

Tanzania

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General labour market trends and latest/likely trends in employment litigation

Employment and labour matters in Tanzania are governed by the Employment and Labour Relations Act, Act No 2004 (ELRA), the Labour Institutions Act No 7, 2004 (LIA) and the Employment and Labour Relations (Code of Good Practice) Rules, G.N. No. 42 of 2007 (ELRA Rules). The ELRA Rules were enacted in 2007 to facilitate the enforcement of labour rights and standards contained in the ELRA. The Labour Court Rules, G.N. No. 106/2007, provide for labour court proceedings concerning employment litigation. Laws pertaining to employment were enacted to provide for substantive rights and duties of workers as well as procedures for enforcing those substantive rights.

The ELRA guarantees core rights and protection of employees' rights, minimum employment standards, registration of trade unions and association, a framework for collective bargaining as well as rights to strike and lockout.

The LIA provides the institutional machinery to operationalise the ELRA. In this regard, the LIA establishes: the Labour, Economic and Social Council (LESCO) as an advisory body on all labour matters; the Labour Commission for Mediation and Arbitration (CMA) as a core dispute resolution mechanism; the Labour Court as a division of the High Court; and the Wage Board as an advisory body on remuneration and conditions of employment.

The application of ELRA excludes members, whether temporary or permanent, in the service of the Tanzania Peoples' Defence Forces, the Prisons Service or the National Service. However, matters pertaining to child labour, forced labour and discrimination, as per the provisions of the ELRA, apply to forces as per Section 2 of the ELRA. The ELRA aims to promote economic development through economic efficiency, productivity and social justice, provide the legal framework for effective and fair employment relations, and minimum standards regarding conditions of work.

Key case law affecting employers' decision making over dismissals, redundancies dismissals etc.

In case of termination of employment by employer, the employer is required to:

1. comply with the provisions of the employment contract relating to termination;
2. comply with the provisions of Sections 41 to 44 of the ELRA concerning notice, severance pay, transport to the place of recruitment and payment;
3. follow a fair procedure before terminating the contract; and
4. have a fair reason to terminate the employment.

In the case of *Godfrey Rwekiza & 11 Others v. Stanley Mining Services (T) LTD Original CMA/MZ/06/2009*, the court revised the decision made by the Labour Commission for Mediation and Arbitration on the claim pertaining to unfair termination and underpayment of salary. Counsel for the applicant submitted that proper procedures for termination on grounds of retrenchment were not adhered to as provided for under Section 38(1) of the ELRA. The procedure followed was specifically faulted for: 1) failure to give adequate and timely notice; 2) lack of consultation on all the aspects covered by law; and 3) failure of consultation to result in agreement. Upon revision, the decision rendered was that the arbitrator's decision was confirmed. The applicant's termination of

