**The end of the functional relatioship in accordance with Emirati legislation and jurisdiction**

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**The introduction:**

The Public Office – at present – enjoys a special and important position in any legal and administrative studies, it has a close relationship with the State through development of economic, social and cultural resources therein[1], wherein the State could only achieve its objectives, yearn for it, unless through advancement of Public Office at an accurate and sound organizational and structural level in all respects In this regard, it is worth noting that the State's function and tasks have clearly changed from what it was in the past. Consequently, its function limited to managing and organizing the Main Public Facilities, which in turn paved the way for private initiative to participate in the conduct of Public Affairs. From this perspective, the Institutional Structure of the State will have necessary presence for individual and private institutions participation in a very broad and multi-faceted framework, which necessitated the need resorting to the consecration of the principle of Job Classification .

Undeniably, the Administrative Authority charged with implementation of State's Public Policy employees'[2] significant number of Public Servants who represent the most important sector

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[1] موسى مصطفى شحادة، الوظيفة العامة في دولة الإمارات العربية المتحدة، مكتبة الجامعة، الشارقة، ٢٠١٢، ص ١١.

[2] حاول المشرع الإماراتي أن يضع تعريفاً للموظف العام وبيان عناصره، ففي دولة الإمارات العربية المتحدة عرفت المادة (٩/١) من المرسوم بقانون اتحادي رقم (١١) لسنة ٢٠٠٨ بشأن الموارد البشرية في الحكومة الاتحادية وتعديلاته بالمرسوم بقانون اتحادي رقم (٩) لسنة ٢٠١١ والمرسوم بقانون اتحادي رقم (١٧) لسنة ٢٠١٦، الموظف العام تعريفاً مختصراً، حيث نصت على أن الموظف العام هو: "كل من يشغل إحدى الوظائف الواردة في الميزانية"، وهذا ما أكدت عليه المادة (١١/١) من قرار مجلس الوزراء رقم (١٣) لسنة ٢٠١٠ في شأن اللائحة التنفيذية للمرسوم بقانون اتحادي رقم (١١) لسنة ٢٠٠٨ بشأن الموارد البشرية في الحكومة الاتحادية. ويلاحظ من التعريف السابق للموظف العام أنه لا يمكن اعتباره تعريفاً كافياً، لأنه ربط تعريف الموظف العام بالأشخاص الذين يحصلون على رواتبهم وامتيازاتهم من الميزانية العامة للحكومة، وقد يمتد ذلك إلى غير الموظفين كرجال الشرطة الاتحادية والعسكريين والعاملين في الدولة من غير الموظفين. من جهة أخرى، فقد عرف المشرع الإماراتي الموظف العام بطريقة غير مباشرة في نص المادة (٢) من المرسوم بقانون اتحادي رقم (١٧) لسنة ٢٠١٦ بشأن الموارد البشرية في الحكومة الاتحادية، حيث نصت على أن:

of Human Resources Sectors in the State.

On this basis, most States strive to put in place the necessary legislation and legal regulatory texts that regulate Public Offices that considered as main component of any Administrative Structure in the State, as well as those determine the Functional Relationship between the Employee and the Management[3]. From this perspective, the Public Office is a living institution and tangible social reality, wherein Employees considered the State's valuable asset in managing its public facilities.

The State does not exist per se; yet, it is an abstract concept that acquires meaning only through the Employees and Agents who work under its name and account. The basic rule in Management Science is that creation, changing and cancellation of jobs

should not be left for actions of Heads of Management, given personal considerations that may surround their behavior far from the Public Interest.[4]

This is what makes us conclude that the State's Employees, regardless of their jobs, grades and specialization and regardless of the legal characterization of their jobs – whether Administrators, Technicians, Advisors or Government Leaders – their functions, programs and goals. It is for this reason that the latter pays exceptional attention to the issue of recruitment

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(تطبق أحكام هذا المرسوم بقانون على الموظفين المدنيين في الجهات الاتحادية، بما في ذلك الجهات التي نصت تشريعات إنشائها على وجود لوائح موارد بشرية مستقلة لها. ويستثنى من تطبيق أحكامه موظفو الجهات الحكومية الاتحادية التي يتم استثناءها من قبل مجلس الوزراء). أما على الصعيد القضائي فقد استقر اجتهاد المحكمة الاتحادية العليا في دولة الإمارات على تعريف الموظف العام بأنه "الشخص الذي يعهد إليه بعمل دائم في خدمة مرفق عام تديره الدولة أو أحد الأشخاص الإقليمية أو المؤسسات العامة" (المحكمة الاتحادية العليا – الطعن رقم ١٤٦ لسنة ١٩٨٥م مدني – بتاريخ ١٩٨٥/١١/١٣). وتواترت أحكام المحكمة الاتحادية العليا على تعريف الموظف العام، كما جاء في حكمها السابق، ويشترط قضاء المحكمة توافر شرطين لاكتساب الشخص صفة الموظف العام وهما: دائمة الوظيفة ذاتها وديمومة شغل هذه الوظيفة الدائمة في مرفق عام تديره الدولة ذاتها أو الهيئات والمؤسسات العامة (المحكمة الاتحادية العليا – الطعن رقم ٥٦٥ لسنة ٢٠١٠ إداري، بتاريخ ٢٠١٠/٤/٢٠).

[3] وهذا ما عملت به دولة الإمارات العربية المتحدة، حيث تخضع عملية تنظيم وتوصيف الوظائف لقانون الموارد البشرية في الحكومة الاتحادية المتمثل بالأساس في المرسوم بقانون اتحادي رقم ١١ لسنة ٢٠٠٨ بشأن الموارد البشرية في الحكومة الاتحادية وتعديلاته بالمرسوم بقانون اتحادي رقم ٩ لسنة ٢٠١١ والمرسوم بقانون رقم ١٧ لسنة ٢٠١٦. وكذلك الحال بالنسبة للتشريع المقارن لاسيما التشريع الفرنسي، راجع في هذا الخصوص

Loi N°83 – 634 du 13 juillet 1983 portant droits et obligations des fonctionnaires (loi le Pors). Loi N°84 – 16 du 11 janvier 1984 portant dispositions statutaires relative à la fonction publique de l'Etat. Loi N°84 – 53 du 26 janvier 1984 portant dispositions statutaires relative à la fonction publique territoriale.

[4] د. سليمان محمد الطماوي، مبادئ القانون الإداري دراسة مقارنة، الكتاب الثاني نظرية المرفق العام وأعمال الإدارة العامة، دار الفكر العربي، القاهرة، ٢٠١٤، ص ٢٢١.

and attracting talents, especially by strengthening the legal texts directed to regulate this issue[5].

In the midst of this issue, the job stability may be affected by the bodies used by a basic element, which is the sudden or organized vacuum of administrative positions, and this is either definitively, due to death, resignation, dismissal, dismissal or retirement, or temporarily within the framework of the so-called public employee movement or basic legal positions For the public servant and it is related to delegation and secondment,As well as the referral to a long-term sick leave and finally compulsory recruitment, all of which constitute objective reasons for the temporary suspension of the work relationship, as long as the public employee can be re-listed in his original position, and the permanent end of the employment relationship is linked to other objective reasons that will lead to the termination of this relationship. Permanently and permanently, and this is either due to retirement and death, or due to dismissal, resignation and dismissal[6].

SECOND: Study Difficulties

Setting the rules and foundations of the basic legal positions for the end of the employment relationship permanently under the nominal suspended list of human resources is a very complicated process, because we are in the process of a double convergence of two types of completely contradictory job data, on the one hand, in terms of Table No. 2 related to the census of employees suspended at the end of the past fiscal year.

On the other hand, the gaps that are encountered due to the public employee leaving his position permanently and permanently, which puts to the test the great responsibility that falls on the shoulders of the Human Resources Department, which is to find a point of functional balance between the application of the legal rules that determine the end cases and the principle of the continuity of the facility's functioning Year on a regular basis[7].

THIRD: Importance of Study

The functional forces in their various forms of administrators, technicians, consultants and political leaders represent a true partner for the state, and in its operations, functions, programs and goals, which made the latter take over the issue of the basic positions of the public servant with exceptional attention, especially by strengthening the legal texts directed

[5]Voir – Chevallier (J), science administrative, éd PUF, 5 éme édition, Paris, 2002, P 107 et s.

[6]Voir - Auby (J.M) et Auby (J.B) et Didier (J.P), Droit de la fonction publique, Dalloz, Paris, 2009, P 57 et **s**

[7]Voir- Harald (G) , une approche théorique du service public ,Ed Sirey, 2éme édition, Paris, 2010,P 97 et s

to regulate this issue.

Perhaps one of the most dangerous job situations as defined by the Human Resources Law of the United Arab Emirates is to mention the permanent and continuous suspension of the professional relationship, in response to a legal and organizational need, while ensuring the continuity of the public facility, which requires the governing body to find appropriate solutions to avoid the sudden vacancy of positions, especially with regard to managerial positions.

FOURTH: Methodology of Study

In preparing this research, I used a combination of several scientific approaches. The descriptive approach was adopted in explaining and analyzing general concepts of the basic situations that lead to the end of the functional relationship that binds the public employee to the state permanently and definitively. An in-depth reading in the core of the legal texts, and finally we also relied on the comparative approach in a casual and unfocused manner in order to highlight the similarities and differences between the Emirati and French legislative systems in the field of controlling the foundations and rules for the end of the employment relationship.

FIFTH: Problematic of Study

achieve a balance between the legislative and organizational need represented in the roleof ,the legislator in controlling cases of termination of the employment relationship , what are the legal solutions adopted by the Emirati legislator in organizing the issue of the basic legal situations for the end of the employment relationship?

SIXTH: Plan of the Study

The first topic included the end of the employment relationship due to retirement and cancellation due to death.

, the second topic included the end of the job relationship due to layoffs, resignation and dismissal.

## THE FIRST TOPIC

## End of the employment relationship due to retirement referral and cancellation due to death

In light of the two cases of referral to retirement and cancellation due to death, the job relationship ends permanently and definitively in terms of its time, and is considered a natural end in terms of its cause as it is linked to natural factors that cannot be paid or avoided, namely the employee's reaching the age of disability, which is the age of retirement, or the death of the employee regardless On the cause of this death if it is related to a work accident or outside it, both of them involve the end of the normal work relationship without problems or disputes.

In order to be aware of all these ideas, we preferred to divide this topic into two basic requirements: The first requirement included - the end of the employment relationship due to retirement. While the second requirement included - the end of the employment relationship due to death. We will deal with them as follows:

**The first requirement**

**The end of the employment relationship due to the referral to retirement**

Referring a public employee to retirement can involve two different cases: the first case is called natural retirement, according to which the employee is referred to retirement until he reaches the legal age for the end of public service, and the second case involves administrative punishment, and for this it is called an abnormal retirement Under it, the employee is referred to retirement before reaching the legal age for committing serious disciplinary violations.

