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Rwanda

Employment and Labour Law

Contributor

Liedekerke

Aimery de Schoutheete

Partner | a.deschoutheete@liedekerke.com

Chloé Stassart

Senior Associate | c.stassart@liedekerke.com

Valence Rukesha

Senior Associate | v.rukesha@liedekerke.com

Isaac Rwapasika

Associate | i.rwapasika@liedekerke.com

This country-specific Q&A provides an overview of employment and labour laws and regulations applicable in Rwanda.

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Rwanda: Employment and Labour Law

1. Does an employer need a reason to lawfully terminate an employment relationship? If so, state what reasons are lawful in your jurisdiction?

Yes. Under Rwandan law, an employer needs a legitimate reason to lawfully terminate an employment relationship, but the law does not define such reasons.

The law n° 66/2018 of 30 August 2018 relating to labour in Rwanda (the Labour Code) as amended by the law n° 027/2023 of 18/05/2023 (the Law amending the Labour Code) nevertheless provides specific grounds under which an employment contract can validly be terminated.

Under article 21 of the Labour Code, an employment contract may be terminated for economic or technical reasons. Upon informing the employees' representatives, an employee may dismiss employees individually or collectively for internal re-organization or re-structuring due to economic reasons or technological transfer aiming at preserving the entity's competitiveness. The employee must notify the competent labour inspector of such termination.

Employment contracts may also be terminated as a disciplinary measure. Article 42 of the Labour Code provides dismissal of an employee as one of the disciplinary sanctions that may be imposed on an employee for misconduct subject to provisions of collective conventions, rules of procedure or employment contracts and depending on the weight or severity of the misconduct. For example, an employment contract may be terminated without notice due to gross misconduct (article 26 of the Labour Code).

Another ground for termination of an employment contract under the Labour Code is dismissal of an employee as a result of occupational accident if a recognized doctor declares that the employee is unfit to resume the service in the employment held prior to the accident and cannot thus resume such employment (article 19 of the Labour Code).

In accordance with the provisions of the Labour Code, an employer can terminate an employment contract of an employee if such employee has been on a non-payable work suspension for 3 (three) months following a payable 3 (three) months' leave (article 55 of the Labour Code).

A fixed-term employment contract can be terminated by an employer and an employee by mutual consent (article 28 of the Labour Code). The Labour Code is silent on the possibility to terminate an open-ended employment contract by mutual consent, but such mutual consent terminations are acceptable in practice.

According to article 13 of the Labour Code, upon completion of a probation period when the employer evaluates the employee and the evaluation report provided in writing proves that the employee is not competent for the job, the employee's contract may be terminated without providing a notice period.

Other grounds of termination of an employment contract (legitimate reasons) may be set forth under an employment contract, employer's rules of procedure or collective agreements/conventions.

In practice, employers are required to mention the reasons for dismissal in writing in the notice letter and must be able to prove them in case of legal proceedings.

2. What, if any, additional considerations apply if large numbers of dismissals (redundancies) are planned? How many employees need to be affected for the additional considerations to apply?

Under the Labour Code (article 21), an employer contemplating to dismiss employees individually or collectively for economic or technical reasons (see answers to question 1 above), must put employees on the list of employees to be dismissed based on performance, professional qualification, experience in the enterprise/entity, taking into account the legally recognised dependants of each employee. Before starting such a process, the employer must inform employees' representatives and then notify the competent labour inspector (of the district where the entity is physically located).

Rwandan law is silent about the number of employees that need to be affected for any additional considerations to apply when large numbers of dismissals are planned.

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3. What, if any, additional considerations apply if a worker's employment is terminated in the context of a business sale?

Although Rwandan law is not quite elaborate on aspects of mergers and acquisitions, the Labour Code states that in case of modification of the employer's legal status, the ongoing employment contracts at the date of the modification remain valid between the new employer and the existing employees of the previous employer. This therefore applies in case of mergers and acquisitions, and termination of such contracts may only occur under the normal conditions provided for by the Labour Code.

