

MINISTERIAL Decree NO. (51) OF 2022
REGARDING
LICENSING AND REGULATING THE ACTIVITIES OF RECRUITMENT AGENCIES

His Excellency the Minister of Human Resources and Emiratization:

- Having reviewed Federal Law No. (1) of 1972 regarding the functions of the Ministers and powers of the Ministers, and its amendments; and
- Federal Decree-Law No. (33) of 2021 regulating labour relations; and
- Cabinet Resolution No. (21) of 2020 concerning service fees and administrative fines at the Ministry of Human Resources and Emiratization; and
- Cabinet Resolution No. (1) of 2022 regarding the executive regulations of Federal Decree-Law No. 33 of 2021 regarding the regulation of labour relations; and
- Ministerial Resolution No. (211) of 2020 concerning licensing and regulating the work of private recruitment agencies,

Has resolved:

ARTICLE (1)

The same definitions contained in the aforementioned Decree-Law No. (33) of 2021 and its Executive Regulations shall be adopted to define the terms mentioned herein.

ARTICLE (2)

Subject to Clause No. (3) of Article No. (6) of the aforementioned Decree-Law No. 33 of 2021 and its Executive Regulations, it is prohibited to exercise any of the Agency activities without acquiring a license issued by the Ministry, in accordance with the provisions of this Decree and the regulations and instructions pertaining thereto.

ARTICLE (3)

LICENSE CONDITIONS

To be eligible to obtain a recruitment agency' license, the criteria set out in Clause No. (2) Of Article No. (9) Of the Executive Regulations of the Decree-law must be met, in addition to the following:

1. The natural person (for sole-proprietorship) and any partner in the legal person applying for a recruitment agency license is not an employee of the Ministry of Human Resources and Emiratization or a second-class relative of such employee, including husband and wife. It is required that the legal representative of the legal person submits a written avowal thereof.

2. Shall have a headquarter with a clearly defined address for practising Agency business. An exception to this is the case in which the Ministry may permit the license applicant to practice his activity electronically, according to the mechanisms specified in the procedures manual in this regard.
3. The legal representative of the legal person must submit a written pledge stating his knowledge and approval of the legal regulations for the practice of agency business.

ARTICLE (4)

AGENCY LICENSE

1. The license to the Recruitment Agency is issued with the approval of the Minister or his authorized deputy.
2. The license shall be renewed annually after paying the prescribed fee, provided that all conditions required for licensing continue to be met.
3. An agency whose license has expired and has not been renewed within 30 days is considered practising the activity without a license and will be subjected to legally prescribed fines.

ARTICLE (5)

BRANCHES OF THE AGENCY

The Agency may open branches in the same Emirate where it is licensed to operate, or in any other Emirate according to the requirements of local licensing, without the need to obtain the approval of the Ministry, provided that the agency comply with the same terms of licensing mentioned in the executive regulations and this decree

ARTICLE (6)

OBLIGATIONS OF THE AGENCY

The Agency must comply with the provisions of Article (9) of the Executive Regulations of Federal Decree-Law (33) of 2021, in addition to the following:

1. The contracts that the agency concludes with the employee, employer, user or beneficiary shall be written and specifically recognize the obligations of each party, taking into account ~~the application of~~ that the provisions of the Decree-Law and its executive regulations shall be applied in all matters not stipulated in these contracts.

2. Maintain for a minimum of two years records of the employees placed by the Agency, including full details of each worker, where he was hired, the details of the employer or the beneficiary, the wage, copies of the contracts, and any other data and information's specified by the procedures manual. The Agency shall provide the Ministry with quarterly lists of these contracts and details according to the mechanisms determined by the Ministry.

ARTICLE (7)

OBLIGATIONS OF MEDIATION AGENCY

Without prejudice to the authority of the Ministry to impose any applicable administrative procedures on the Agency, the Mediation Agency shall be responsible for returning the worker to his country at its own expense, as well as being responsible for any harm it may cause to others as a result of its activity if any of the following cases have been proven:

1. The Agency's failure to adhere to the conditions of the contract concluded with the employer or the beneficiary.
2. The worker's failure to pass the medical examination, or if he is found to be unfit to work according to official medical reports.
3. The worker' qualifications, level of skill, or specialization does not meet the employment requirement or what has been agreed on with the employer.
4. It was proven that the worker did not sign the standard employment contracts approved by the ministry.

