

THE DUBAI TECHNOLOGY AND MEDIA FREE ZONE EMPLOYMENT REGULATIONS 2004

SECTION 1: INTERPRETATION AND APPLICATION

1. Short Title And Commencement

1.1 These Regulations are to be referred to as the Dubai Technology and Media Free Zone Employment Regulations, 2004, as the same may be amended from time to time.

2. Interpretation

2.1 In these Regulations unless the context otherwise requires:-

2.1.1 "AED" means the lawful currency of the UAE;

2.1.2 "administration department" means the department established by the authority pursuant to be responsible for providing employment related services to licensees operating in the zone including, but not limited to, entry permits, various types of visas, passports, sponsorship, work permits, medical certificates, medical tests, and other employee related matters;

2.1.3 "authority" means the Dubai Technology and Media Free zone authority and the relevant subdivision(s) thereof;

2.1.4 "company" means a company or other entity incorporated or registered pursuant to the Dubai Technology and Media Free Zone Private Companies Regulations, 2003;

2.1.5 "employee" means any individual authorised by the authority to work for a licensee and receiving any kind of remuneration whether such payments are made in cash or in kind, for work he performs in the service of an employer and under the employer's management and control;

2.1.6 "employee sponsorship agreement" means the agreement concluded between the authority and a licensee whereby the authority agrees, subject to the terms and conditions therein; to sponsor employees for employment by the licensee by procuring the employees' and, where appropriate their dependants' entry permits and residence visas;

2.1.7 "employer" means any licensee employing one or more employees in return for remuneration;

2.1.8 "employment contract" means any agreement in writing, whether for a limited or an unlimited period of service concluded between an employer and an employee whereby the employee agrees to work in the employer's service, and under the employer's management and control, in return for remuneration which the employer agrees to pay;

2.1.9 "health, safety, security and environment department" means the health, safety, security and environment department established in the zone by the authority;

2.1.10 "Immigration Law" means Federal Law No. 6 of 1973, as amended or re-enacted from time to time, together with various ministerial decrees, resolutions and directions as may be issued under the Immigration Law;

2.1.11 "Law No. 1" means Emirate of Dubai Law No. 1 of 2000 issued on 29 January 2000 (as amended) and relating to the setting up of the zone and the authority in the Emirate of Dubai;

2.1.12 "licence" means a licence issued pursuant to the Licensing Regulations;

2.1.13 "licensee" has the meaning given to it in the Licensing Regulations;

2.1.14 "Licensing Regulations" means the Dubai Technology and Media Free Zone Licensing Regulations 2003;

2.1.15 "remuneration" means all payments made to an employee on an annual, monthly weekly, daily, hourly, piece work, production or commission basis in return for the work the employee performs under an employment contract;

2.1.16 "sponsor" means to sponsor a person for legal residence in the UAE in compliance with the requirements of the Immigration Law;

2.1.17 "third party liability insurance" means insurance cover pursuant to these Regulations and the employee sponsorship agreement;

2.1.18 "transfer" means a transfer of the employment of and responsibility for an employee, from one licensee to another licensee;

2.1.19 "UAE" means the Federal State of the United Arab Emirates;

2.1.20 "UAE Labour Law" means Federal Law No. 8 of 1980, as amended or re-enacted from time to time, together with various Ministerial decrees, resolutions and directions issued by the Ministry of Labour and Social Affairs.

2.1.21 "workers compensation insurance" means insurance to cover compensation to an employee and all related medical expenses in respect of any employment injury pursuant to these Regulations and the Employee Secondment Agreement;

2.1.22 "working day" means all weekly days except Friday and any public holidays announced by the UAE Government for employees working in the Private Sector in the UAE

2.1.23 "zone" means the Dubai Technology and Media Free Zone, established in the Emirate of Dubai pursuant to Law No 1 and as constituted from time to time.

2.2 References herein to individual Regulations are to be read as references to the particular Regulation referred to.

2.3 The Regulation headings herein are included for convenience of reference only and shall be ignored in the construction or interpretation of these Regulations.

2.4 References in these Regulations to time periods are to be construed in accordance with the Gregorian calendar.

2.5 References in these Regulations to any requirement for any document to be written, in writing, to be presented in writing or for the giving of any notice are to be construed as satisfied by an electronic record and any references in these Regulations to any requirement for a signature on any document or notice are to be construed as satisfied by an electronic signature which may be proved in any manner.

2.6 References to the male gender shall also include the female gender unless the context otherwise requires.

3. Application

3.1 In accordance with Law No. 1, these Regulations apply to all companies licensed to operate in the zone and these Regulations shall regulate the employment relationship and all related matters between a licensee and its employee(s).

