

Employment in the Healthcare Sector

Sabrina Saxena - Senior Counsel - Employment and Incentives
s.saxena@tamimi.com - Dubai International Financial Centre



Despite it becoming increasingly common for employers across the world to utilise atypical working arrangements, the UAE is currently not as flexible as other jurisdictions. The general UAE employment model follows the classic employer-employee relationship and the ability to utilise on-demand employment, such as consultants and freelancers, is significantly restricted as compared to other jurisdictions.

This article explores the current practical issues surrounding the typical employer-employee type model, as well as consultancy and freelancing type arrangements commonly used in the healthcare industry, for example, with respect to locum medical practitioners.

The general model

Generally, before an expatriate is eligible to work in the UAE, they must receive approval from the UAE immigration and labour authorities and are required to obtain a residence visa and work permit. As part of this process, individuals are required to enter into a standard short form employment contract prescribed by the UAE authorities.

Residency visas and work permits (whether issued by a free zone or mainland Dubai) are both employer specific and location specific. Therefore, from an employment and immigration perspective, it entitles the employee to work exclusively for the sponsoring employer at the location stipulated in the work permit (i.e. the employer's premises as identified in its commercial licence).

Furthermore, an employee may not lawfully work for more than one employer simultaneously except in very limited circumstances. Where an employee is found to be carrying out work for an organisation other than their employer without the approval of the relevant authorities, significant fines (and other non-financial measures) may be issued against the employees, the employer and any entity which allows employees who are not sponsored by it to carry out work.

Part-Time working

With effect from 1 March 2018, skilled employees who wish to work part-time with two separate employers, can do so by entering into a standard format part-time employment agreement with the initial sponsoring company ('Company A') and will then need to enter into a separate standard format part-time employment agreement with the secondary company ('Company B'). The historic requirement to obtain a no objection certificate from Company A is no longer necessary and by entering into the part-time

employment agreement, Company A is deemed to have implicitly consented to the employee working for Company B on a part-time basis. In a healthcare context, this allows for greater flexibility for locum doctors to offer their services to two different clinics.



Consultancy

Arrangements

There is no concept of 'consultant' in the UAE as it is known in other jurisdictions. To use the same example, where a locum medical practitioner is providing services to a clinic, the locum must either be an employee of the clinic or an employee of another company which in turn has a contract for services with the clinic and is licensed to perform the activity. In all scenarios the locum must be sponsored by another entity for residency visa and work permit purposes, be it the clinic or the other company.

For this reason, it is common for locum medical practitioners to set up a consultancy company in a free zone ('FZCO') whereby FZCO provides consultancy medical services to a clinic or hospital by way of a services agreement. This would mean that depending on the nature of the services, the locum medical practitioner could provide services to a number of clinics or hospitals via his FZCO entity and not be limited to working with one employer.

In recent times, the number of consultancy type arrangements within the UAE has significantly increased, and more individuals are looking to provide their services in this way, because of the flexibility it offers them. The UAE has also recently simplified the process to set up SMEs, which will help entrepreneurs to be their own sponsor for immigration purposes.

Freelancing

In the same way as consultancy arrangements above, there is no concept of a 'freelancer' or 'freelance agreement', nor is there a standalone 'freelance' visa in the UAE with a couple of limited exceptions as below.

Free zones have become much more accommodating of the concept that freelancers and contractors can set up their own businesses to render services to other companies. For example, both Twofour54, a media and entertainment free zone in Abu Dhabi, as well as the Dubai Creative Clusters (formally known as TECOM) free zone in Dubai, accommodate freelancer arrangements and have numerous freelancers available for hire who are registered through their databases. Work outside of the free zone is not permitted and as such, there is a limit as to how far this approach can currently be adopted within other free zones or onshore.

“Recent news reports have announced sweeping visa changes.”

What's next?

Recent news reports have announced sweeping visa changes, which will soon be made available in the UAE.

One of the major changes to the current visa arrangement is the introduction of the 10 year residence visa for professionals in the fields of medicine, science, research and technical backgrounds. Currently, expatriate employees in the UAE are only able to obtain a two year visa or a three year visa if employed in one of the UAE's free zones. The introduction of a long term visa means a reduced cost on employers to obtain and renew visas, thereby increasing profitability in the UAE.

The new visas are not available to the public as yet and further details on their implementation are awaited, including what 'medicine' backgrounds will be sufficient to obtain such a visa.

Furthermore, previously employers were required to deposit a bank guarantee of AED 3,000 in respect of workers' insurance for each employee. On 15 October 2018, the Ministry of Human Resources and Emiratization announced (as a result of the UAE Cabinet's decision to scrap the bank guarantee) an alternative new low cost insurance system, which costs only AED 60 per employee. This insurance policy will provide coverage of AED 20,000 per employee and will protect their end of service benefits, annual leave allowance, overtime allowance, unpaid wages and workplace injuries. The current AED 3,000 bank guarantee will be reimbursed to the employer upon cancellation of the employee's visa and work permit at the termination of their employment. This reimbursement, as well as the introduction of the low cost insurance system, will mean that approximately AED 14 billion will be available to be reinvested into the private sector.

The current visa structure means that where expatriates are unable to find employment to remain in the UAE, they are required to exit the country. As a result, it can be difficult for the UAE to retain qualified professionals within its work force, and given these restrictions, the ability of residents to work flexibly in the UAE remains challenging. However, it is clear that the UAE is accommodating greater flexibility as shown by the recent changes in visa regulations. Flexible working would not only open up the employer's ability to access a more substantial pool of labour without incurring the same risk and financial exposure associated with hiring full time employees, but also encourage individuals to permanently reside in the UAE.

Al Tamimi & Company's [Employment team](#) regularly advises on all employment related Healthcare Practice matters. For further information please contact [Sabrina Saxena](#) (S.Saxena@tamimi.com).