We will detail it as follows:

**First Section: - natural referral to retirement**

From a purely formal point of view, we mean retirement the normal, natural way to end the employment relationship, where it is assumed that the employee concerned is unable to continue carrying out the burdens of his job, and in this case, it is not important to us that the party who initiated the request to terminate the work relationship in this way.

Thus, referring to retirement means termination of the worker's service upon reaching the legally determined age, and it constitutes a circumstance that has no income to the will of the worker in it, because aging is what makes the employee unable to perform his duties as required, due to the weakness of his physical and mental capabilities[8], so the employee cannot remain Throughout his life he works, all the employment legislation specifies a specific legal age at which the employee's service ends. Most of the legislation tends to set this age at 60 years, which is usually the age at which the referral to retirement or pension is made[9].

As soon as the employee reaches this age, he is referred according to the law to retirement, unless his service is extended according to a decision from the authority concerned with appointment.

Personnel laws in the world agree on the necessity of setting a certain age when the employee

[8] في تفصيل ذلك راجع – د. أحسن رابحي، شرح قانون الوظيفة العامة، مطبعة الرايس حميدوا، الجزائر، ٢٠٠٩، ص ١٢٧.

Dans le meme sens Voir aussi - X. GAULLIER, **L'avenir à reculons : chômage et retraite**, Paris, Les Éditions ouvrières, 1982, P 17 et s. Voir egalement – MINNI (C), TOPIOL (A), « Les entreprises face au vieillissement de leurs effectifs », in Dossier : Les travailleurs âgés face à l'emploi, **Économie et Statistique**, 2003, n°368, pp. 43-63.

[9] GAULLIER (X), **L'avenir à reculons : la retraite**, Paris, Les Éditions ouvrières, 1982, P 114

retires by reaching it and leaving the service, and this is an achievement of the public interest by replacing the old with the elderly from the employees, and the employees are compassionate by exempting them from the effort of the job in their old age; This is because, with old age, a person becomes weak and weak in his body and mind, so he becomes from after strength to weakness and darkness, and he returns to the lowly of age so that he does not know after knowing anything[10].

The worker's service in this case ends with the force of the law even if the administration is lenient in issuing a decision to terminate the service to reach the legal age (the age of leaving the service) As the administrative decision issued in this regard is considered merely an executive measure of the provisions of the law, as it reveals the position of the legal worker, not a constructor.[11]

If the rule is that the public employee's service ends upon reaching a certain age, then this means that the employee's relationship with the administration ends - with the force of law - upon reaching the age determined for retirement, unless a decision is issued by the competent authority to extend his service within the period authorized by the legislator. If the employee continues to work when he reaches the age without taking proper legal action by extending the service, then the employee is considered in this case a mere (realistic employee), and the wage he is entitled to for his work during that period is considered a mere reward, so he does not have a description of the salary[12] .

This is what Article 103 of Federal Decree-Law No. 11 of 2008 indicated, expressly stating that the employee's service ends when he reaches the age of retirement, in accordance with the laws in effect in this regard, unless his service is extended by a decision from the head of the federal entity or whoever delegates him.

Thus, we conclude that in order to be eligible for retirement referral, the legislator requires that two basic conditions be fulfilled, namely:

Age requirement:

The worker's benefit from the contract pension stops for men who have reached the age of (60) sixty years in full, and for women who have reached (55) fifty-five full years[13].

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[10]- د/ ماجد راغب الحلو، القانون الإداري، دار الجامعة الجديدة، الإسكندرية ط ٢٠٠٨ص ٣٦٩ وما بعدها.

[11]- د/ زين بدر فراج، الوجيز في شرح قانون العاملين المدنيين رقم ٤٧ لسنة ١٩٧٨دار النهضة العربية القاهرة ط٢٠٠٠ص ٦٨٧.

12- د/ سليمان محمد الطماوي، الوجير في القانون الإداري، دراسة مقارنة دار الفكر العربي ط ٢٠٠٦ ص ٥٢٤ وما بعدها.

[13]M. JAMOULLE, E. GEERKENS, G. FOXHAL, F. KEFER, S. BREDAEL, **Le temps de travail. Transformations du droit et des relations collectives du travail**, Bruxelles, CRISP, 1997, P 203

There is an opinion in jurisprudence, which we support, that the end of the worker's service upon reaching the age of sixty indicates that the legislator estimated that this worker is no longer able to perform the work sufficiently, and the necessity of this opinion, which is the termination of service by reaching the age of sixty even if it is not true for some workers who are able to Continuing to perform their job as required despite reaching the age of sixty; This is in order to benefit from the youth and give them the opportunity to assume leadership positions[14].

The term of employment condition:

Where the employee must spend at least (15) fifteen years actual service, provided that he has paid all the contributions due to him, and that his administration has contributed to the financing of the class to which it belongs[15].

The second branch – abnormal retirement referral (referral to retirement before reaching the legal retirement age)

The service of a public employee ends if a decision is issued by the competent authority (the minister or whoever delegates him) to refer him to retirement before reaching the retirement age (the age of sixty). The competent authority may assess that matter without forcing it to give reasons[16].

Article 101 of Federal Decree-Law No. 11 of 2008 regarding human resources in the federal government enumerated the restructuring and replacement of the reasons for terminating the service of a public employee, and perhaps the reason for this is the global financial crisis that affected most countries of the world, including the United Arab Emirates[17] .

First – Restructuring

Article 111 of Federal Decree-Law No. 11 of 2008 stipulates that the employee's service may be terminated based on the financial and administrative implications resulting from the

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١٤-د/ شريف يوسف خاطر، الوظيفة العامةدراسة مقارنة الطبعة الأولي دار الفكر والقانون المنصورة ط ٢٠١١ص١٨٨.

[١٥] في تفصيل ذلك راجع – د. نعيم عطية، انتهاء الخدمة ببلوغ السن القانونية وفقا لنظام العاملين المدنيين بالدولة و بالقطاع العام، مجلة العلوم الإدارية، العدد الأول، القاهرة، أبريل ١٩٦٨، ص ١٠٩.

Voir aussi – GAULLIER (x), « Retraites, préretraites et temps de la vie », **Droit social**, n° 2, février, 2002, pp. 148.

[١٦] عبد الحميد كمال حشيش، مبادئ القضاء الإداري، مرجع سابق، ص٢١٠

En France, c'est dès 1963 que sont mises en place les premières préretraites avec la création du Fonds national de l'emploi (FNE) dans le secteur de la sidérurgie (R. ROCHEFORT, **La retraite à 70 ans ?**, Paris, Belin, 2004, p. 14).

[١٧] محمد الشربيني: شرح نصوص المرسوم بقانون اتحادي رقم (١١) لسنة ٢٠٠٨ بشأن الموارد البشرية في دولة الإمارات، مرجع سابق، ص ٩٩

restructuring of organizational units, or jobs in them, after coordination with the Federal Authority for Human Resources[18].

As a general rule, the administrative, financial, or organizational reasons for canceling a public office or restructuring it, whether by abolishing or merging some jobs with each other, are related to the same administrative process and to the administrative, financial and organizational reform that every department or administrative body works to carry out from time to time to keep pace with developments And the successive changes in administrative work, for example facing the increase in organizational and employment inflation of government agencies. As for the economic reasons, they are often linked to the budgets decided for the civil service sector, nationalization, privatization and others in the federal government[19]

The conditions for canceling, merging or restructuring public jobs can be summarized as follows:

1. That the public office's abolition, merger, or restructuring be real and certain, and for objective reasons (administrative, organizational or economic reasons), not fictitious and fictitious.
2. That the real purpose of canceling the job is to reorganize the public facility or restructure organizational units or jobs and achieve the public good.
3. The abolition of the public office, merger, or restructuring should not be for the purpose of dismissing the employee for disciplinary reasons.
4. The job cancellation, merger, or restructuring takes place prior to the issuance of the dismissal decision.
5. The Emirati legislator added another condition, which is coordination with the Federal Authority for Human Resources in the federal government before canceling the public job, merging or restructuring.

<u>Second: Replacement</u>

This is intended to replace UAE Employees to whom the terms of appointment apply, and this shall be in accordance with the plans for resettlement of Non-UAE Nationals jobs stipulated in the laws, regulations and ministerial decisions, provided that the employee is given a period of two months before terminating his services. It is worth noting that the executive regulations issued based on the Human Resources Law did not include any provisions detailing some of the

[18] المرجع السابق، ص ٩٩.

[19] P. NAVILLE, « Le rôle des institutions dans la fixation de la limite supérieure des âges productifs », Congrès international de gérontologie, San Francisco, 7-12 août 1960, in P. NAVILLE, **Temps et Technique. Les structures de la vie au travail**, Genève, Librairie Droz, 1973, p. 88

reasons for terminating the service of an dismissed public employee based on the requirements of the public interest, restructuring and replacement[20].

Third Non-Renewal the private contract or to cancel it before the expiry of its term

Article 110 of Federal Decree-Law No. 11 of 2008 clarified the general provisions for the termination of a public employee's service due to non-renewal or termination of a private contract before the expiry of its term as follows:

1. The Minister, whoever he delegates, or the head of the Federal Entity has the right not to renew the private contract concluded with the employee, or to cancel it before the end of its period at any time.

2. The employee must be given written notice in accordance with the conditions stipulated in the contract.

Fourth

Dismissal by a court ruling

Article 109 of Federal Decree-Law No. 11 of 2008 clarified the general provisions for the termination of a public employee's service due to his committing an administrative offense or dismissal by a court ruling as follows:

1. It is permissible, by a decision of the minister or head of the federal entity, to terminate the employee's service based on the recommendation of the Violations Committee formed in each ministry and federal entity to dismiss him from service.

2. The Violations Committee determines in its recommendation, according to each case, the warning period and the dues that may be disbursed to the employee or deducted from the employee, in accordance with the provisions of the Decree-Law and its implementing regulations.

3. An employee's service is terminated by a decision from the judiciary that includes his dismissal from his job, considering that removal from the position is a consequence of the original penalty imposed by the court[21].

Therefore, most of the employment legislation considered the judgment of the employee with a criminal penalty or a freedom-restricting penalty for a crime involving breach of honor or trust as a reason to terminate his service by the force of law, unless it is included in the suspension of execution or for its first time[22] .

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[20] منصور الشمري: أسباب انتهاء خدمة الموظف العام بغير الطريق التأديبي في دولة الإمارات، مرجع سابق، ص٢٣٦

[21] منصور الشمري: أسباب انتهاء خدمة الموظف العام بغير الطريق التأديبي في دولة الإمارات، مرجع سابق، ص٢٦٣

Pour aller loin voir - Luc Rouban, *La fonction publique*, 3e éd., La Découverte, Paris, 2009, P 114 et s.