SECTION 2: EMPLOYMENT OF SPONSORED AND NON-SPONSORED EMPLOYEES

4. Sponsorship of employees by the authority

4.1 Under Article 9(8) of Law No. 1, the authority may sponsor employees who are to be engaged by licensees to work for those licensees in the zone.

4.2 Where a licensee desires an employee to be sponsored by the authority, the licensee shall enter into an employee sponsorship agreement with the authority.

4.3 Where the authority sponsors an employee for employment by a licensee, it shall be the responsibility of the licensee to pay the employee's remuneration and any other payments and emoluments due to the employee in accordance with the terms of his employment contract, the UAE Labour Law and the employee sponsorship agreement. The authority shall not be responsible in any way whatsoever for the remuneration or any other payments or emoluments of an employee.

4.4 Where an employee is sponsored by the authority he shall only work from the zone but he may reside in the Emirate of Dubai and move freely in the UAE

4.5 The authority may permit, at its absolute discretion, a sponsored employee to work outside the zone: -

4.5.1 to carry out any specialist consultancy, advisory or installation or repair and maintenance work on behalf of the licensee;

4.5.2 to perform any other activity in furtherance of the business of the licensee.

4.6 Any employee sponsored by the authority shall only work for the licensee which has employed him pursuant to the terms and conditions of the employee sponsorship agreement.

4.7 A licensee shall not recruit, employ or otherwise make use of an employee who is already employed by another licensee, unless and until the authority permits a transfer of that employee.

4.8 Subject to Regulation 4.9, the authority will accept a request for a transfer of an employee provided: -

4.8.1 both licensees consent to the transfer in writing;

4.8.2 the receiving licensee has a valid employee sponsorship agreement with the authority; and

4.8.3 the employee confirms in writing that he has received from the transferring licensee, the employee's end of service benefits and entitlements as set out in the UAE Labour Law.

4.9 Where the consents stated in Regulation 4.8.1 and the confirmation stated in Regulation 4.8.2 have not been obtained, the authority may still approve a transfer if the authority determines, in its absolute discretion, that it is reasonable in all the circumstances to approve a transfer.

4.10 Where the authority does not approve a transfer, the authority shall cancel its sponsorship of the employee and the employee shall not be permitted to work for a new employer unless a valid entry permit and residence visa have been obtained.

4.11 The authority may, in its absolute discretion, limit the number of employees the authority sponsors for a licensee.

5. Bank guarantee for sponsored employees

5.1 Pursuant to the terms and conditions of the employee sponsorship agreement, a licensee shall lodge with the authority's administration department a bank guarantee in accordance with the standard format approved by the authority in respect of:-

5.1.1 each non UAE national employee sponsored by the authority, subject to any specified minimum number the authority may prescribe; or

5.1.2 the anticipated total number of non UAE national employees to be sponsored by the authority.

5.2 The authority may waive, in its absolute discretion the requirement for a bank guarantee in whole or in part.

5.3 For the purposes of calculating the value of a bank guarantee for sponsored non UAE national employees, the value shall be ascertained as a fixed amount per sponsored non UAE national employee and be such amount as the authority shall determine from time to time.

5.4 The authority shall have the right to re-evaluate at a later date the value of a bank guarantee lodged with the authority's administration department.

6. Employment of employees not sponsored by the authority

6.1 Subject to the prior written approval of the authority's administration department, licensees may employ non-sponsored employees in the zone, either temporarily or permanently, provided:-

6.1.1 the employee is a female sponsored by a relative; or

6.1.2 the employee already works for a company which is registered in the UAE and where that company is the "controller" of the licensee or is "closely linked" to the licensee as those terms are defined in the Licensing Regulations;

6.2 Where the authority's administration department approves the licensee's application to employ a non-sponsored employee, the licensee shall acquire an appropriate identity card for the non-sponsored employee, as detailed in Regulation 8.6, so that the employee may freely enter and leave the zone.

6.3 Where the non-sponsored employee is to be employed by a licensee temporarily, the licensee must apply to the authority's administration department for prior approval to obtain a temporary access pass.

7. Employment of persons not approved by the authority

7.1 No licensee shall employ a person who is not sponsored by the authority under Regulation 4 or not approved by the authority under Regulation 6.

7.2 A person who works for a licensee and who is not sponsored by the authority under Regulation 4 or otherwise approved by the authority under Regulation 6 shall not be recognised by the authority as an employee for the purposes of these Regulations.

7.3 The authority shall have the right to utilise the powers granted to it under regulations 16 and 17 of the Licensing Regulations to confirm the status of employees and other persons at the premises of a licensee in the zone.

SECTION 3: ENTRY PERMITS AND VARIOUS OTHER VISAS AND PERMIT

8. Permits and passes for working in and entering the zone

8.1 All employee shall carry and display at all times an appropriate identity card issued by the authority ("ID Card").

8.2 The ID Card shall serve as a means of employee identification in lieu of the employee's passport.

8.3 Subject to Clause 8.12, the ID Card shall permit an employee:-

8.3.1 to enter in the zone;

8.3.2 to work in the zone for the licensee with whom the employee is employed.

