.

Given the current circumstances and the temporary halt of flights in and out of the UAE, the employer and employee may wish to enter into alternative arrangements, however, this will be a matter between the two parties.

Disclaimer

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