[22] أ/ماجد حمدي عمر حسن الحمداني إنتهاء خدمة الموظف العام بقوة القانون دراسة مقارنة دار الفكر والقانون المنصورة ط٢٠١٧ ص١٢٥.

The criminal legislation and even the functional legislation that dealt with these crimes against honor and honesty have never clarified what is meant by them, and what are the necessary criteria for considering the crime as one of the crimes against honor and honesty.
This is what the Supreme Administrative Court in Egypt confirms by saying: (The legislator in the penal code, although it has defined felonies exclusively, did not specify the crimes that violate honor and trust in a comprehensive and comprehensive manner. Keep pace with developments in society)[23] The Egyptian State Council has decided to define this crime as (that which is due to weakness in creation or a deviation in character). Therefore, society looks at the perpetrator with contempt and contempt, and the perpetrator of it is considered a despicable person who has fallen out of virility. Weakness in character, deviation in character, or influenced by lusts or whims, or bad conduct was a breach of honor or trust, regardless of the name prescribed for it in the law[24]

**THE SECOND REQUIREMENT**
**DELETION DUE TO DEATH**

Death is the paradox of the soul of the body, and it is one of the legal reasons for ending the work relationship. The death can be natural and has nothing to do with work. Therefore, the employee does not have any obligation except what is decided by the social insurance laws with regard to the death grant[25]. Therefore, those with rights towards the employee do not have any right.
Death is one of the natural consequences that result in ending the functional relationship between the deceased employee and the administration, and that the public office is not

[٢٣] حكم المحكمة الإدارية العليا، طعن رقم (٧١٧٠)، لسنة ٤٥ ق.ع، جلسة ٢٠٠٧/٧/٩ د/ مجدي محمود محب حافظ، موسوعة أحكام المحكمة الإدارية العليا، من عام ١٩٥٥ حتى ٢٠١٠، الجزء الثامن، دار محمودالقاهرة ص٤٥٣٤.

[٢٤] د/ محمد ماجد ياقوت، شرح القانون التأديبي للوظيفة العامة، دار الجامعة الجديدة، الإسكندرية، ٢٠٠٩، ص٤٨٨.

[٢٥] أماني زين: النظام القانوني لتأديب الموظف العام في بعض الدول العربية والأوربية، (المنصورة، دار الفكر والقانون، ط١، ٢٠١٠م)، ص١٨.

inherited, rather it is a personal right that disappears with the demise of its owner [26] and therefore the service of the deceased employee cannot continue his service after his death, and then the service ends in this The situation is by force of law without the need for a decision to be issued, and the issuance of this decision does not establish a legal status, but rather reveals according to the rule of law.[27] It may happen at work that the administration does not know of the death event until after a period of its occurrence. The decision to end the service is not valid from the date of its knowledge of the death incident, but rather from the date of the occurrence of the death[28] The general employment legislation agrees that death is one of the cases in which a public employee's service ends.

If the death was a result of a work accident or an occupational disease as defined in the law on work accidents and occupational diseases, then in this case the effects of the material work relationship, represented in the pension or a quarter of the death, remain material in effect and continue for those with rights, and the accident is adapted as a work accident. Proof of death resulting from a work accident requiring the following important procedures, such as inspecting the accident, declaring it, looking into the file and inspecting the injuries, and through this topic we will address the following demands:

The First Section What is a death cancellation?

The SecondSection The legal consequences of death due to cancellation[29]

We will deal with them as follows:

**The First Section - Cancellation due to Death**

The Ministry of Human Resources and Emratization has identified three types of occupational accidents that must be reported to the Ministry “immediately” by employers, and to be informed of all the details of the accident, including the death of a worker as a result of a work-related accident, or the outbreak of fires at work sites, or an explosion in the facility. While setting a maximum limit not exceeding 24 hours to inform the employer about work injuries that cause the worker to stop working for three days or more, warning that violating establishments are

[٢٦] د/ بدرية جاسر الصالح، قواعد إنهاء خدمة الموظف العام في القانون الكويتي الأسباب والآثار الطبعة الأولي مطبوعات جامعة الكويت ط١٩٩٦ ص٨٠.

[٢٧] د/ صلاح الدين فوزي، د: شريف يوسف خاطر، القانون الإداري دار النهضة العربية القاهرة ط٢٠١٤-٢٠١٥ ص٢١٦.

[٢٨] د/ زين بدر فراج، الوجيز في شرح قانون العاملين...، مرجع سابق، ص ٤٢٨.

[٢٩] أنس جعفر: الوظيفة العامة، (القاهرة، دار النهضة العربية، ط٢، ٢٠٠٩م، ص١٥١.

subjected to penalties[30] estimated at 10 thousand dirham's for each case, and up to suspending the establishment[31].

The necessity for the employer to report the injuries that cause the worker to stop working for three days or more, within a period not exceeding 24 hours, provided that the injury is a result of one of four cases, the first is that it occurred during or because of work, and the second is that it occurs while going The worker from his home to his place of work and back, and the third occurrence during the worker's movements that he undertakes with the intention of performing a task assigned to him by the employer, and finally when the worker suffers from one of the occupational diseases stipulated in the Law of Regulating Labor Relations[32].

According to the Ministry, "work injury" means the worker's exposure to an accident during or because of work, which results in harm to him, while "occupational disease" is defined as one of the occupational diseases mentioned in the labor law, which results from exposure to physical, chemical, or physiological factors dangerous or Harmful to health, which may lead to death or chronic disease.

The employer or private sector companies, when a worker in the facility is exposed to a work injury or an occupational disease, must take a number of immediate measures concerning the health of workers, according to the levels of medical care available within the country, the most important of which is bearing the expenses of hospitalization and conducting operations Surgical, radiology and medical tests, limbs and prosthetic prostheses, rehabilitative equipment (if needed), in addition to the costs of medicines and transportation to and from the hospital[33].

If the worker's injury prevents him from performing his work, the employer must pay him a financial aid equivalent to his full wage for the duration of the treatment or for a period of six months, whichever is shorter, and if the treatment takes more than six months, the aid is reduced in half, for a period of six months Other or until the worker is cured, or proven incapacitated, or dies, whichever is shorter, and financial aid is calculated on the basis of the last wage the worker

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[30] أماني زين، مرجع سابق، ص٢٠.

[31] المرجع السابق، ص٣٦.

Pour aller loin voir - Silvera (V)، la fonction publique et ses problèmes acuels، 2ème édition، LGDJ، Paris، 2007, P 123 et s.

[32] حمدي أبو النور: الشامل في القانون الإداري في دولة الإمارات، (العين، مكتبة الفلاح للنشر والتوزيع، ط١، ٢٠١٣م).ص٥٥٢.

[33] خالد الزعبي: القانون الإداري، مكتبة دار الثقافة للنشر والتوزيع، عمان – الأردن، ١٩٩٨م، ص٣٠.

Voir egalement - Gregoire (R)، la fonction publique، 2ème édition، LGDJ، Paris، 2007, P 84.

receives, for those who receive their wages per month, week, day or hour, and on the basis of the average daily wage for those who receive their wages piece by piece[34].

In the event that a work injury or occupational disease leads to the death of the worker, the Ministry stated that, according to the federal law regarding the regulation of work relations, members of the worker's family who were dependent for their livelihood are entitled to complete or major dependence on the income of the deceased worker at the time of his death (such as the widow and children) In this case, compensation is equal to the wage of the main worker for a period of 24 months, provided that the compensation value is not less than 18 thousand dirham's and not more than 35 thousand dirhams, indicating that the compensation value is calculated on the basis of the last wage the worker was receiving before his death[35].

The Emirati legislator stipulated Article (112) of Federal Decree-Law No. (11) of 2008 regarding human resources in the federal government (death)[36] : If the employee dies during his service with the Ministry, a natural death or as a result of an accident outside the workplace - not arising from suicide - the Ministry shall act One payment to the person whom he specified in writing before his death is equivalent to the total salaries for three months in addition to the total salary of the month in which the death occurred in full and other dues stipulated in this decree by law'[37] if the employee does not specify the person mentioned in the previous clause then those salaries are paid to whoever He supports them equally among males and females upon his death.

The sums stipulated in this article are considered a grant that may not be considered part of the end of service benefits or deducted from them in any way, nor may they be seized or set aside between them and any sums that may be owed to the Ministry by the deceased employee.

The Emirati legislator stipulated Article (113) of Federal Decree-Law No. (11) of 2008 regarding human resources in the federal government (death) [38] In the event of the death of a non-citizen employee during his service with the ministry and his family wished to bury him in his country,

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[٣٤] سليمان محمد الطماوي: الوجيز في القانون الإداري – دراسة مقارنة–، مرجع سابق ص٨٥.

[٣٥] عادل السعيد أبو الخير، القانون الإداري: القرارات الإدارية – الضبط الإداري – العقود الإدارية، (القاهرة، دار الفكر العربي للنشر، ٢٠٠٨م)، ص٦٧.

[٣٦] المرجع السابق، ص٦٦.

[٣٧] عبد الحميد كمال حشيش، مبادئ القضاء الإداري، (القاهرة، المطبعة الحديثة، ٢٠٠١م)، ص٧٥.

[٣٨] عبد المنعم محفوظ، علاقة الفرد بالسلطة والحريات العامة وضمانات ممارستها، (القاهرة، عالم الكتب، ١٩٨٤م)، ص٩٢.

the ministry bears the costs of transporting his body to the nearest airport An international traveler in his country plus one ticket for one of the body's companions[39].

**The Second Section - the legal consequences of death due to cancellation**

The legal reasons, in general or as stated in the texts, are the following: death, the verdict of proving the interrupted absence, reaching the retirement age, and losing a job for absence for a specified period in the law. And conviction by a competent court for a crime involving breach of honor and trust, and loss of nationality, and we will address this topic through the following two sections:

**First – Effects of death cancellation for the administration used**

**Second - The effects of delisting due to death for those with the rights of the deceased employee**

The service of a public servant ends with his death, and death is a right and a destiny written for every person, and the time limit is specified by Allah.

Federal Law No. (6) for the year 1975 in the matter of organizing the registration of births and deaths and its amendments, have regulated the general provisions for reporting deaths, whereby the occurrence of a person's death is proven by its entry in the official records called "death books"[40] prepared for this in the preventive medicine branches in the state, or At the headquarters of the diplomatic and consular missions abroad.

