

The Pandemic: Covid-19 and Employment

The Covid-19 pandemic has caused a disheartening impact across the globe. It has created unprecedented havoc causing a decline in a business revenue, pay cut, loss of jobs and even insolvency.

As a result of this drastic change, employers and employees strive to comprehend how to manage their responsibilities effectively under their contract this period.

According to the United Nations and Development Agency (UNCTAD), the cost of the pandemic globally is approximately US\$2 trillion in 2020 because of the negative impact caused by the pandemic. The last unemployment report released by the National Bureau of Statistics (NBS) ranks Nigeria 21st among 181 countries with an unemployment rate of about 23.1%. Unfortunately, with the world pandemic, an increase in percentage is expected to 33.5%. Accordingly, by the ILO, there is potential growth in global unemployment of between 5.3 million ("low" scenario) and 24.7 million ("high" scenario) from a base level of 188 million in 2019. The "mid" scenario suggests an increase of 13 million (7.4 million in high-income countries).

As a result of the world pandemic and the unfavourable effect on the economy, a new bill Emergency Economic Stimulus Bill, 2020 (the "Bill") is currently being considered in the National Assembly for subsequent approval and Presidential assent.

It is an intensive effort on the part of the government to provide economic support to the Nigerian population to aid them during the pandemic. The bill seeks to protect the employment status of Nigerians who might otherwise become unemployed because of businesses decisions to cut work force owing to the prevailing economic realities orchestrated by the covid-19 pandemic. It provides tax-based incentives for companies to keep employees on the payroll for as long as possible even when faced with harsh commercial realities.

As the scourge continues to decimate both the human and business spaces creating unprecedented disaster, below are some of the implications due to Covid 19 pandemic

- Remote Working – This arrangement allows employees to perform work in an alternative location other than their place of work. Employees are expected to observe the normal working hours.
- Workplace Safety – For essential workers where work must be performed in their place of work, it is an employers' responsibility to ensure safety of his/her employees.
- Employees pay cut and redundancy - The uncertainty of the pandemic has impacted businesses negatively, therefore some employers are unable to fully remunerate employees. However, section 5 of the Labour Act and Article 8 of the Wages Protection Convention prohibit the deduction of an employee's wages whether unilaterally or by an agreement. Article 8 of the Wages Protection Convention provides that:

(1) Deductions from wages shall be permitted only under conditions and to the extent prescribed by national laws or regulations or fixed by collective agreement or arbitration award.

(2) Workers shall be informed, in the manner deemed most appropriate by the competent authority, of the conditions under which and the extent to which such deductions may be made.

Thus, based on the above provisions, an employer cannot make wage deductions unless the law or regulations prescribe that deductions can be made.

- Employee relegation of work – Employees may prioritise the risk of contracting corona virus over their employer's instruction.
- Compulsory annual leave – employers may compel employees to embark on compulsory annual leave on the basis that business operations/activities generating income have dramatically down and there will not be much work to do. Also, employees may be asked to take a forced paid annual leave without salary.

However, the Labour Act does not provide for employers compelling workers to take annual leave. Rather, employees cannot be compelled to take annual leave as it is an entitlement which they have the sole discretion to exercise. Hence, unless it has been mutually agreed by an employer and a worker or employee that the latter will take annual leave with pay, compelling them to do so would amount to a breach of their employment contract.

WYZE Comments

Employers are expected to ensure flexibility and support during this economically difficult season by exploring mutually agreed arrangements with its employees, rather than resorting to extreme measures. Furthermore, employers should engage with their employees and workers to discuss the impact of COVID-19 on their business operations and employment contracts and issue new policies and procedures in line with any proposed measures.

Contact us:

Femi Wright

+234 908 0000 358

fwright@wyze-ng.com

Wale Ogunsola

+234 908 0000 358

wogunsola@wyze-ng.com

Kehinde Adeyemi

+234 908 0000 358

kadeyemi@wyze-ng.com

Gbenga Akinsulere

+234 908 0000 358

gakinsulere@wyze-ng.com