ARTICLE (8)

OBLIGATIONS OF TEMPORARY EMPLOYMENT AND OUTSOURCING AGENCIES

While adhering to the controls for practising the activity of temporary employment and outsourcing contained in Clause No. (4) of Article (9) of the Executive Regulations of Federal Decree-Law No. (33) of 2021, the Agency shall adhere to the following:

1. To meet, at all times, all employer' legal obligations towards the employee, The Agency may not, in any way, fail to comply with these obligations due to the beneficiary or the employer's failure to fulfil his obligations with the Agency. In all cases, the agency should be the main party responsible, for meeting these obligations.
2. Provide the worker with a copy of the employment conditions, as agreed upon with the employer, and explain the duties required of that worker.
3. Supply workers to the beneficiary throughout the agreed-upon period, and ensure that they have the required level of qualifications and skills.

4. Refrain from employing or recruiting any worker who falls under the category of juvenile prohibited from work, according to applicable laws in UAE.
5. Acquire, directly or indirectly, from the worker himself or through mediation, any sums, monies, rights or gains as a commission, fees, or anything else for any reason and by any means whatsoever. The Ministry may oblige the Agency to submit a pledge to such effect while obliging it to refund to the worker any amounts paid to any entity or person inside or outside the country with whom the Agency has dealt on the matter.
6. Not to supply workers to any beneficiary who is involved in a collective labour dispute, or his establishment has been suspended, whether to serve him or to substitute his workers.
7. Conduct business with any person or Agency, whether in the country or abroad, to recruit, outsource or temporary employ workers unless that person or Agency is licensed to exercise that activity in accordance with applicable laws either in the country of origin or in the United Arab Emirates.
8. The Agency may not dispose of the license in any way before obtaining the necessary approval of the Ministry.
9. Adhere to the procedures specified in the manual issued by the Undersecretary for Human Resources Affairs in this regard.

ARTICLE (9)
OBLIGATIONS OF THE BENEFICIARY

The obligations of the User or Beneficiary towards the worker are as follows:

1. Ensure all proper occupational health and safety conditions for the worker are met, in line with the nature of the work and job hazards, in accordance with the applicable laws.
2. Desist from requiring the worker to perform any tasks or to provide any services that fall outside the general framework of the work or service agreed upon with the Agency.
3. Desist from requiring the worker to work for more than the hours agreed upon with the Agency, except in accordance with the provisions pertaining to overtime stipulated in the Decree-Law, the Executive Regulations and the relevant Decrees, and only after the approval of the Agency.

4. Provide the worker with a written manual of the duties assigned to him/her within the general work framework as agreed with the Agency.
5. Allow the worker to review the attendance sheet prior to sending it to the Agency and include any reservations the worker may have regarding its content.
6. Notify the Ministry and Agency immediately of any work accidents or injuries the worker sustains.
7. Fulfil its obligations towards the Agency as long as these obligations concern the agreed supply of workforce.
8. Desist from requiring the worker to work for a third party.
9. Any other obligations of the employer established pursuant to legal regulations.

ARTICLE (10)
PROCEDURES TO SUSPENSION OR CANCELLATION OF THE LICENSE

In the event of a violation of any of the rules stipulated in the aforementioned Decree-law, its executive regulations or any provisions of this decree, the agency's license may be suspended or revoked, on condition, the following procedures should be followed

1. The Agency shall be notified of the suspension or revocation decision via the notification methods applicable in the Ministry, along with the reasons for such decision.
2. All fines payable and due to the Agency up to the date of cancellation shall be collected.
3. Authorities responsible for licensing economic activities in the local government (economic departments and municipalities), and departments of residency and foreigners' affairs shall be notified to take actions according to the suspension or revocation decision, including the cancellation of any license, permits or authorizations that have been issued to the Agency.
4. Owners of the revoked agencies shall be obliged to settle the status of their workers within fifteen days from the date of the license revocation decision.

In all cases, the bank guarantee referred to in Paragraph 2b of Article 9 of the Executive Regulations of the aforementioned Decree-Law No. 33 of 2021 may not be refunded until all the obligations owed by the agency have been fulfilled.

ARTICLE (11)

The Undersecretary of the Ministry shall issue a guide to the applicable procedures in order to issue licenses, follow-up the activity of agencies and other procedures necessary for the implementation of the provisions thereof.

ARTICLE (12)

Ministerial Decree No. (211) of 2020 shall be repealed, and any provision inconsistent with the provisions of this Law is hereby repealed.

ARTICLE (13)

This Decree shall be published in the Official Gazette and shall come into force from the date of its issuance.

Issued on this date the 7th of February 2022

Dr. Abdulrahman Abdul Mannan Al-Awar
Minister of Human Resources and Emiratization
(Seal and signature)