This law required the reporting of deaths (in any period after life). Notification shall be made by those charged with this: such as the father of the deceased or his mother, or an adult relative who attended the death, or the director of the hospital, school or prison[41]. With death, all power for a person to acquire rights or assume obligations is removed, and the state usually takes charge of paying a reward or compensation in addition to paying monthly salaries for the deceased[42].

In this regard, Article (112) of the Decree-Law of 2008 stipulated that in the event of the employee's death during the period of his service with the Ministry, a natural death or as a result of an accident outside the workplace - not arising from suicide - the Ministry shall act:

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[39] علي خطار شطناوي: الوجيز في القانون الإداري، دار وائل للنشر والتوزيع، عمان – الأردن، ٢٠٠٣م، ص٦٣٢.

[40] ماجد راغب الحلو، القانون الإداري، (الإسكندرية، دار المطبوعات الجامعية، ١٩٩٤م)، ص٩٤.

[41] المرجع السابق، ص ٩٠.

[42] محمد الشربيني: شرح نصوص المرسوم بقانون اتحادي رقم (١١) لسنة ٢٠٠٨ بشأن الموارد البشرية في دولة الإمارات، (الإسكندرية، منشأة المعارف، ٢٠٠٩م)، ص٦٧.

1. The total salary for the month in which the death occurred in full and other benefits stipulated in this Decree-Law, regardless of the number of days the deceased employee worked. In addition to the equivalent of the total salary for three months[43].
2. This compensation shall be paid by the entity to which the employee is affiliated, one at a time, on the basis of the total salary.
3. This compensation is paid to the person whom the employee determines in writing before his death. If no one is appointed, he shall be paid equally to those whom the employee supported at the time of his death, between males and females. If there is no one of them, he distributes it to his heirs.
4. These sums are considered a grant that may not be considered part of the end of service dues, or deducted in any way, nor may they be seized or set aside between them and any sums that may be owed to the Ministry by the deceased employee, and these sums are also exempt from taxes and fees[44].
5. In the event of the death of a non-citizen employee during his service with the Ministry, and he wishes to bury him in his country, the Ministry shall bear the costs of transporting his body to the nearest international airport in his country, in addition to one travel ticket for one of his companions.

The General Assembly of the Fatwa and Legislation Departments of the Egyptian State Council decided to determine the funeral expenses on the basis of the participation fee in the insurance law. However, since the legislator did not allocate the wage on the basis of which these expenses were spent, it did not make it limited to the basic wage of the worker, as it was included in many texts contained in the Workers Law, so it is not necessary to resort to the meaning of the wage contained in the Social Insurance Law on which it is calculated. The death grant, which has come to include, as of the date of the implementation of Law No. 47 of 1984, all the monetary compensation that the insured receives from his original workplace in exchange for his original work with its two basic and variable components, especially since the reason for granting these expenses is determined and identical to the reason for entitlement to the death grant, which is The event of the death of the worker, which requires the unification of the meaning of the wage in both)[45]

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[43] محمود سامي جمال الدين: أصول القانون الإداري في دولة الإمارات، مكتبة الجامعة، الشارقة، ١٩٩٤م، ص١٥٣.

[44] موسى مصطفى: الوظيفة العامة في دولة الإمارات، (عمان، إثراء للنشر والتوزيع، ط١، ٢٠١٢م)، ص٧٠.

[45] فتوى الجمعية العمومية لقسمي الفتوى والتشريع بمجلس الدولة المصري، ملف رقم ٨٦/٤/١٠٤٧– جلسة ١٦/٤/١٩٨٦م.

In general, the deceased employee benefits from all his financial and retirement rights. Article 102, Clause 2 of the Decree-Law stipulates that "the termination of service for death shall be subject to a decision issued by the competent minister or his authorized representative."[46]

We believe that the termination of a public servant's service due to death derives its legality from the death itself, and not from the decision of the minister or whomever he delegates, and that the decision of the minister or whomever he delegates is nothing but a decision revealing a legal situation and not an established decision.

Judgment to prove discontinued absence

The service of the public employee ends with the issuance of a court ruling by a competent court (Sharia courts), which stipulates that the employee's absence is proven[47]. There are three conditions for ruling that the missing person is considered dead:[48]

1. Procedural condition:

The judge must, before ruling that the missing person is considered dead, to search for the missing by all means to reach to know whether he is alive or dead. Concerned persons must approach a judge to obtain a judgment declaring the person missing[49].

2. Substantive condition:

The judge may not issue a ruling declaring the missing person dead unless there is evidence of his death.

3. Time clause:

The necessity of missing a period of time after an announcement, we have been granted the request of the concerned parties, and this period varies according to the circumstances of the loss:

a. If a person is lost in circumstances that are predominantly lost, such as war, earthquake, flood, epidemic, or plane crash. The death of the lost is not judged until a year has passed since the announcement of his loss[50].

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[٤٦] موسى مصطفى: الوظيفة العامة في دولة الإمارات، (عمان، إثراء للنشر والتوزيع، ط١، ٢٠١٢م)، ص89.

[47]The definition of the lost: It is a person who has left his homeland, and whose news is interrupted, so that his life is not known from his death.

[٤٨] موسى مصطفى: الوظيفة العامة في دولة الإمارات، (عمان، إثراء للنشر والتوزيع، ط١، ٢٠١٢م)، ص88.

[٤٩] منصور الشمري: أسباب انتهاء خدمة الموظف العام بغير الطريق التأديبي في دولة الإمارات، (الشارقة، مكتبة دار الحقوق، ٢٠١٢م)، ص٦٥.

[٥٠] نواف كنعان: الخدمة المدنية في دولة الإمارات، (عمان، إثراء للنشر والتوزيع، ٢٠٠٨م)، ص٨٨.

B. If a person is lost in circumstances in which he is not likely to be lost due to his travel for tourism, treatment, or work the death of the lost is not judged until 4 years have passed since the declaration of his loss[51].

**Second The effects of delisting due to death for those with the rights of the deceased employee**

Article (103) of the Federal Decree-Law on Human Resources for the year 2008 stipulates that "the employee's service shall end upon reaching the retirement age, in accordance with the laws in force in this regard[52], unless his service is extended by a decision of the competent minister or whoever delegates him". And that the age of sixty years and it is permissible to extend the service of the employee for a period of five years maximum, and that year by year, and not all at once[53].

Article No. (30) of the Executive Regulations No. 13 of 2010 of the Federal Decree-Law confirmed the following:

1. The UAE employee registers in the retirement programs applied at the General Pensions and Social Security Authority[54].
2. The monthly contributions of the insured employees are deducted for the purpose of transferring them to the General Authority for Pensions and Social Security in accordance with the legislation issued in this regard, especially Federal Law No. (7) of 1999 issuing the Pensions and Social Security Law and its amendments[55].

## THE SECOND TOPIC

## The end of the employment relationship due to layoff, resignation and dismissal

Public Officer is an integral part of this society, so assume the executive branch directly regulate administrative function, and is recognized at the present time that the employee status by the state is a regular center, define the conditions of the laws and regulations, and this has become beyond the scope of the debate, and became Muslim women in the jurisprudence Public law, and the administrative work, including the termination of the public employee's service, is subject to the restrictions and controls established by the legislation.

The United Arab Emirates has sought to create a distinct system for public office that is closer to fairness, objectivity and transparency, so the UAE Law No. (9) for the year 2011 regarding human

[٥١] ميعاد حمود، الوجيز في القانون الإداري في دولة الإمارات – دراسة مقارنة، (دبي، كلية شرطة دبي، ٢٠٠٤م)، ص١٠٢.

[52]The provisions of the Retirement Pensions and Benefits Law No. (13) for the year 1974 and its executive regulations No. (6) for the year 1975, "amended pursuant to Ministerial Resolution No. 6 of 1984", shall apply to citizens of the civilian employees and employees of the federal government.

[٥٣] هالة عبد الحميد: أصول القانون الإداري في دولة الإمارات، (العين، مكتبة الفلاح للنشر والتوزيع، ٢٠١٣م)، ص٥٠.

[٥٤] المرجع السابق، ص٦٦.

[55]This law has been amended by Federal Law No. (6) of 2006, and Federal Law No. (7) of 2007, p. 23.

resources in the federal government, as a general statute for the public office and organizing the employee's relationship with the state in terms of appointment[56], stating his rights and duties, reasons for ending his service, and others, and through this chapter we will address it in the following topics:

The first requirement - the end of the employment relationship due to layoff

The second requirement - the end of the employment relationship due to resignation

The third requirement - Dismissal due to neglect of office or loss and deprivation of civil and national rights

We will deal with it as follows:

**The First Requirement**

**End of Employment Relationship due to Layoff**

Disciplinary dismissal is considered one of the largest disciplinary punishments, and for this reason the legislator has surrounded it with special protection, whereby the authority of disciplinary dismissal is assigned to an equal member committee while giving the employee guarantees to defend himself.

The layoff is adapted according to the severity of the error, as it can be with prior notice and compensation or without prior notice and without compensation[57], and through this requirement we will address it in the following two sections:

The First Section Disciplinary dismissal of a Public Employee

The Second Section Non-disciplinary dismissal of a public employee

We will deal with them as follows:

**The First Section Disciplinary dismissal of a Public Employee**

We will try to become familiar with it through the following division:

**First The concept of Disciplinary Termination**

It is one of the cases in which jurisprudence, the judiciary and legislation are unanimous in its legitimacy, as it recognizes the right of the employer to suspend and dismiss the worker who proves to have committed a serious mistake during the performance of his work or on the occasion of that, and this is to protect his interests, and to ensure the stability and effectiveness of the system in the institution used, which is what It can be likened to the situation of a person who violates the rules of public order and public morals, and deserves a punishment.

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[٥٦] هالة عبد الحميد: أصول القانون الإداري في دولة الإمارات، (العين، مكتبة الفلاح للنشر والتوزيع، ٢٠١٣م)، ص ٤٨

[٥٧] عادل السعيد أبو الخير، القانون الإداري: القرارات الإدارية – الضبط الإداري – العقود الإدارية، مرجع سابق، ص ١٢٣

However, there is a jurisprudential debate about determining the nature and quality of the grave mistake that requires separation, as we find that employers, in order to protect their interests, are working to expand the concept or content of the serious mistake according to the internal regulations, and in return we find jurisprudence and the judiciary working to narrow this circle in order to protect the interests of workers, and restrict The authority of the employers, which is the union that some international legislations have followed, including Algeria, as it tried through its regulations to narrow the cases of serious mistakes exclusively and specifically, and this to block the door of the discretionary power of the employer in adapting the error, as well as preventing abuse of the right of the worker under the guise of disciplinary penalties[58].

The employee also has actual rights and duties of these duties that result in a disciplinary punishment if they are neglected by the legally authorized authority that takes the necessary measures to sign this what he neglected, neglected, or refrained from performing the duties assigned to him, but this discipline has been surrounded by the legislator with guarantees that protect the employee from The arbitrariness of the administrative authority. An application of the principle of legality that includes the rule of law[59].