4. Do employees need to have a minimum period of service in order to benefit from termination rights? If so, what is the length of the service requirement?

Yes. According to the Labour Code, an employee on probation has no right to a termination notice if the employment contract is termination during or at the end of the probation period (article 24). Besides, such an employee does not have a right to any terminal benefits (article 13). The probation period is normally 3 (three) months, but it can be extended to 6 (six) months maximum (article 13).

5. What, if any, is the minimum notice period to terminate employment? Are there any categories of employee who typically have a contractual notice entitlement in excess of the minimum period?

The Labour Code provides that subject to the provisions of the collective agreement, rules of procedures or the employment contract, the notice period for an employee who has worked for the employer for less than 1 (one) year should be at least 15 (fifteen) days and at least 30 (thirty) days for an employee who has worked for the employer for more than 1 (one) year. However, Rwandan labour law does not specify any category of employees who typically have a contractual notice entitlement in excess of the minimum period mentioned above. As such, any notice period in excess of the minimum period required by the law will be contractual in nature.

6. Is it possible to make a payment to a worker to end the employment relationship instead of giving notice?

Yes. Article 25 of the Labour Code states that subject to collective agreements, rules of procedure, or employment contract, any contract termination without notice or without having fully observed the notice period results in the party responsible for termination (employer or employee) paying the other party the indemnity in lieu of notice. In practice, employers can decide to pay an indemnity in lieu of notice instead of requiring the dismissed employee to perform his/her notice period.

7. Can an employer require a worker to be on garden leave, that is, continue to employ and pay a worker during their notice period but require them to stay at home and not participate in any work?

Rwandan labour law is silent on garden leave. However, in practice, employers prefer to pay the indemnity in lieu of notice and let the employee leave immediately if the employer does not want the employee to perform his/her notice period. Garden leaves are not frequent in Rwanda, yet not strictly prohibited.

8. Does an employer have to follow a prescribed procedure to achieve an effective termination of the employment relationship? If yes, describe the requirements of that procedure or procedures.

Yes, general requirements apply to the termination of employment contracts, and specific provisions apply to the termination for gross misconduct or for economic reasons.

Termination of an employment contract for a legitimate reason that is not a gross misconduct, is subject a termination notice of 15 (fifteen) or 30 (thirty) days (or an indemnity in lieu) depending on the employee's period of occupation for the employer. The employer must notify the termination in writing, clearly stating the reasons for the dismissal. During the notice period, the dismissed employee is allowed to be absent from work one day per week to be able to look for a new job.

With regard to dismissals for gross misconduct, the Ministerial Order n° 002/19.20 of 17 March 2020 establishing the list of gros misconduct (Ministerial Order on Gross Misconduct) lists the conducts that constitute a gross misconduct for which an employee's employment relationship can be terminated without notice. In such case, the employer must notify the employee of the

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termination within 48 (forty-eight) hours from the time the event causing termination happened and specify the grounds for the termination (article 26). The Labour Code allows an employer to add other conducts, actions or omissions that constitute gross misconduct. However, such additional list of gross misconduct can only be implemented upon approval by the Minister in charge of labour and public service and upon incorporation of such a list in the entity's rules of procedure (for entities required to put rules of procedure in place) and notification of such list in writing to the employees.

The Labour Code also lays down the procedure and requirements for termination of an employment contract for economic or technical reasons. An employer contemplating to terminate of an employment contract due to economic or technical reasons follows the procedure determined by the Labour Code. According to article 21 of the Labour Code, an employee is considered to have been dismissed if he/she has been laid off once or twice for a period of 90 days for economic or technical reasons and the procedure for such dismissal is the same as termination of an employment contract where no such suspension is done. An employee whose employment contract is terminated for economic or technical reasons receives terminal benefits which must be paid within 7 working days from the date of dismissal in accordance with the Labour Code (article 31). Prior to any individual or collective dismissal of employees for economic or technical reasons, the employer is required to first inform employees' representatives of such dismissal and inform in writing the competent labour inspector. In deciding on which employees to be dismissed for economic or technical reasons, the employer must consider the employee's performance, professional qualification, experience in the entity/enterprise as well as the legally recognized dependants of each employee (article 21). According to article 22 of the Labour Code, if upon dismissing employees for economic or technical reasons the employee needs to fill in a position which any of the dismissed employees qualifies for, the employer must consider that dismissed employee and reinstate him/her without subjecting such employee to any competition.