8.4 In the event that an employee loses his ID Card, the authority may charge a fee to issue a replacement ID Card to an employee, the value of such fee to be determined by the administration department.

8.5 The authority may issue a temporary ID Card in the following circumstances:-

8.5.1 Where an employee has commenced working for a licensee, pending the issue of a permanent ID Card;

8.5.2 In the event an employee loses his permanent ID Card pending the issue of a replacement ID Card.

8.6 The authority shall issue an ID Card to an employee who works for a licensee in the zone and is sponsored by a party other than the authority as described in Regulation 6.1.

8.7 Where a person wishes to enter the zone to visit a licensee, the licensee shall apply to the authority's security department for a visitor's day pass. The licensee shall provide such identification information to the authority's security department personnel as is requested by the authority's security department.

8.8 The authority shall have the right to charge a licensee for any passes, permits and/or visas issued in respect of the licensee's employees and visitors, in accordance with a schedule of charges issued by the administration department.

8.9 Where an employee ceases to work for a licensee or a licensee does not know the whereabouts of an employee and the licensee has been unable to make contact with an employee despite reasonable efforts on the part of the licensee, it shall be the responsibility of the licensee to inform the authority and to return to the authority, as soon as is reasonably possible, the relevant permit(s) and/or pass(es) issued to the employee, along with the employee's passport, where the employee is sponsored by the authority under Regulation 4, for cancellation of the residence visa.

8.10 Where a licensee fails to comply with its obligations under Regulation 8.9, and where the employee is sponsored by the authority as set out in Regulation 4, then it shall become the responsibility of the employee to return the employee's passport to the authority for cancellation of the residence visa.

8.11 Where both the licensee, and thereafter the employee, fail to attend to the obligations set out in Regulations 8.9 and 8.10, the authority may, in its discretion, take such further action as the authority deems fit including registering the employee as an absconder under the terms of the Immigration Law.

8.12 The health, safety, security and environment department may, in exceptional circumstances pertaining to the security of the zone and to persons working in the zone, deny entry to the zone for such periods as are reasonable in all the circumstances.

9. Employees' passports

9.1 Where the authority sponsors employees of a licensee, the authority may, in the discretion of the authority, retain the passports of employees.

9.2 A licensee may not retain the passports of employees under any circumstances.

SECTION 4: MEDICAL COVER FOR EMPLOYEES SPONSORED BY THE AUTHORITY

10. Medical cover for sponsored employees

10.1 Subject to the payment of the applicable fees, medical cover for employees sponsored by the authority may be arranged through the Department of Health and Medical Services ("DOHMS") in Dubai. Where a sponsored employee requires hospital treatment, he may go to a government hospital in Dubai.

10.2 Where a licensee requires a medical card for its employees, the licensee shall apply to the authority's administration department.

10.3 It shall be compulsory for a licensee to obtain a government health card from the authority in respect of every sponsored employee in order to obtain a medical fitness certificate for each employee from a government hospital and/or clinic. The authority shall not provide an employee with a residence permit unless a valid medical fitness certificate has already been issued by an authorised government hospital and/or clinic.

SECTION 5: HEALTH AND SAFETY

11. Accidents in the workplace

11.1 In the event an employee suffers any serious or fatal accident, the licensee shall report the accident to the authority's administration department.

11.2 The authority's administration department shall subsequently notify the Dubai Police.

11.3 In addition to the provisions of clause 11.1, the licensee shall maintain records of every accident that any employee suffers at the licensee's place of work or during the performance of his employment duties.

11.4 In order to minimise accidents in the workplace, each licensee shall follow and implement, and ensure its employees follow and implement, the safety and injury prevention programme established and administered by the health, safety, security and environment department.

SECTION 6: THIRD PARTY LIABILITY AND WORKER'S COMPENSATION INSURANCE

12. Employer's insurance cover

12.1 Every licensee shall take out and maintain insurance cover in respect of third party liability or public liability insurance and worker's compensation insurance in accordance with the requirements of the employee sponsorship agreement.

12.2 A licensee's worker's compensation insurance shall include cover for every employment injury and/or disability and related medical expenses in accordance with the UAE Labour Law.

12.3 A licensee shall, at the request of the authority, lodge with the authority's administration department a copy of its insurance policy both in respect of third party liability insurance and worker's compensation insurance.

SECTION 7: SALARY CERTIFICATES FOR SPONSORED EMPLOYEES

13. Attestation of salary certificates by the authority for sponsored employees

13.1 Where a licensee has entered into an employee sponsorship agreement with the authority, the administration department may attest for an employee of the licensee a salary certificate comprising the following information:-

13.1.1 the name of the employing licensee;

13.1.2 the name of the employee;

13.1.3 the monthly salary of the employee;
provided the information is consistent with that information held for the employee by the administration department.