**Second The Legal and Procedural System for Disciplinary Termination**

Disciplinary dismissal means a breach of the job duties stipulated by law, and the employee is considered to have committed the crime for the sake of legal death and the crime is based on two basic pillars:

The Material Element:

This element is evident in the act committed by the employee or the employee's negligence, neglect of his duties that fall within the framework of his job, and the material act has its visible and tangible existence because the law does not punish the thinking and intentions so it is not permissible to charge the employee without justification.

The Moral Element:

The moral element is achieved whenever the administration is sinful, that is, the employee is aware of his mistake or the violation that he commits intentionally, but the management is a necessary element for the moral element to be achieved because the disciplinary crime, like the

[58] محمد الشربيني: شرح نصوص المرسوم بقانون اتحادي رقم (١١) لسنة ٢٠٠٨ بشأن الموارد البشرية في دولة الإمارات، مرجع سابق، ص ١١٢

Voir notamment - Venezia (J. CL)، le pouvoir discrétionnaire، LGDJ، Paris، 1979, P 268 et s.

[59] هالة عبد الحميد: أصول القانون الإداري في دولة الإمارات، مرجع سابق، ص١١٥

criminal crime, is based on the mistake. If this element is not available, there is no crime and no punishment because the act was issued by someone other than his own choosing, and the administrative responsibility belongs in the following cases, namely, in case of necessity, material and moral coercion, force majeure, sudden accident, as well as loss of perception and discrimination[60].

However, the employee cannot be exempted from the disciplinary offense when it comes to lack of understanding of the law or reality that is not considered justified, or the excuse of the large number of work assigned to it that may be a mitigating excuse that leads to reducing the penalty rather than canceling it.

In addition, the employee does not excuse ignorance of his suspension. And the instructions that he is supposed to be aware of, and thus disciplinary discharge is achieved when the material and moral element is available in accordance with the stipulated procedures[61].

**The second branch Non-disciplinary dismissal of a Public Employee**

We will try to become familiar with it through the following division:

**First The concept of Non-Disciplinary Dismissal of a Public Employee**

That no person can be appointed to a public position unless he has the nationality, whether original or acquired, which is considered a political and legal affiliation link between the person and the state, i.e. the association of affiliation. Loss of or stripping of nationality results in the loss of the employee-management relationship.

It is worth noting that dismissal, whether disciplinary or non-disciplinary, has negative effects on the employee as he loses all his rights, such as salary, vacation ... etc.

In addition to being deprived of joining or running again in the public office, contrary to the belief prevailing among some, the public employee is not the right to professional dismissal and there are many reasons for dismissing public employees from service, and these reasons differ according to the different public service legislation in force in each country[62].

**Second Reasons for non-Disciplinary Dismissal of a Public Employee**

We will deal with it as follows:

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[٦٠] ميعاد حمود، الوجيز في القانون الإداري في دولة الإمارات – دراسة مقارنة، مرجع سابق، ص ١٢٣

[٦١] موسى مصطفى: الوظيفة العامة في دولة الإمارات، مرجع سابق، ص١٤٧

[٦٢] موسى مصطفى: الوظيفة العامة في دولة الإمارات، مرجع سابق، ص١٥٠

Sur ce point d`analyse voir egalement – Bergeran (P)، la gestion moderne، ED Montchrestien، Paris، 1984, P 164 et s.

A- Loss of the Nationality of the Public Employee

Although Decree-Law No. 11 of 2008 regarding human resources in the federal government did not stipulate this reason among the reasons for terminating the service of a public employee, given that the scope of application of this decree includes citizens and non-citizens, but this reason is considered one of the general reasons for the employee's service termination therefore, the loss of nationality by a public employee for any reason, such as withdrawal of nationality, or forfeiting it, is considered one of the reasons for termination of service. Federal Law No. (17) of 1972 regarding nationality and passports, and Federal Law No. (10) Of 1975 regarding the amendment of some articles of the Nationality and Passports Law specified cases of revocation and revocation of nationality[63].

B- Revoking the nationality: For the following reasons:

1. The person's involvement in military service for a foreign country without permission from the state, and he was assigned to leave the service and refused.
2. Work in the interest of a foreign country.
3. Naturalization by choosing the nationality of a foreign country.

C- Withdrawal of nationality: for the following reasons:

1. If he commits an act that is considered a threat to the security and safety of the state, or if he does so.
2. If he is sentenced repeatedly for heinous crimes.
3. If fraud, fraud or fraud appeared in the data on which he relied on granting him nationality.
4. If he resided outside the country continuously and without justification for a period of more than four years.

From the effects of the loss or stripping of nationality, the employee is deprived of all the rights he enjoyed as a citizen, and since the right to hold jobs is among these rights, the administration ends his relationship with them as soon as the loss or stripping of nationality without any compensation or commitment on the part of the employer[64].

D- Loss of civil rights of the public servant

The employee's loss of his freedom due to a judicial ruling or a precautionary measure (preventive suspension) or sentencing him to a custodial penalty such as imprisonment or expired imprisonment where the employee is placed in a situation where it is impossible for him to exercise his duties leads to the termination of his employment relationship. In France, for

[٦٣] محمد الشربيني: شرح نصوص المرسوم بقانون اتحادي رقم (١١) لسنة ٢٠٠٨ بشأن الموارد البشرية في دولة الإمارات، مرجع سابق، ص ٤٨

[٦٤] عبد المنعم محفوظ، علاقة الفرد بالسلطة والحريات العامة وضمانات ممارستها، مرجع سابق، ص ٧٩

example, the law issued on January 11, 1984 in the matter of public office in the country stipulated four cases of dismissal from the public office: job abolition, job loss, professional insufficiency, or three refusal Successive times by the public employee proposed administrative positions after the period of his referral to the deposit and his return to service again[65].

The employee's loss of his freedom due to a judicial ruling or a precautionary measure (preventive suspension) or sentencing him to a custodial penalty such as imprisonment or expired imprisonment where the employee is placed in a situation where it is impossible for him to exercise his duties leads to the termination of his employment relationship. In France, for example, the law issued on January 11, 1984 in the matter of public office in the country stipulated four cases of dismissal from the public office: job abolition, job loss, professional insufficiency, or three refusal Successive times by the public employee proposed administrative positions after the period of his referral to the deposit and his return to service again.

The Emirati legislator, in the Decree-Law of Federal Law on Human Resources in the Federal Government No. 11 of 2008, in Chapter Fourteen of it singled out Articles (101-101), the reasons for terminating the service of a public employee.

Article 101 of the Federal Decree-Law enumerates the reasons for the termination of a public employee's service as follows:

1. Termination based on the requirements of the public interest.
2. Reaching the retirement age.
3. Resignation.
4. Lack of health fitness.
5. Job inefficiency.
6. Dismissal from service with a decision related to an administrative offense or dismissal by a court ruling.
7. Failure to renew or cancel the private contract before its expiry date, death.
8. Segregation from work without acceptable justification for a period of ten continuous working days or twenty separate days during one year.
9. Restructuring.
10. Replacement in accordance with plans for resettlement of non-citizen jobs, provided that the employee is given a period of two months before terminating his services.

Through this text and other texts mentioned in the Federal Decree-Law of 2008, the reasons for terminating the employee's service can be divided into three reasons as follows:

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[٦٥] أنس جعفر: الوظيفة العامة، مرجع سابق، ص ١٧٤

- Legal reasons: that is, the service of a public servant ends with the force of law: death, the verdict of proving the interrupted absence, reaching the age prescribed for that service, conviction by a competent court, and loss of nationality.
- Or administrative reasons: resignation, expiration of the contract period, incompetence and functional disability.
- Or disciplinary reasons: the issuance of a disciplinary decision to dismiss the employee.

**The Second Requirement**

**End of Employment Relationship due to Resignation**

Resignation is a voluntary process that the employee undertakes at his request and the service ends with an administrative decision issued to accept this request.

The employee who submits his resignation declares his will to leave the service before the age of retirement and resignation is the right of every employee and one of the reasons for permanently terminating the employment relationship, and the resignation is subject to formal conditions for acceptance without any An objective condition, such as submitting an employee because of his resignation[66], for example, and through this requirement we will address it in the following two sections:

The first requirement: what is the resignation?

The second requirement: types of resignation

We will deal with them as follows:

**The First Section Definition of Resignation**

Resignation means that the employee leaves his job freely and definitively, according to a request submitted by him to the management authority expressing his desire to leave the service permanently[67]. As for the conditions for resignation, articles 104-106 of Federal Decree-Law No. 11 of 2008 regarding human resources in the federal government are indicated[68].

1. The resignation is submitted according to a letter or a written request from the employee and of his free will. Therefore it is not permissible to submit the resignation verbally or over the phone, and the wisdom of that is that the employee is not taken for the consequences of the words as an emotional, nervous, or hasty attitude.

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[٦٦] عبد الحميد كمال حشيش، مبادئ القضاء الإداري، مرجع سابق، ص١٤٥

[6767]Verdier (J. M)، travail et liberté، in « droit social »، N° 5، Paris، Mai 1988, P 67 – 68.

[٦٨] محمد الشربيني: شرح نصوص المرسوم بقانون اتحادي رقم (١١) لسنة ٢٠٠٨ بشأن الموارد البشرية في دولة الإمارات، مرجع سابق، ص ٦٦

2. The employee's resignation request includes notifying the federal ministry or entity in which the employee works, the prescribed warning period, which is (two months for higher jobs and one month for the rest of the jobs), or as stipulated in the contracts of employees appointed under special contracts.
3. That the resignation be free of any conditions that the employee used to suspend on obtaining a specific demand or an increase in the salary ... etc.
4. The employee remains at work until his resignation is accepted, or the notice period has expired. However, the Ministry may, upon a request from the employee, reduce the notice period after accepting the resignation and terminate his services directly, provided that he agrees to pay the warning allowance due to it, or deduct it from his dues, provided that this period is not counted within the period of his service with the Ministry.
5. The Ministry may, on its own initiative - during the notice period, terminate the services of the resigned employee, provided that the salaries due to him are paid for this period, provided that this period is not counted within the period of his service with the ministry or federal entity.
6. The decision to accept the resignation is issued by a decision from the authority concerned with appointment: the competent minister or the head of the federal authority, within a period of thirty days from the date of its submission, otherwise it is considered acceptable by force of law.
7. The resignation is deemed acceptable if the Ministry does not take the appropriate decision regarding it, and the employee is notified of it in writing within two weeks of submitting it.
8. The resignation may not be requested in cases of war, declaration of martial law, or emergency.
9. An employee may not resign while he is referred to the Violations Committee for investigation, or refer him to the competent judicial authorities until a decision is issued.
10. The Human Resources Department conducts a personal interview with every employee who resigns from his work or applies for non-renewal of his contract, with the aim of collecting the necessary data to improve and develop the work systems and policies followed[69].