9. If the employer does not follow any prescribed procedure as described in response to question 8, what are the consequences for the employer?

If the employer does not follow the procedures outlined in question 8 above, such termination of employment shall be considered an unfair dismissal and will attract damages (from 3-6 (three to six) months' net salary which may go up to 9 (nine) months' net salary if the employee has been in the employment for more than 10 (ten) years) as per article 30 of the Labour Code. For employees' representatives, occupational health and safety committee members and trade union representatives dismissed for fulfilling their duties, they are entitled to damages amounting to up to 9 (nine) months of net salary, regardless of their years of service.

10. How, if at all, are collective agreements relevant to the termination of employment?

The Labour Code refers to collective agreements in most of the provisions related to termination of an employment contract, stating that the provision applies subject to the provisions of collective agreement, as well as rules of procedure or employment contract (e.g. calculation of the notice period, indemnities in case of dismissal for economic reasons or disciplinary sanctions). Consequently, the provisions of applicable collective agreements that are more favourable to employees than those provided for in the Labour Code will prevail.

11. Does the employer have to obtain the permission of or inform a third party (e.g local labour authorities or court) before being able to validly terminate the employment relationship? If yes, what are the sanctions for breach of this requirement?

In principle, there is no requirement under Rwandan labour law for the employer to obtain permission of a third party such as local labour authorities or court before terminating an employment contract. There is however one exception to this principle, as employers must first inform employees' representatives and the competent labour inspector in writing upon termination of employment contracts for economic reasons (article 21 of the Labour Code). The Labour Code is silent on the sanctions for failure to inform the employees' representatives or the labour inspector.

12. What protection from discrimination or harassment are workers entitled to in respect of the termination of employment?

Article 8 of the Labour Code protects an employee who reports or testifies on sexual harassment committed by his/her supervisor. This article states that it is prohibited to dismiss such an employee and that should there be tangible evidence that an employee has resigned due to sexual harassment committed against him/her by his/her

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supervisor, such resignation will be considered as an unfair dismissal, leading to damages amounting to between 3 (three) and 6 (six) months of net salary, or up to 9 (nine) months of net salary if they have more than 10 (ten) years of experience with the same employer.

With regard to discrimination, the Labour Code states that an employer must give employees equal opportunities at the workplace. An employer is prohibited from discriminating against employees on the basis of ethnic origin, family or ancestry, clan, skin colour or race, sex, region, economic categories, religion or faith, opinion, fortune, cultural difference, language, physical or mental disability, or any other form of discrimination. The Labour Code is silent about a protection from discrimination in respect of the termination of the contract, but it is reasonable to consider that the principle of non-discrimination applies to the entire duration of the employment contract and to its termination.

13. What are the possible consequences for the employer if a worker has suffered discrimination or harassment in the context of termination of employment?

Nothing is mentioned in the Labour Code in this respect, but it may reasonably be assumed that it is the employee invoking discrimination who must prove that they are effectively a victim of discrimination, and that employees could claim compensation before courts for unfair dismissal.

14. Are any categories of worker (for example, fixed-term workers or workers on family leave) entitled to specific protection, other than protection from discrimination or harassment, on the termination of employment?

