

Recovering Employee Training Costs in the uae

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But one of the key concerns for employers, including those outside of the aviation industry, is where staff leave shortly after money has been expended on training them. What measures can be put into place to avoid or disincentivise staff from leaving before the company reaps the rewards of their investment in training, which can be a significant sum?

What does the Law say?

As a general starting point, the [UAE Labour Law](#) does not contain any express provisions regulating the manner, terms, and circumstances under which employers can introduce, implement, and put into place training schemes in the workplace. It is also silent on the reimbursement of training costs. However, such training schemes are fairly common in the UAE and it is not unusual for the employer to include claw-back provisions in the employment contract in the event of termination within a defined period. The difficulty in practice with such schemes is the enforcement of claw-back provisions and actually recovering the costs borne by the employer.

Recovery mechanisms - what are they?

Article 135 of the UAE Labour Law provides that employers may deduct from the employee's [end-of-service gratuity payment](#) (the "ESG") any amounts owed by the employee to the employer on termination. Therefore, as long as an agreement is signed between the parties, setting out clearly the amounts owed and the repayment obligations, it is lawful for the employer to deduct the training costs from the ESG upon termination.

In contrast, during the employment, deductions from the employee's salary are restricted to 10% of the employee's gross monthly salary and are generally limited to the recovery of loans, advances, or salary overpayments. However, the key point to bear in mind is that such training reimbursement and claw-back provisions should be clearly documented and signed by the parties from the outset to ensure transparency. It is fairly common for employers who incur training costs to require employees to enter into a written agreement confirming that the employee will repay the costs of the course in the event that he resigns within a set period (commonly 1 year). Sometimes employers will not require reimbursement where the employment is terminated in certain circumstances, such as redundancy dismissals. In other cases, employers may enforce claw-back provisions in cases of termination by the employer (excluding, for example, redundancy) and employee resignation.

Ordinarily, the repayment amount reduces over the service period on a sliding scale basis to avoid it constituting a penalty clause. For example, 100% of the training costs would usually be repaid where the employee resigns within the first 6 months, 75% if they resign after the next 6 months, 50% thereafter, and so forth. Alternatively, the repayment obligation can be tied to other factors. For instance, in the case of a course with examinations, if the employee fails to pass the relevant examinations or obtain the relevant qualification; or in the case of a course without examinations, if the employee fails to attend the course. Another trigger for repayment of training costs is if the employee ceases employment before attending the course, but the employer has already incurred liability for the costs. In such cases, ordinarily 100% of the costs, or such proportion of the costs that the employer cannot recover, shall be repaid.

Employers will generally experience difficulty in deducting payment where the costs are not actually

incurred by the employer. For instance, if the training is conducted in-house, then it's unlikely that the costs of the training will be recoverable since they are difficult to quantify.

In terms of actual recovery, another difficulty arises if the employee has yet to reach the 1 year service mark for ESG eligibility and resigns, after training costs have been incurred by the employer. In such a case, there will be no ESG pot from which to make the deductions and recovery by way of a civil claim against the employee may be costly, difficult, and lengthy. Similar difficulties arise where the employee has accrued enough service for ESG entitlement, but the actual ESG pot is insufficient to cover the whole of the training costs eligible to be clawed back.

Concluding remarks

Generally, the employer's aim in getting employees on training programmes are to underscore its investment in the employees' future, leadership, and abilities, and as a means of incentivising them to stay in the employment of the employer. Claw-back provisions, particularly if on a sliding scale and clear, have the effect of operating as a useful deterrent and getting the employee to commit to service over a specific period. Although it cannot be guaranteed that employees will not use the training programme as a means of enhancing their skills for alternative employment, claw-back provisions serve as a lawful means of protecting an employer's investment, albeit with limitations. For the aviation sector, where training costs are often substantial, the use of claw-back provisions should be carefully considered.