Conditions of Resignation:

The Emirati legislator defined the conditions for resignation as follows

- The employee submits a written request expressing his desire to resign.
- To send his request to the authority that has the power to appoint through the administrative ladder, and he remains charged with his duties until the broadcast of his request.

[٦٩] محمد الشربيني: شرح نصوص المرسوم بقانون اتحادي رقم (١١) لسنة ٢٠٠٨ بشأن الموارد البشرية في دولة الإمارات، مرجع سابق، ص٦٧.

The resignation must be submitted by the free will of the employee and his choice, but if it is proven that the request for resignation was made under the influence of material or moral coercion or if the employee's will is marred by a defect of the will defects of this request

Concerning this, the Supreme Administrative Court in Egypt ruled that "and in that the resignation request, as it is a manifestation of the employee's will to retire from service, must be issued with valid consent, and he is spoiled by what spoils the consent of the defects of the will, including coercion If its elements are available for the public servant to submit the request under the authority of fear that the administration has sent in himself without right and it is based on the basis that the circumstances of the case depict him or another grave danger threatening him or others in the soul, body, honor, or money, and taking into account in assessing the coercion the gender of the victim. This coercion, his age, his social and health status, and every other circumstance that would affect his physicality.[70]

• Its effects arise once it is accepted by the competent authority and give a time limit to the two parties (management and employee). The first is to take the necessary measures to compensate the resigned employee, and the second is to review himself and reconsider his decision, provided that it exceeds 3 three months.

**The Second Section Types of resignation**

Opinions differed regarding the division of resignations, some of them arguing for the explicit and implicit resignation, and some of them dividing it into collective and individual resignations.

First

Outright Resignation and Tacit Resignation

Explicit resignation: It is the request that the employee declares expressing his desire to leave his job permanently, and it is represented by the written request that the employee submits, expressing his conscious and free desire to leave the job service permanently. Since the relationship between the employee and the public administration is based on the legal and regulatory texts, the subject of resignation is also governed by the legal relationship in which, firstly, the aspect of the public interest represented by the public administration is taken into account, and secondly, the aspect of self-interest represented by the employee wishing to resign.

[٧٠] المحكمة الإدارية العليا، جلسة ٥/ ١١/ ١٩٥٥م، مجموعة المبادئ القانونية التي قررتها المحكمة الإدارية العليا، السنة الأولى، حكم رقم ٦، ص٣٣.وورد في د/ أحمد مصطفي يوسف الشربيني موسوعة الموظف العام دراسة مقارنة بين الشريعة الإسلامية والأنظمة الوظعية دار الفكر والقانون المنصورة ط٢٠٢٠ المجلد الأول ص٣٦١.

In order for an express resignation to cause termination of service, the following conditions must be met[71]:

• That the resignation be in writing, for ease of proof, and to alert the employee to the seriousness of what he is doing if he is impulsive under the influence of a reckless whim or an emergency situation. The resignation is free of any restriction or condition.

• That disciplinary measures have not been taken against the employee that have not yet ended. If such measures have already begun, resignation is not accepted unless it ended without dismissal, dismissal, or pension referral. The intent is not to enable the employee to escape punishment by resigning if the behavioral crime he is accused of is grave and warrants a penalty of dismissal or dismissal from service.

• Some laws do not require such a condition and leave the matter to the management discretionary, which may see fit in the interest of the work in certain cases to suffice with ending the employee's service by accepting his resignation instead of continuing with disciplinary measures. The resignation that the employee submits is considered and accepted by the management.

The UAE legislator stipulated Article (105) of Federal Decree-Law No. (11) of 2008 regarding human resources in the federal government (the employee is obligated to continue his work until the warning period expires. However, the ministry may, upon the employee's request, reduce the warning period after accepting the resignation and terminating His services are directly, provided that he agrees to pay the warning allowance he is entitled to or deduct from his dues, provided that this period is not counted within the period of his service with the Ministry, the Ministry may on its own - during the warning period - terminate the services of the resigned employee, provided that the salaries owed to him are paid for this The period, provided that this period is not counted within the period of his service with him[72].

• The resignation request should not be submitted under the influence of material coercion, such as for the security personnel to force the employee under the influence of torture to submit it. As for moral or moral coercion, it does not affect the safety of the resignation because the matter is related to the employee's work and his source of livelihood, and it is not possible to submit to the influence of moral coercion in this area.

• The employee does not return from the resignation request from the time it is submitted to the time of its acceptance, and the worker has the right to withdraw his resignation request

[71] عادل السعيد أبو الخير، القانون الإداري: القرارات الإدارية – الضبط الإداري – العقود الإدارية، مرجع سابق، ص ١٦٨

[72] محمود سامي جمال الدين: أصول القانون الإداري في دولة الإمارات، مرجع سابق، ص١٥٨

before the end of the sixty days period, during which the management must respond to the resignation request by rejection or acceptance from the date of its submission, and before issuing the deed of acceptance of his resignation. Status The resignation request is considered canceled, but the administration that issued the instrument accepting the resignation of the employee may withdraw the deed that it took by accepting the resignation before it is published or notified to the concerned person.

• That the employee submitting the resignation continues in his work until the resignation is expressly accepted, and the legislator has required the administration to decide on the resignation request either by acceptance or rejection within a period of sixty days from the date of its submission (this period was under the Basic Personnel Law and its amendments six months from the date of submission The request) and this assumes that if the administration maintains silence by not announcing its positive or negative response within the period stipulated in the law, this means that there is an implicit consent to accept the resignation.

Implicit Resignation:

It is a resignation that the legislator assumes upon the employee taking certain positions that are not justified by the public administration. Implicit Resignation:

it is the assumption that the employee's intention to leave work as a result of his discontinuation from him for certain periods specified by the legislator that if the employee ceases to work without permission, even if that is after an authorized leave, he shall be deprived of his salary for the period of his absence without prejudice to disciplinary accountability. Fifteen consecutive days or thirty non-consecutive days within twelve months, he was deemed resigned by law.

It is understood from this text that the legislator has made the resignation of the employee complete with the force of law, as soon as he ceases to work for a period of fifteen continuous days or thirty days without continuity, and that he grants the management authority any authority in discretion in the excuses made by the employee who is absent from work[73].

The UAE legislator stipulated Article 104 of Federal Decree-Law No. (11) of 2008 regarding human resources in the federal government (an employee may resign from his job with a written request that includes notifying the ministry of the prescribed warning period, which is two months for senior positions and one month for the rest of the jobs or as stipulated. In the contracts of employees appointed under special contracts, the resignation is considered permissible if the Ministry does not take the appropriate decision regarding it and informs the employee about it in writing within two weeks of submitting it.

[73] محمود سامي جمال الدين: أصول القانون الإداري في دولة الإمارات، مرجع سابق، ص١٨٩

The UAE legislator stipulated Article (106) of Federal Decree-Law No. (11) of 2008 regarding human resources in the federal government: Interviews to investigate the reasons for resignation (The Ministry's Human Resources Department conducts a personal interview with every employee who resigns from his work or submits a request not to renew his contract with the aim of Collecting the necessary data to improve and develop the applicable work systems and policies)[74] .

**Second Individual Resignation and Collective Resignation**

Resignation is one of the reasons for the termination of the functional bond between the employee and the management before its due date, and the type of resignation varies according to the number of employees who wish to submit it, so if it is submitted by one employee, it is an individual resignation, but if it is submitted by a group of employees, it is a collective resignation:

1- Individual Resignation

This type of resignation that is submitted by one employee to the administration is intended to end his relationship with the administration, and this resignation in turn is divided into two parts, the first section is called explicit resignation, and the latter means the request submitted by the employee expressing his desire to permanently terminate the job service and are required to That it be written and the explicit resignation must be submitted in the form of a written request, but if this request is verbally, it is not considered because it has no effect, and this is what the French legislator stipulated (since the resignation can only be concluded from a written request from the concerned person that appears It contains his will, which cannot be confused, to leave the service)[75] (and the position of the Emirati legislator was in requiring writing in relation to the resignation request submitted by the employee (for the worker to submit his resignation from his position and the resignation is in writing) and the resignation is required to be in writing (in writing) and in the same written manner, be accepted or rejected) A- The resignation submitted by the employee shall be in writing, and approval or rejection of it shall be in writing, and it shall be submitted to the authority concerned with appointing the equivalent of the employee in terms of rank and salary. The date of its submission is considered rejected)[76] .

Individual resignation is not by submitting a written request by the employee, rather it is inferred from specific positions taken by the employee, and this is called implicit resignation and is

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[٧٤] محمد الشربيني: شرح نصوص المرسوم بقانون اتحادي رقم (١١) لسنة ٢٠٠٨ بشأن الموارد البشرية في دولة الإمارات، مرجع سابق، ص ٩٦

[75]Vedel (G)، la soumission de l’administration à la loi، in « RDP »، N° 2، Paris، Mai 1978, P 197

[٧٦] أنس جعفر: الوظيفة العامة، مرجع سابق، ص١٨٩

intended to presume the intention to resign of the employee who performs certain actions that indicate his intention to end his relationship with the administration, that is, we are in front of A legal presumption derived from the employee's behavior.

If this presumption is achieved, then the employee is considered resigned implicitly. The principle is that the resignation is based on an explicit request issued by the employee's free will and the approval of the administrative body. However, the legislator, in the interest of the public utilities' interest and ensuring its regular and steady functioning, has determined some actions that If the employee comes to her, these actions are considered a disclosure of his intention to resign from his job implicitly. The Emirati took this resignation and called it the title of judgmental resignation in certain cases:

• The employee notified of the transfer must join his job within a period not exceeding five days (except for the usual travel days), unless the transfer order stipulates a period that exceeds that, and if he delays joining and does not express a legitimate excuse, he shall be considered resigned.

• The employee must join his job as soon as his leave expires. If he does not join without a legitimate excuse within a maximum period of ten days from the date of his leave's expiry, he is considered resigned.

• An employee who is absent from his job is considered resigned if his interruption period exceeds ten days and he does not express a legitimate excuse to justify this interruption.

We note from the foregoing that the employee finds an easy way out of the job by judgmental resignation, especially if the administration rejects his explicit request to resign, so what he has to do is be absent for a period of more than ten days without an excuse and then he becomes resigned judicially, so the legislator must turn to this point by reconsidering In it again in line with the guarantee of the functioning of public facilities and the employee's right to resign[77].