Yes, the Labour Code provides for 3 (three) other specific protections against dismissal:

- A female employee who has given birth is protected against dismissal during her maternity leave (article 61 of the Labour Code),
- Employees' representatives, occupational health and safety committee members and trade unions' representatives are protected against dismissal based on fulfilment of their duties (article 30 of the Labour Code),
- Employees who have been victims of an occupational accident cannot be dismissed, unless a recognised doctor has declared them unfit to resume service in the employment they held prior to the accident (article 19 of the Labour Code).

Dismissals in breach of these protections will be deemed unfair dismissals, entitling the employees to damages amounting to between 3 (three) and 6 (six) months of net salary, or up to 9 (nine) months of net salary if they have more than 10 (ten) years of experience with the same employer. For employees' representatives, occupational health and safety committee members and trade union representatives dismissed for fulfilling their duties, they are entitled to damages amounting to up to 9 (nine) months of net salary, regardless of their years of service.

Finally, and more generally, the Labour Code prohibits employers from dismissing an employee when he/she is on leave, and during a period of suspension of the employment contract (article 24).

15. Are workers who have made disclosures in the public interest (whistleblowers) entitled to any special protection from termination of employment?

Yes. Article 11 of the law no 44 bis/2017 of 06 September 2017 relating to protection of whistle blowers (the Law on Protection of Whistle Blowers) prohibits victimisation of a whistle blower, including his/her dismissal in case he/she is identified unless it is demonstrated that that disclosure was made in circumstances contrary to the law. According to article 17 of the Law on Protection of Whistle Blowers, any authority who victimises an employee that discloses information on offences, illegal acts or behaviour commits an offense. If convicted, he/she is liable to a term of imprisonment of between 3 (three) and 5 (five) years and a fine amounting between 1,000,000 (one million) and 2,000,000 (two million) Rwandan Francs.

16. In the event of financial difficulties, can an employer lawfully terminate an employee's contract of employment and offer re-engagement on new less favourable terms?

Yes. As mentioned in questions 1, 2 and 8 above, the Labour Code allows for termination of an employment contract for economic reasons, which includes financial difficulties of the enterprise. The Labour Code rules that in the event the employer recruits again a dismissed employee within 6 (six) months from the date of the contract termination, the dismissed employee has the right to be reinstated by the employee without going

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through any competition. Although the Labour Code does not specify the employment terms in case of reinstatement, in practice, it happens that an employer re-engages the employee on new, less favourable terms.

17. What, if any, risks are associated with the use of artificial intelligence in an employer's recruitment or termination decisions? Have any court or tribunal claims been brought regarding an employer's use of AI or automated decision-making in the termination process?

Rwandan labour law is silent on the use of artificial intelligence in an employer's recruitment or termination decision, and we are not aware of any court claims regarding an employer's use of artificial intelligence or automated decision-making in the termination process.

18. What financial compensation is required under law or custom to terminate the employment relationship? How is such compensation calculated?

Termination of an employment contract for economic reasons or technical reasons/technological transfer as well reasons of sickness requires the employer to give terminal benefits to the employee on condition that the employee has served the enterprise (the employer) for at least 12 (twelve) consecutive months. An employee on probation has no right to terminal benefits.

The Labour Code further prescribes the way such terminal benefits are calculated as follows:

- not less than 2 (two) times the average monthly salary for the employee having less than 5 (five) years of service with the same enterprise
- not less than 3 (three) times the average monthly salary for the employee having between 5 (five) and 10 (ten) years of service with the same enterprise
- not less than 4 (four) times the average monthly salary for the employee having between 10 (ten) and 15 (fifteen) years of service with the same enterprise
- not less than 5 (five) times the average monthly salary for the employee having between 15 (fifteen) and 20 (twenty) years of service with the same enterprise
- not less than 6 (six) times the average monthly salary for the employee having between 20 (twenty) and 25 (twenty-five) years of service with the same enterprise
- not less than 7 (seven) times the average monthly salary for the employee having over 25 (twenty-five) years of service with the same enterprise

The average monthly salary is obtained by dividing by 12 (twelve) the total salary the employee has received for the last 12 (twelve) months exclusive of allowances allocated to the employee to enable him/her to perform his/her duties.