SECTION 8: RECRUITMENT OF EMPLOYEES AND EMPLOYMENT CONDITIONS

14. Recruitment of employees under the sponsorship of the authority

14.1 Where a licensee recruits an employee who is to work for the licensee under the sponsorship of the authority, the licensee shall be responsible for the following costs:-

14.1.1 the cost of processing the employee's entry permit;

14.1.2 the cost of the employee's air ticket from the employee's point of origin to Dubai;

14.1.3 the cost of processing the employee's residence permit;

14.1.4 the cost of processing the employee's health card;

14.1.5 the cost of renewal of the employee's residence permit and health card, including the cost of a medical fitness certificate.

14.2 The licensee is prohibited from charging these costs to the employee or from recouping the costs by making deductions from his salary.

14.3 The terms and conditions of employment for employees recruited by licensees but sponsored by the authority shall be a matter of negotiation between the employer and the employee, subject to the employment at all times complying with the terms and conditions of the UAE Labour Law.

14.4 The authority shall have the right to ensure that licensees observe the rules regulating the relationship between the employer and employee as provided in these Regulations.

14.5 Every employee shall sign an employment contract which sets out the minimum acceptable terms and conditions of employment for employees working in the zone which shall be the minimum terms and conditions prescribed in the UAE Labour Law.

14.6 A licensee shall submit an entry permit, passport and contract of employment in respect of every new employee within forty eight (48) hours of the employee's arrival in Dubai to the authority's administration department.

14.7 Working conditions for employees, including but not limited to, hours of work, holiday leave entitlement, end of service benefits and termination of employment shall as a minimum be as set out in the UAE Labour Law.

15. Transfer of employment to another employer

15.1 Where an employee transfers his employment to another employer, his contract of employment shall be deemed to have ended and his period of employment with the former employer shall not be treated as continuous unless special arrangements to the contrary are agreed in writing between the parties and the authority has given its approval.

SECTION 9: RESOLUTION OF LABOUR DISPUTES

16. Resolution of labour disputes between employers and employees

16.1 The authority shall not be responsible for the resolution of any labour disputes arising between a licensee and an employee.

16.2 In the event of a labour dispute arising between a licensee and an employee, the authority will, on the application of either the licensee or the employee, issue a letter on behalf of the authority referring the dispute to the Ministry of Labour and Social Affairs. The Ministry of Labour and Social Affairs may, in turn, refer the matter to the Dubai Courts.

16.3 No labour dispute may proceed direct to either the Ministry of Labour and Social Affairs or the Dubai Courts without being referred thereto by the authority under the provisions of Regulation 16.2.

16.4 The authority will not refer a labour dispute under the provisions of Regulation 16.2 where Regulation 7.2 applies.

16.5 The authority shall implement any decision or order of the Ministry of Labour and Social Affairs or the Dubai Courts with respect to a labour dispute.

SECTION 10: FINES IMPOSED ON LICENSEES FOR VIOLATION OF THE REGULATIONS

17. General

17.1 A licensee shall not be allowed to rely on ignorance of these Regulations as an excuse for its failure to comply with them.

17.2 The authority reserves the right to impose a ban on the entry and/or exit of a licensee's employees where, after receiving a warning, the licensee fails to remedy a violation of these Regulations.

17.3 Without prejudice to the specific powers in certain Sections of these Regulations to prescribe matters or issue implementing regulations and notwithstanding the absence of such powers in certain other Sections, the authority may, by a decision of the director general, make implementing regulations from time to time to prescribe any matter to be prescribed under these regulations or for the better carrying out of these Regulations including by amending or supplementing these Regulations.

18. Employment Violations

18.1 Where a licensee is found to be illegally employing employees of other licensees, the authority may impose a fine of AED 5,000.00 per employee and the employee shall also receive a warning.

18.2 Where a licensee is found to be illegally employing persons who are not sponsored by the authority under Regulation 4 or not approved by the authority under Regulation 6, the authority may impose a fine of AED 7,500.00 per person.

18.3 Where a licensee continues to employ employees or other persons illegally, the authority shall have the right to increase the fine imposed to AED 10,000.00 per employee or other person and suspend the licensee's licence.

18.4 Where a licensee has failed to pay any fines imposed by the authority under Regulation 18.1, Regulation 18.3 or Regulation 18.3 within a period of two (2) weeks following a suspension of the licensee's licence under Regulation 18.3, the authority may cancel the licensee's licence. Any cancellation of a licensee's licence under this Regulation 18.3 is without prejudice to the obligation of the licensee to pay any fines so imposed by the authority under Regulation 18.1, Regulation 18.3 or Regulation 18.3.