2- Collective Resignation

The principle of resignation is that it is submitted in the form of a written request by one employee, but several people may agree to submit their resignations at the same time with the intention of forcing the management to meet their demands, and this resignation is called collective resignation, which is a kind of job resignation, which is considered at the same time. The same is the most dangerous type of resignation, and the reason for that is due to the seriousness of the obstruction caused by this resignation to the functioning of public utilities.

Collective resignation is known as an agreement between a number of public utility employees revolving around submitting their resignations and dissolving from their jobs at once with the

[77] أنس جعفر: الوظيفة العامة، مرجع سابق، ص١٩٠

intention of influencing the administration in order to achieve their demands or to protest on a specific order[78].

It is recognized that resignation is a way out of the job, but at the same time this method is not used to resist and weaken public service. Therefore, collective resignation is legally prohibited and constitutes a crime punishable by law. Therefore, we find the UAE legislator to punish the employee from discontinuing his job without a legitimate excuse. This would regularly and steadily disrupt the functioning of public utilities and make polygamy in them an aggravating circumstance. In France, the French legislator had punished this type of resignation in Article (126) of the French Penal Code. This article punishes employees who agree to leave their jobs to resign all at once. It considered it a criminal offense and justified this in that resignation is an individual matter and one of the rights of the employee. However, if this right is transformed from being an individual act to a collective act involving a grave danger to the regular and steady functioning of public facilities, then whoever exercises this work in the advanced manner is considered to have committed a crime and is punished according to According to the provisions of Article (126) of the French Penal Code, and the French Court of Cassation applied this article to the mayors of some French provinces after they had agreed to refrain from carrying out his duties and submit their resignations in one go[79].

It is worth noting that the position of the judiciary came in support of what the legislator said about imposing penalties on those who submit a collective resignation, and despite the danger that the collective resignation poses to the regular and steady functioning of public facilities, we find that the Emirati legislator did not punish the collective resignation, which is a critical position.

Hence, the employee has the freedom to stop work, provided that he fulfills the procedures required by law, but in other cases, it does not justify his collective resignation and does not justify his freedom to stop his career work, and as we know that resignation is the right of the employee, but this right has limits and restrictions that regulate it. This right cannot be used against the administration by presenting it collectively with the intent to harm public facilities and obstruct their functioning.

### The Third Requirement

### Isolation based on the requirements of the public interest or for lack of functional competence and health fitness

[78]Khemakhem (A)، introduction au contrôle de la gestion، ED Bordas، Paris، 1971, P 123 – 124

[٧٩] أماني زين: النظام القانوني لتأديب الموظف العام في بعض الدول العربية والأوربية، مرجع سابق، ص ١٦٦

The dismissal decision is issued by a federal decree with regard to the employees appointed by federal decrees, and by a decision of the Council of Ministers other than those employees, and these entities have the discretionary power to dismiss the public employee based on the requirements of the public interest. It is noticed that the criterion of "public interest" is a broad standard, which in itself is not suitable for being One of the reasons for terminating the service of a public employee, as the public interest is in practice the rule of compulsory behavior, which all the various administrative bodies must work to achieve.

Or in other words, the public interest represents the general line of the job competence. And if the public interest represents the goal pursued by all public administration agencies and institutions of all types and degrees of importance, then agreeing on what is considered public interest, and even defining its significance is not an easy matter given the flexibility of the public interest, and its variation in different times and places, according to philosophy The prevailing political, social and economic, but according to the values, traditions, norms and customs that the society follows in each country, which added to the idea of the public interest an ambiguity that led to the difference in the meaning of the idea between jurists, politics, economics and philosophers[80], [81]and through this demand we will address it through the following two sections:

The First Section Termination based on the requirements of the public interest

The Second Section Termination for job inefficiency and health fitness

We will deal with them as follows:

**The First Section Termination based on the requirements of the public interest**

Public interests may vary into political, economic, social, cultural, environmental, or religious interests, etc., depending on the nature of this interest. It may vary into national, regional, international or local interests according to the geographical area in which the interest is achieved. However, this should not create a conflict between public interests related to one topic or one issue[82].

The Administrative Court in Egypt tried to define what is meant by the public interest by saying, “The public interest is not intended for the benefit of an individual, group, or group of individuals,

[80] حسن، محمد مصطفي، المصلحة العامة في القانون والتشريع الإسلامي، دراسة مقارنة، مجلة العلوم الإدارية، السنة ٢٥، عدد ١ يونيو ١٩٨٣ ص ٣.

[81] أماني زين: النظام القانوني لتأديب الموظف العام في بعض الدول العربية والأوربية، مرجع سابق، ص ١٦٨

[82] علي خطار شطناوي: الوجيز في القانون الإداري، مرجع سابق، ص١٣٣

for that is purely a private interest, just as it is not intended as a group of individuals' private interests, so the collection cannot be referred to similar things of the same nature The characteristic, and such special interests are contradictory and contradictory, can be added to each other to produce results for all. Rather, what is meant by the public good is the benefit of the group as a whole, independent and separate from its formation[83].

It is noted that the court did not set an accurate definition of the public interest, but rather defined its framework and restricted its system to achieve the interest of the community.

The administrative judiciary in Egypt adopted the theory of multiple interests. In its judgment issued in 1984, the court ruled that "the principle in the administration's activity is that it targets the public interest, and the essence of the public administration's function is to satisfy public needs in order to achieve this goal. Therefore, the administration must issue its actions take into account that public interest and suit it ... "[84]

Based on this ruling, the Administrative Court ruled in 1992 the same ideas and principles contained in the ruling of the aforementioned Administrative Court, but without abandoning its idea of establishing a balance between the multiple interests, as it was stated in the merits of its ruling that "the administration must issue in its actions accordingly. It takes into account the balance between the different public interests, the runways, the weight and the importance, as required by the constitution and the law[85].

We believe that the idea of the multiplicity of public interests and their inclusion is an illogical idea because of the dangerous effects it entails, the most important of which is the administration's invocation of the right to define the higher-ranked public interest and then empower it with discretionary power in the sphere of the purpose of its actions, and that the administration must achieve the public interest without having absolute freedom In the differentiation between interests, because the public interest is based in its essence on achieving justice[86].

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[٨٣] طعن رقم ٥٦٥ لسنة ٢٠ ق، جلسة ٣/٧/١٩٦٩، مجموعة أحكام المحكمة في ثلاث سنوات، ص ٨٧٠.

[٨٤] طعن رقم ١٦٨١، لسنة ٣٨ ق، صدر في ١٥/٣/١٩٨٤، مجلس الدولة – المكتب الفني – مجموعة المبادئ القانونية التي قررتها المحكمة الإدارية العليا السنة السادسة والثلاثون – العدد الثاني (من أول مارس سنة ١٩٩١ إلى آخر سبتمبر سنة ١٩٩١) – صـــ ٧٢٤

[٨٥] طعن رقم ٣٢٣٦ لسنة ٤٠ ق، صدر في ١٦/٧/١٩٩٢ ، مجلس الدولة – المكتب الفني – مجموعة المبادئ القانونية التي قررتها المحكمة الإدارية العليا السنة السابعة والثلاثون – العدد الأول (من أول أكتوبر سنة ١٩٩١ إلى آخر فبراير سنة ١٩٩٢) – صـــ ٨٠١

[٨٦] علي خطار شطناوي: الوجيز في القانون الإداري، مرجع سابق، ص١٤٧

Based on the above, it is necessary to balance between the public interest and the private interest and the weighting between them, not the balance between public interests, for administrative decisions enjoy the presumption of safety and health and are supposed to target the public interest unless proven otherwise, and this is a difficult matter in many cases, due to the connection of the purpose element From the administrative decision of the purposes, intentions and motives of its issuer. Therefore, we find that the administrative judge when he observes and examines the administrative decision is keen to first examine the elements of jurisdiction, reason and place, because they are objective external elements.

In sum, three conditions must be met in the public interest:

a. That the interest is real, not imaginary or hypothetical.

B. That the interest is public, not personal.

C. That the interest is based on the legislation in force in the state.

In a recent ruling of the Abu Dhabi Federal Court of First Instance in the UAE, it ruled to cancel the administrative decision issued by the Ministerial Council for Services related to the termination of the services of a citizen mentor who holds a doctorate degree in the Ministry of Education (whose service extended for 27 years) and to return him to his job in the Ministry and pay all his financial dues. The ruling stated that the termination decision, which was justified by the Ministerial Council for the Public Interest, violates the law[87].

**The Second Section Termination for job inefficiency and health fitness**

We will try to become familiar with it through the following division:

**First - Termination for Job Inefficiency**

The legislation on public office in France did not specify what is meant by professional insufficiency as one of the reasons for dismissal from the public office, nor did it specify cases of professional insufficiency, and given the seriousness of this method of separating employees and distinguishing it from other cases, the French legislator has placed some legislative guarantees on this type From dismissing public employees without a disciplinary method, the most important of which are:

1. It is not permissible to dismiss a public employee due to professional insufficiency except after observing and respecting the disciplinary measures in place, especially informing the employee about his file and enabling him to defend himself.

[87] عبد الحميد كمال حشيش، مبادئ القضاء الإداري، مرجع سابق، ص١٩٩

2. The decision to dismiss the public employee due to professional insufficiency is not enforceable except after the administration's inability to accommodate him, reclassify him into another job or refer him to retirement.
3. Financial guarantees, especially financial compensation resulting from the dismissal of a public employee due to professional insufficiency.
4. Administrative judiciary oversight of dismissal decisions from both sides (material facts and legal adjustment).
In the United Arab Emirates, Article 108 of Federal Decree-Law No. 11 of 2008 clarified the general provisions for the termination of a public employee's service due to job inefficiency as follows:
1. It is permissible, by a decision of the minister or head of the federal entity, to terminate the employee's service due to job inefficiency, in the event that he obtains an annual evaluation according to the level determined by the performance management system for this purpose.
2. The employee must be given a written notice of three months in order to improve his performance and it is required that his performance continues to be weak during that period.
3. In all cases, it is required that the employee be given a notice period for a period of two months and that all financial dues be paid to him.
Thus, the public employee's disability and his job or professional deficiency that appears through his behavior and actions while performing his job duties or because of them, and whether this behavior is public or private, is taken into account when dismissing the employee because of professional insufficiency, and the situation is hardly different for workers in institutions And private companies, where the worker's disability or professional shortcomings is the criterion that is considered in most cases for his dismissal from his work, in order to maintain the good functioning and performance of these institutions or companies and for their economic and financial interest, especially since these institutions or companies mainly target profit, i.e. achieve their interests own[88].