19. Can an employer reach agreement with a worker on the termination of employment in which the employee validly waives his rights in return for a payment? If yes, in what form, should the agreement be documented? Describe any limitations that apply, including in respect of non-disclosure or confidentiality clauses.

Yes. Rwandan labour law does not prohibit employers from entering into an employment termination agreement and the law is silent on the terms of such an agreement. As such, such terms and conditions in the employment termination agreement (sometimes referred to as amicable separation agreement) including waiver of any rights are contractual and agreed upon between the employer and the employee.

The employer and the employee would normally negotiate the payment to be given to the employee and the latter will confirm that he/she has received all that he/she is entitled to and commit not to claim anything else from the employer.

There are customarily no particular limitations that would apply such as non-disclosure or confidentiality clauses other than the typical confidentiality clause common in any other agreements.

20. Is it possible to restrict a worker from working for competitors after the termination of employment? If yes, describe any relevant requirements or limitations.

Yes. Although there are no provisions regarding non-compete clauses in Rwandan labour law, the general principles of civil and contract law apply. Therefore, it is possible to restrict a worker from working for competitors after the termination of employment. As such, employers are at liberty to include non – compete clauses in the employment contracts and such clauses are valid on the basis of contract law principles and are binding between the employer and the employee.

In the absence of statutory restrictions or requirements, the employer and the employee agree on all relevant aspects in the employment contract.

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21. Can an employer require a worker to keep information relating to the employer confidential after the termination of employment?

Yes. Nothing is provided under the Labour Code, but employers customarily include such confidentiality and non-disclosure clauses in employment contracts and the wording normally includes keeping such information the employee obtained during his/her work within the enterprise confidential for a certain number of years following termination of the employment contract.

22. Are employers obliged to provide references to new employers if these are requested? If so, what information must the reference include?

No. Employers are not obliged to provide references to new employers. Hence, if a new employer requests for such references, the previous employer remains free to provide it. The Labour Code only requires an employee to issue a certificate of rendered services when the employment contract expires or is terminated and within 15 days from the date the employee requests for it in writing. Such certificate must exclusively mention the date of entry into the employment and the date of leaving the employment as well as the nature of the job or positions held by the employee.

23. What, in your opinion, are the most common difficulties faced by employers in your jurisdiction when terminating employment and how do you consider employers can mitigate these?

In Rwanda, employers usually struggle with observing termination procedures in the process of terminating employment contracts. For example, employers fail to do the following:

- provide the required notice period.
- inform the labour inspector in case of termination of an employment contract/dismissal of employees for economic reasons/redundancy and providing the required terminal benefits as required by the law.
- respect the procedure provided by rules of procedure, employment contract or collective agreements.
- issue a certificate of rendered services upon request by an employee after termination or delay to provide the certificate within the required timeline or fail to include all the information required by the Labour Code; and
- Ensure that the act/conduct of the employee constitute gross misconduct in case of a summary dismissal.

To mitigate the above difficulties, employers should seek legal opinion and engage a legal or labour/employment expert to advise on the required process and documentation. It would also be prudent to keep the labour inspector engaged to advise on any matter the employer is not crystal sure about and keep the labour inspector informed of the process.

24. Are any legal changes planned that are likely to impact the way employers in your jurisdiction approach termination of employment? If so, please describe what impact you foresee from such changes and how employers can prepare for them?

We are not aware of such changes at this point. However, there have been complaints regarding abuses in terminating employment contracts for workers in the inform sector such as house workers (house boys and maids) but we are not aware of any work in progress to resolve such complaints.

Contributors

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Aimery de Schoutheete
Partner
a.deschoutheete@liedekerke.com



Chloé Stassart
Senior Associate
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Valence Rukesha
Senior Associate
v.rukesha@liedekerke.com



Isaac Rwapasika
Associate
i.rwapasika@liedekerke.com



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