

# Avoiding UAE labour and immigration pitfalls

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Provided that expatriate employees are correctly sponsored for UAE residence (UAE Visa) and work permit (Labour Card) purposes, should it matter where such employees are actually based?

This article seeks to clarify the rules relating to where employees of an entity established 'onshore' in the UAE are permitted to work.

## What does the law say?

Under UAE Federal Law No. 6 of 1973, as amended (Immigration Law), and Federal Law No. 8 of 1980 on the Regulation of Labour Relations, as amended (Labour Law), it is an offence for an entity that is registered in the UAE (Company A) to allow anyone that it sponsors for UAE Visa and Labour Card purposes to work for another entity registered in the UAE (Company B), without the requisite consents.

What if Company A wishes merely to 'second' employees to Company B for a limited period of time in order to service a contract between Company A and B? If Company A's staff are based at Company B's premises, would they be working for Company B illegally in breach of the Immigration Law and Labour Law? Or, would Company A's staff be legally present at Company B's premises under the terms of the service contract?

In short, even with the existence of a service contract between Company A and Company B, both companies should obtain the requisite consents from the UAE Ministry of Labour (MOL) for Company A's employees to be based at Company B's premises for the relevant period.

## Employee secondments onshore

Employees sponsored for UAE Visa and Labour Card purposes by one entity, can legally work at the premises of another entity for a limited period of time, providing the relevant consents and a Temporary Work Permit (TWP) are obtained from the MOL.

**What is a TWP?:** A TWP is a work permit that enables an employee with a UAE Visa and Labour Card sponsored by one entity to legally

work for another entity for a renewable period of six months as long as the employee's UAE Visa and Labour Card remain valid.

**What are the requirements to obtain a TWP?:** Both Company A and Company B must:

- be based 'onshore' and registered with the MOL
- hold a valid UAE trade licence

A TWP application must be submitted for each employee;

The employee must hold a valid UAE Visa and Labour Card; MOL fee of AED 600 (subject to change).

**Can Company A and Company B be established in different Emirates?:** From a labour and immigration law standpoint the answer is yes. However, an entity must ensure it is correctly licensed in the relevant Emirate to carry out the type of work its employees will be undertaking while on secondment.

**What could happen if Company A second employees to Company B without obtaining TWPs?:** Both entities could be subject to penalties including:

- AED 100,000 fine per employee;
- 100 black points and downgrading to the MOL's 'third class' category (resulting in:
  - future Labour Card and UAE Visa applications being denied by the MOL and General Directorate of Residency and Foreigners' Affairs (Immigration Authority) and;
  - increased labour guarantees;
- Suspension or revocation of trade licence.

Separately, employees working illegally could themselves be subject to: (a) AED 10,000 fine; (b) 1 month imprisonment; (c) Deportation; (d) 1 year ban on working in the UAE.

Following ministerial resolutions in 2010, TWP availability was a significant liberalisation of the sponsorship regime and recognition of the commercial realities of business arrangements. Now that TWPs are available in a wider set of circumstances, the MOL and Immigration Authority are likely to more readily impose fines and other penalties where they do pick up on unauthorised working arrangements.

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