

A time to serve

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The much anticipated national service law has now been published. This article looks at the fundamental provisions of UAE Federal Law No. (6) of 2014 Concerning National and Reserve Service (the “Law”).

The Law is relatively short and there remain a lot of unanswered questions about the detailed arrangements for national service. It is anticipated that these will be addressed by way of subsequent Resolutions.

Who does the Law apply to?

National service is mandatory for all UAE male nationals that are:

- between 18 and 30 years old;
- medically fit; and
- approved by the National and Reserve Service Committee.

National service is optional for women.

The Law does not define who will be considered a UAE national. However, the UAE Armed Forces have indicated that the requirement for service will be linked to citizenship papers rather than passports. Therefore, it is envisaged that any male with a UAE family book who falls within the above criteria will have to register for national service.

The only son of a family and individuals who are deemed to be medically unfit will receive a permanent exemption from national service. There are a number of temporary exemptions in respect of those who are the sole providers for their families and also those serving jail terms.

How long is service?

Recruits who have completed their General Certificate of Secondary Education will be required to serve nine months, while those who have not will serve two years. Women who volunteer will serve nine months, regardless of their education level.

Can it wait?

National service can only be postponed where the person:

- is a student of a university, college, institution and training centre, is less than 29 years old and is enrolled in a course with a duration of two years or more, or
- obtained a 90 per cent grade point average or better in their General Certificate of Secondary Education, or
- has not completed secondary education.

Is it paid?

During the period of national service, employees will continue to receive their salary, bonus,

allowances, promotions and/or raises as if they were still performing their job duties. These payments will be shared equally between the employer and the UAE Armed Forces.

Do jobs remain open?

A recruit's job will have to be reserved until they complete their national service. This does have much wider implications in circumstances where, for example, an individual is hired on a fixed term contract that will expire during his period of national service or where an employer seeks to either restructure or wind down operations whilst an employee is on national service. At present there is no clarity on these issues.

There are no specific anti-avoidance measures mentioned in the legislation, i.e. if an employer terminated a recruit before commencement of national service in an effort to avoid paying his salary during it. From a practical perspective this is unlikely to be an issue, as a private sector employer would require Ministry of Labour approval for any such termination which would not be forthcoming and presumably a public sector employer would not be inclined to do this.

Continuous employment

Any period of national service whilst employed will not be treated as a break in employment and the service period will be counted towards the continuous period of employment. This will be relevant when computing service-related benefits such as end of service dues and pension.

Call-Up

No provisions have yet been outlined which would allow employers to seek to postpone or stagger the call up of employees on economic or other business-related grounds. Smaller employers may face logistical problems where they have a demographic of young male employees who are called for national service at the same time. The additional Resolutions may address this.

Priority

It was widely reported in the media before the publication of the Law that employers would be required to give priority in recruitment and promotion to those who have completed their national service. Although the Law is silent on this issue, the Federal Authority for Government Human Resources announced that current governmental human resources legislation would be amended to reflect that desire. The position in respect of the private sector is not yet clear, although it has been reported that consultations with relevant stakeholders are to take place.

In the public sector the issue of priority is likely to mean preference over another UAE national who has not completed national service. In the private sector the issue will be more complex given that the majority of private sector employees are non-national. Accordingly any measure mandating priority for recruits in the private sector could, for the first time, compel private sector employers to promote nationals at the expense of non-nationals. This is conjecture at this point and the details are awaited but the consequences could be far reaching.

Priority in relation to recruitment is not likely to be a factor in respect of onshore private sector employers as currently the work permit process contains a mechanism to ensure that a non-national is not being hired to do a job that a national is available for and can do.

What next?

The Law has set out the broad parameters of the scheme but more detail is eagerly awaited – by way of Executive Regulations and other measures – whereupon employers will have a better idea of how the scheme will work in practice.

The principal concerns of employers are likely to be:

1. termination of a recruit for genuine economic reasons;
2. the mechanics of how pension contributions will be recouped from the Armed Forces;
3. sequencing of the call-up to ensure that a lot of employees from the same employer are not called at the same time, which would cause logistical issues and a loss of institutional knowledge for the employer;
4. whether nationals in the private sector who have completed national service must receive priority in respect of promotion over non-nationals and, if so, how this would work in practice.

Media reports indicate that the first batch of recruits being called are just turning 18 years old, which would indicate that the Armed Forces are focussing on the entry level of the 18-30 age group. It remains to be seen whether older recruits will be called in due course or whether the focus will remain on those turning 18. If the latter is the case then clearly the impact on employers will be minimal. The first batch of recruits began to register on 12 July.

Al Tamimi will continue to monitor the implementation of the Law, any new relevant legislative provisions and the consequences of them for employers.