

## EMIRATISATION, CONTRIBUTIONS & INCENTIVES

**Emiratization is an initiative led by the UAE Ministry of Human Resources & Emiratization (the "MOHRE") with the aim of promoting greater participation of UAE nationals in the private sector. This initiative is documented in Ministerial Decision No. 279/2022 On the Mechanism of Monitoring the Emiratization Ratios in the Private Sector, and Contributions Imposed on the Establishments Not Abiding by Said Ratios (the "Decision") which came into force on 6 June 2022.**

The provisions of the Decision apply to companies, branches and establishments of the private sector incorporated onshore in the UAE (the "**Companies**"). It does not apply to companies established and operating exclusively in free zones.

With the Decision having been in force for over 6 months, we have now had the opportunity to see the impact of the Decision and the initial enforcement actions taken by the MOHRE.

### RECENT EMIRATISATION REQUIREMENTS

Each entity that employs over fifty employees (in any role whatsoever) is required to increase its Emiratization ratio (i.e. Emiratization quota) by 2% year-on-year, to reach a ratio of 10% by 2026. Employers with less than fifty employees currently fall out with the scope of the Emiratization ratio requirements.

- How do you calculate the Emiratization ratio?

The number of Emirati nationals that a Company needs to employ, in order to meet the prescribed Emiratization ratio, is calculated based on the number of UAE nationals working at that Company and the overall number of its employees classified as skilled. For employees to be classified as skilled, certain criteria must be met. These include the requirement for the employee to have attained certain minimum education, to have a minimum salary and to be employed in a role within a specified category (for example, as manager, sales executive, writing professional or technician in scientific field).

Importantly, the Decision specifically provides for an increase in the Emiratization ratio. Therefore, existing UAE nationals in a Company's workforce are not be counted against the quota increase. It remains to be seen whether this may be relaxed in the future, to provide benefit to those Companies that have already been employing a number of UAE nationals prior to 2022.

For a UAE national employee to be counted for the purposes of the Emiratization ratio, all of the following conditions must be met:

- the UAE national must have a valid work permit;
  - their remuneration must be paid through the Wage Protection System;
  - they must be registered at any approved wage fund in the UAE (i.e. applicable pension authority); and
  - they must have a valid employment contract.
- From when does the Decision apply?

There was initially some confusion regarding the date from when the Companies' increases in their Emiratization ratio would be calculated. However, this was clarified by the position adopted by the MOHRE in the first weeks of 2023. The MOHRE issued fines to several Companies that had failed to increase their Emiratization ratio by 2% in 2022, clearly adopting the position that the requirement to increase the ratio applied in for the full 12 months of 2022 and not only from 6 June 2022 (when the Decision came into force).

## BENEFITS OF COMPLIANCE

In addition to avoiding the consequences of non-compliance referred to below, Companies that comply with the Emiratisation ratio requirements may benefit from a package of incentives.

For example, Companies that raise their Emiratisation ratio annually in accordance with the Decision at a rate of not less than three times the target, will be classified as a "first category company" pursuant to the Cabinet Decision No. 18/2022 On the Classification of Private Sector Establishments Subject to the Provisions of the Law Regulating Labour Relations. For Companies operating in areas such as ship management, this may result in a noticeable cost saving on work permit fees – they may save around 80% of the costs as a result of this classification.

## CONSEQUENCES OF NON-COMPLIANCE

Contributions (i.e. fines) are payable in the event that a Company fails to meet the prescribed Emiratisation ratio.

The amount of the contribution is set out in Article 3(1) of the Decision as an amount that is "not less than AED 6,000 [per month] for every national who is not appointed according [to the Decision]". This is subject to a further annual escalation by AED 1,000 per month.

Failure to pay any contribution required by the MOHRE will expose a Company to additional penalties. For example, one day following the due date for payment of a contribution, Companies will not be granted any new work permits and work permit renewals will be suspended.

In addition, should a Company fail to comply with the prescribed Emiratisation ratio for two consecutive years, it risks being reclassified as a "third category company", thereby facing, among other things, much higher work permit fees.

## CONCLUSION

To conclude, at the start of 2023 uncertainties regarding the interpretation and application of the new Emiratisation requirements have been clarified by the stance adopted by the MOHRE. While the interpretation of certain other aspects of the Decision remain unclear, what is clear is that the MOHRE is taking the commitment to achieving the set ratios very seriously. Companies that are required to meet these ratios are well advised to take the necessary steps to comply with the requirements of the Decision as soon as possible, or they will face fines and other consequences that could seriously hamper business operations.

Should you have any queries or require further information about how Emiratisation requirements affect you please contact:

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