

The legal Nature of Vocational Training Contracts under UAE law

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Training contracts are defined at Article 42 of the Federal Labour Law No.8 of 1980 (as amended) as a contract whereby a company undertakes to provide full vocational training consistent with professional standards to another person (who is at least 12 years of age), who in turn undertakes to work for the employer during the training period subject to any terms and period as mutually agreed.

However the question of the legal nature of a training contract appears to be controversial. Some legal jurists consider it a labour contract, irrespective of the purpose of the contract (training only). This view is based on the existence of dependency in the said contract.

Others regard it as a mixed contract based on the existence of both work and training in the said contract. The third view, which is the prevailing opinion, is that training contracts are of a special nature. They are not labour contracts (despite the existence of a wage, period and dependency) because of the difference in the purpose of the contracts.

The Labour Law

Although training contracts are regulated under the Labour Law in the UAE, it is still argued that the law considers such contracts as non-binding on its parties. Such an interpretation can be derived from Article 52 of the Labour Law which provides for the Minister of Labour's authority to require certain firms, specified by him, to accept for employment a certain number or percentage of national trainees, subject to terms and conditions and for such a period as may be specified by him and agreed with the management of the firms concerned.

Such conditions suggest that local firms handling such training are in fact performing national functions with the guidance of the Ministry of Labour. The terms and conditions of the contracts are determined by agreement between the training firm and the Ministry of Labour and not the trainee, indicating that the legislator intended the training contracts to be non-binding in nature.

Ministerial Decision No.71(2) of 1982 (On the Training of Nationals at Existing Firms) also specifies under Article 10 that if the firm decides to stop the training of any of the trainees before the completion of the training period due to the trainee's incompetence or any other reason, then the firm should notify the party that nominated the trainee for the training, and the notification shall include the reason for the termination.

This provision indicates clearly the non-binding nature of the training contract as it leaves the decision of its execution or termination in the hands of the training provider. It is only the training provider which has the authority to terminate the training at any time and without even notifying the trainee. The only obligation is to notify the nominating entity of its decision to stop the training. This provision grants the training firm the right to terminate the training contract without reference to compromise or litigation and as such establishes the non-binding nature of the training contract. The legal definition of non-binding contracts under Article 218 of the Civil Code is that they are contracts that can be revoked any time without compromise or litigation.

It can therefore be argued that training contracts are not binding on the training firm. Furthermore, they can also be considered as a voluntary action because there is no consideration involved. As such any termination does not constitute breach of contract or violation of any law by either party.

Legal Characteristics of Training Contracts under the Labour Law

According to Articles 42-52 the characteristics of a training contract are as follows:

1. The training contract must be in writing, otherwise it shall be null and void.
2. The contract must contain details of the identity of the contracting parties, the procedures, duration, phases and subject of the training.
3. It must not contain any clause contrary to the Labour Law or its executive regulation or decisions. Any such provision will be deleted by the competent labour department.
4. There must be three copies (one for the employer, trainee, and Labour Department).
5. The contract will be deemed to have been endorsed within one month of its filing unless otherwise stated by the competent labour department.

Obligations of the employer / trainer under the Labour Law

Articles 42-52 also describe the obligations of the employer under such contracts:

1. The employer/training provider should be sufficiently qualified and experienced in the relevant vocation or trade in which the trainee is required to be trained.
2. The firm should satisfy the technical requirements and facilities necessary for providing such contract.
3. The firm should give the trainee sufficient time to acquire theoretical knowledge.
4. The firm must train the trainee on the principles of the occupation and the skills for which the trainee was assigned.
5. The firm must issue an attested certificate upon completion of the training.
6. The firm must pay the wage specified under the contract during each phase of the training. The amount must not be less than the minimum level determined for similar work in the last stage of the training.
7. The employer may undertake in the contract to employ the trainee upon completion of the training period.

Obligations of the Trainee under the Labour Law

The same provisions also set out the obligations of the trainee:

1. A trainee who is less than 18 years old should be represented in the training contract by a guardian, legal trustee or custodian.
2. A trainee must exert effort toward the training and show the care expected from an ordinary person.
3. A trainee must work during the training period for the employer in accordance with the terms and conditions of the training contract.
4. The trainee may undertake, upon completion of the training, to work for the the firm where he has been trained.

Termination of the Training Contract

As mentioned above, the Labour Law does not specify means of termination of the training contract save for the discretion of the training firm to terminate the contract in case it appears that the trainee is incompetent or unable to complete the training in an efficient way, or for any other reason that shall be defined later by the training firm. Accordingly, in the absence of specific rules regulating the issue of termination of the training contract, the general rules governing contracts apply. A training contract may therefore be terminated if the parties achieve their purpose or by the end of its duration. However, if the trainee enters into a labour contract after the completion of the training, then the Labour Law states at Article 47 that the contract shall continue for a period not exceeding twice the training period.

Notwithstanding the above, it remains the case that due to the lack of judicial precedents it is difficult to predict the courts' interpretation of the legal nature of training contracts. Until the courts give a definitive ruling the legal nature of training contracts will remain unresolved.