**Second Termination for Lack of Health Fitness**

Health unfitness means (inability to carry out the duties of the job for health reasons). Article 107 of Federal Decree-Law No. 11 of 2008 clarified the general provisions for the termination of a public employee's service due to lack of health fitness as follows:

[88] علي خطار شطناوي: الوجيز في القانون الإداري، مرجع سابق، ص١٥٦

1. The LocalEmployee's Service is terminated for health reasons in accordance with the provisions and procedures applied by the General Authority for Pensions and Social Security, based on the laws in force in this regard.
2. The authority concerned with appointment may terminate the services of a non-national employee if the medical committee proves that he is not fit to health and perform the burdens of his job.
3. In all cases, it is required that the employee be given a written notice of two months or that his services are terminated directly with the basic salary paid for the two months.
Generally speaking, the decision to terminate the service of a public employee due to lack of health fitness may only be made after the sick employee has exhausted all his sick leave scheduled based on the legislation in force in this regard, and a reasoned decision is issued by the competent medical reference explaining the employee's inability to carry out the burdens of his job for health reasons.

**Conclusion**

The public employee is considered the direct tool for implementation within the state, which enables it to achieve its goals, and for this reason the Emirati legislator (federal and local) has given it great importance within its subjects, and since the state is a public legal person, it cannot perform its role in the administrative apparatus except through a natural person He carries out and expresses her will and he is the public employee, and because the relationship of the public employee with the administration is temporary and not permanent, it expires either by a decision of the administration based on its desire by following disciplinary procedures, or at the request of the public employee, or it lapses according to the rule of law, and the consequences that follow on the employee, the administration and the rights-holders, who are the parties to the problem of the subject of study, and the set of legislative laws regulating them are the guarantor of achieving this problem naturally that guarantees the rights of all parties regarding the extent to which the employee is disciplined after leaving the service for errors and violations committed during the service, and the extent to which the employee may be reappointed Who left the service, and the extent of the prescription of the public employee's rights due to him with the administration.
The public employee joining the job and performing the job duties entrusted to him according to the establishment of a legal relationship between him and the administration he follows, and this legal relationship is what determines the rights and duties of the two parties to the relationship,

namely the employee and the state, and there is no doubt that the employee is the mainstay of the state's administrative apparatus. To enact disciplinary "disciplinary" laws to face administrative violations committed by employees.

The United Arab Emirates has sought to find a distinct system for the public office that is closer to fairness, objectivity and transparency, so the UAE Law No. (11) of 2008 AD amended by Federal Decree Law No. (9) of 2011 regarding human resources in the federal government came as a general basic system for the public office and the organization The employee's relationship with the state in terms of appointment, stating his rights and duties, reasons for ending his service, and others.

I have chosen the subject of my study to deal with one of the aspects related to the public employee, which is the topic (the end of service of the public employee and its legal effects), in order to clarify the legal system that governs this topic in all UAE law (federal and local),

Abstract :

In this research we dealt with the topic of the end of the employment relationship in light of the Emirati legislation and judiciary, which we divided into two researches. In the first section, we dealt with one of the reasons for the end of the employee's employment relationship, which is the referral to retirement, which is either by the natural way in which the employee's will has no income, which is the referral to retirement by reaching the legally determined age which is In it, the Emirati legislator made a distinction between men and women, making it for men Sixty years, while for women fifty-five years. There is also another reason, which is referral to retirement before reaching the legal age for retirement (abnormal retirement), with the aim of restructuring or replacement or non-renewal or termination of the private contract Before the expiry of its period and finally the dismissal by a court ruling, one of the important implications of the decision to terminate the service of a public employee to reach the age of retirement is the severing of the functional bond between the employee and the management, and we also dealt with another reason for the end of the employee's employment relationship, which is the write-off due to death and the consequent effects, whether against the administration. Used or for those with the rights of the deceased employee.

In the second topic, we talked about the end of the job relationship due to layoffs, resignation and dismissal, so we devoted the first requirement to talk about layoffs, and we distinguished between disciplinary dismissal of the public employee, which is one of the cases in which jurisprudence, the judiciary and legislation unite in its legitimacy, as well as the non-disciplinary dismissal of the public employee due to either the public employee's loss of nationality. Or the public employee's loss of his civil rights, then we talked about the end of the employment relationship due to resignation in light of the availability of the conditions set

by the federal legislator, which may be explicit or by the force of law once the employee ceases to work for a certain period. We devoted the third requirement to talk about the end of the employment relationship due to dismissal, which is based on the requirements of the public interest or for job inefficiency and health fitness, then we concluded the study with a set of results and recommendations.

**ملخص البحث بالغة العربية**

تناولنا في هذا البحث موضوع نهاية العلاقة الوظيفية على ضوء التشريع والقضاء الإماراتيين والذي قسمناه إلي بحثين تناولنا في المبحث الأول أحد أسباب نهاية العلاقة الوظيفية للموظف وهو الإحالة للتقاعد والذي يكون إما بالطريق الطبيعي والتي لا دخل لإرادة الموظف فيها وهو الإحالة إلي التقاعد ببلوغ السن المقررة قانونا والذي ميز فيه المشرع الإماراتي بين الرجال والنساء فجعله للرجال ستون سنة بينما للنساء خمسة وخمسون سنة كما أن هناك سبب آخر وهو الإحالة على التقاعد قبل بلوغ السن القانونية للتقاعد (الإحالة غير الطبيعية على التقاعد) وذلك بهدف إعادة الهيكلة أو الإحلال أو عدم تجديد العقد الخاص أو فسخه قبل انتهاء مدته وأخيراًالعزل بحكم قضائي ومن الآثار المهمة التي تترتب على قرار إنهاء خدمة الموظف العام لبلوغه سن التقاعد هو انقطاع عرى الرابطة الوظيفية بين الموظف والإدارة، وكذلك تناولنا سبب آخر من أسباب نهاية العلاقة الوظيفية للموظف وهو الشطب بسبب الوفاة وما يرتبه من آثار سواء بحق الإدارة المستخدمة أو بالنسبة لذوي حقوق الموظف المتوفى.

وتحدثنا في المبحث الثاني عن نهاية العلاقة الوظيفية بسبب التسريح والاستقالة والعزل فخصصنا المطلب الأول للحديث عن التسريح وفي ميزنا بين التسريح التأديبي للموظف العام وهو من الحالات التي يجمع على شرعيتها كل من الفقه والقضاء والتشريع وكذلك التسريح غير التأديبي للموظف العام وذلك بسبب إما فقدان الموظف العام للجنسية أو فقدان الموظف العام لحقوقه المدنية ثم تحدثنا في المطلب الثاني عن نهاية العلاقة الوظيفية بسبب الاستقالة في ضوء توافر شروطها التي حددها المشرع الإتحادي والتي قد تكون صريحة أو بقوة القانون بمجردإنقطاع الموظف عن العمل مده معينة . وخصصنا المطلب الثالث للحديث عن نهاية العلاقة الوظيفية بسبب العزل والذي يكون بناء علي مقتضيات المصلحة العامة أو لعدم الكفاءة الوظيفية واللياقة الصحية ثم ختمنا الدراسة بمجموعة من النتائج والتوصيات.

**Key words :**
The end of the functional relationship- the referral to retirement- cancellation due to death- Layoff- resignation – Isolation.

**FIRST- RESULTS:**

1. That there are two basic principles that appear in the field of the public employee's service termination, namely: The first is that the employee’s association with the administration is not eternal, although the public office is considered a profession that the employee has discontinued,

and the second is that the relationship between the public employee and the administration does not end on its own. This is based on the verification of one of the legal or administrative reasons identified by the legislator, exclusively for the end of the public employee's service, whether by disciplinary or other than by disciplinary means.

2. The employee in his relationship with the administration is subject to the provisions of the public office with the continuous rights and obligations imposed by the provisions of laws and regulations pertaining to employment, and it follows from this organizational relationship that the management can amend some of the benefits or obligations of the employees without referring to the employee, even if these amendments are Subsequent to the decision to appoint employees.

3. If the employee dies during his service with the Ministry, a natural death or as a result of an accident outside the workplace - not resulting from suicide - the Ministry shall pay one payment to the person who specified him in writing before his death, which is equivalent to the total salaries for three months in addition to the total salary of the month in which the death occurred in full and others Of the dues stipulated in this Decree-Law.

4. The service of the public employee ends with the issuance of a court ruling by a competent court (Sharia courts), which stipulates the establishment of the employee's absence.

The rules of Islamic Sharia are applied in this field in terms of the period of absence, the conditions for verifying the absence, and others.

5. Disciplinary dismissal is one of the largest disciplinary penalties, and for this reason the legislator has surrounded it with special protection, whereby the authority of disciplinary dismissal is assigned to an equal member committee with the employee being given guarantees to defend himself.

The layoff is adapted according to the severity of the error, as it can be with prior notice and compensation or without prior notice and without compensation.

6. The employee's loss of his freedom due to a judicial ruling or precautionary measure (preventive suspension), or a sentence depriving him of freedom, such as imprisonment or expired imprisonment, where the employee is placed in a situation where it is impossible for him to exercise his duties leads to the termination of his employment relationship. To his work position with compensation for the period of precautionary detention if necessary.

7. Resignation is one of the reasons for the termination of the functional bond between the employee and the management before its due date.

The type of resignation varies according to the number of employees who wish to submit it. If it is submitted by one employee, it is an individual resignation.

8. A public employee's service ends if a decision is issued by the competent authority (the minister or whoever delegates him) to refer him to retirement before reaching the retirement age (the age of sixty). The competent authority may assess that matter without forcing it to give reasons.

**Second- Recommendations:**

1. The penalty disciplinary eventually must be consistent with the requirement of the law due procedures be followed if the discipline of civil servants, namely the need to follow the procedural legality in the discipline to ensure that the disciplinary decision and avoid the management of the fate of its abolition, considering that these actions constitute a planned guarantees for the benefit of taxable discipline must The disciplinary authority is respected.

2. Prohibition of the legislator signing of the penalty on the employee only after the investigation with him and hear his words and the achievement of his defense, and the wisdom of asking conduct this investigation is an employee note of what is attributed to him briefing, and enable him to defend himself before the signing of the penalty on it, and the consequent should call the employee subject Questioning him and confronting him with what is being taken against him, discussing the evidence witnesses and hearing those who see their martyrdom among the prosecution witnesses.

3. Work must be made to legalize the largest possible amount of disciplinary violations, especially disciplinary violations common to all employees of federal ministries and subject to Federal Human Resources Law No. 11 of 2008 AD, by compiling disciplinary violations and arranging them in regulations, and choosing a list of appropriate disciplinary penalties.

Proper disciplinary action requires restricting disciplinary violations, informing the employee of the set of duties and prohibitions within the scope of the public office, and not leaving the criminalization order to the discretion of the presidential authority, without specific and studied controls issued specifically for this purpose.

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