

COVID-19: PEOPLE: GOVERNMENT ISSUES GUIDANCE AND CLARIFICATION ON MINISTERIAL RESOLUTION 281 OF 2020 REGARDING REMOTE WORKING (UAE)

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Legal Briefings - By **Stuart Paterson and Benjamin Hopps**

The UAE Ministry of Human Resources and Emiratization (“**MOHRE**”) published Ministerial Resolution 281 of 2020 on 29 March 2020, (“**MR 281**”) regulating remote working during the period of the precautionary measures currently being taken by the UAE Government in response to COVID-19. The MR is effective until such time as the Government’s precautionary measures are removed. You can find our article on the same [here](#).

MOHRE has now published two separate but related notes seeking to clarify elements of MR 281 and give further guidance on how it is to work in practice.

The first is a temporary guide regulating remote working, to be annexed to MR 281 (“**Guide**”). The second is a clarification of the sectors exempted from the effect of MR 281 (“**Clarification**”).

Here, we outline 5 key points from the Guide and the Clarification that every employer should know.

THE GUIDE

1. The Guide defines remote working as *'a working system whereby the worker performs their work duties outside the workplace establishment to which they are bound by their employment contract'*.
2. The Guide sets out details of the obligations of both employers and employees in relation to remote working.
3. Employers' obligations are stated to include to:
 - i. provide the necessary technical tools to perform work remotely, including online platforms;
 - ii. put in place mechanisms and standards of competence and productivity and determine timeframes for tasks assigned to employees;
 - iii. put in place mechanisms for the management of remote working employees such as working hours;
 - iv. ensure the availability of a safe technological environment in which employees can work and ensure privacy and data confidentiality;
 - v. ensure they monitor employees to ensure compliance with working hours and tasks assigned to them; and
 - vi. facilitate communication between employees and between employees and management including the provision of video conferencing facilities.
4. Employees' obligations are stated to include to:
 - i. obtain employers' approval for remote work and report to employers whenever requested;
 - ii. perform tasks assigned to them and utilise their working hours for this purpose;
 - iii. be contactable by phone or email;
 - iv. maintain confidentiality of information and comply with the employer's privacy policy;

- v. prove to employers that work assigned to them has been carried out; and
- vi. maintain any devices provided by employers for remote working in good condition and return the same if requested.

THE CLARIFICATION

5. MR 281 provided that businesses reduce their staff to 30% at the workplace. However, it did not apply to certain critical sectors, namely the financial sector, health, education, infrastructure, supply, telecommunications, energy, the food industry, hospitality, medical and cleaning, provided that businesses in these sectors satisfied all other applicable health and safety measures. The Clarification now further explains which businesses in each of these sectors are exempt, as follows:

- i. **Financial:** banks, money exchanges, cash transport firms
- ii. **Education:** schools, universities and colleges
- iii. **Infrastructure:**
 - a. Road and bridge works
 - b. Water supply and sewerage, power networks and telecommunications
 - c. Construction sites and construction/contracting companies
 - d. Engineering consultancy
- i. **Energy:** oil companies, oil refineries, power plants, gas and fuel stations
- ii. **Food industry:** manufacturing and distribution of food, cooperatives and food sale outlets
- iii. **Hospitality:** hotels, restaurants and catering companies

- iv. **Medical:** hospitals, pharmacies, pharmaceutical factories, clinics and all medical services
- v. **Cleaning:** sterilization and cleaning product factories, medical supplies factories and cleaning companies

COMMENT

These clarifications and practical guidance are a welcome tool for UAE employers and businesses looking to implement MR 281 (and the Government's other measures) and navigate the current unprecedented circumstances they find themselves in.

The Clarification is likely to have resulted from many employers seeking clarification from the UAE Government of whether their licensed activities placed them within an exempted sector or not. The detail given in the Clarification is likely to mean that more businesses are exempt than was previously thought, which will be a welcome boost to the UAE's economy.

Similarly, the Guide is likely to have resulted from uncertainty experienced by UAE employers around their rights where employees have been mandated to work from home, in many cases for the first time, and a concomitant uncertainty over their employees' obligations in such circumstances.

The Guide is legally significant as it requires employers to put in place sufficient data privacy and confidentiality protections, and implicitly requires employers to have a privacy policy in place. Whilst similar obligations have existed in the UAE's financial free zones (the DIFC and ADGM) for some time, and of course UAE criminal law protects confidentiality, this is the first time that an express obligation to have in place such systems and controls has been imposed on employers outside these free zones. Of course, the provisions of MR 281 and the Guide are only set to last as long as the UAE's precautionary measures on COVID-19, and so time will tell whether the UAE will impose such obligations on employers in the longer term.

[More on COVID-19](#)

KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



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