



Settling Labour Disputes in Uganda

Giving you direction

1. Introduction

Grievances and conflicts between employers and employees are an inevitable part of the employment relationship. These disputes arise from disagreements in relation to the terms of employment and their implementation. The specific instances from which employment disputes arise include but are not limited to disciplinary matters, breach of rights and obligations under labour laws, breach of rights and obligations under the employment contract, sexual harassment claims and work place accidents causing employee injuries or death.

Public policy has always striven to manage work place conflicts and promote sound labour relations by either creating a system that prevents or settles labour disputes when they arise. Uganda's employment regulatory regime provides robust safeguards for employees' rights as well as a framework that promotes the amicable settlement of labour disputes through negotiation, mediation and conciliation before recourse to courts of law.

In this article, we highlight the different dispute resolution mechanisms available in Uganda to enable employers and employees make informed decisions when faced with labour disputes.

2. Employer's internal mechanisms

The first step in resolving labour disputes is making use of the employer's internal dispute resolution mechanisms which are usually provided in the employer's human resources manual. All matters governing internal conduct within an organization can be included in this manual or there can be supplemental policy documents in addition to the manual.

a) Human resource manuals

Human resource manuals usually prescribe prohibited conduct at work and the punishments for such transgressions. The punishments may include verbal and written warnings for minor breaches, suspensions and dismissals for major violations. The manuals also set out the processes and procedures for conducting a disciplinary hearing and appeals thereof, compensation packages and payments to an employee at termination of employment among others.

b) Sexual harassment complaints

For sexual harassment complaints, the Employment (Sexual Harassment) Regulations 2012 require an employer with more than 25 employees to designate a person who is gender sensitive to receive and investigate sexual harassment complaints. Such an employer is also enjoined to establish a sexual harassment committee composed of representatives of the employer's management and employees or Labour Union representatives. The sexual harassment committee is also mandated to receive and investigate complaints and make appropriate recommendations to management.

3. The Labour officer

The office of the labour officer is established by the Employment Act 2006 and the Labour Disputes (Arbitration and Settlement) Act 2006 as the tribunal of first instance for the resolution of labour disputes. Labour officers are usually based at the Ministry of Gender, Labour and Social Development and at the various district local governments across the country.

A labour officer has mandate to receive and handle

complaints about the performance of an employment contract as well as disputes concerning the rights and obligations of parties to an employment contract. A labour officer also has powers to investigate complaints, require attendance of witnesses and production of documents, hold hearings and resolve disputes by conciliation, arbitration, adjudication or by any procedure adopted by or agreeable to the parties. The labour officer may mediate the dispute or resolve the matter by agreement between the employer and the employee.

However, a labour officer is not a judicial body and therefore does not determine disputes by way of making binding judgments. Therefore, a labour officer's role is to promote conciliation or mediation by assisting the parties to a labour dispute to try and reach an amicable settlement of their dispute.

Where a dispute cannot be resolved before the labour officer, he/she is obliged to refer it to the Industrial Court for final determination. The labour officer also has powers to institute civil and criminal proceedings at the Industrial Court against violations of the Employment Act.

4. The Industrial Court

The Industrial Court is a special tribunal established under the Employment Act 2006 and the Labour Disputes (Arbitration and Settlement) Act 2006 to hear and determine labour disputes. However, the Industrial Court principally hears disputes referred to it from labour officer or the High Court. Thus, one may not institute a labour dispute directly with the Industrial Court.

A labour officer refers a dispute to the Industrial Court where four weeks lapse from the time the dispute was reported with no settlement or where a party requests that the dispute be referred to the Industrial Court. Moreover, if after eight weeks of reporting the dispute to the labour officer there is no settlement, any of the parties or all of them may refer the dispute to the Industrial Court. The Industrial Court has powers to award any amounts in damages and compensations.

Unlike traditional courts, the Industrial Court is constituted to conduct hearings when comprised by the Chief Judge, another Judge and three panelists, being representatives of employers and employees bodies. Currently, the seat of the Industrial Court is in Kampala but the court conducts regular upcountry sessions in the different parts of the country.

Decisions of the Industrial Court may be appealed to the Court of Appeal but the appeal is restricted to points of law only. Therefore, the Court of Appeal cannot re-open the whole dispute but may only address issues where the

Industrial Court may have erred in the interpretation or application of the law

5. Workers compensation claims

Chief Magistrates Courts are bestowed with special mandate under the Workers Compensation Act 2006 to hear and determine disputes arising out of work-related accidents, injuries and deaths. The Chief Magistrate can award any amount in compensation and damages, even beyond the Uganda Shilling 50 Million which is the pecuniary jurisdictional limit prescribed by the Magistrates Courts Act Cap 16. Decisions of the Chief Magistrate can be appealed to the High Court. Chief Magistrates Courts can be found in at least each of the major urban centers in Uganda.

6. The High Court

The High Court is constitutionally granted unlimited jurisdiction and unfettered powers to hear and determine any civil and criminal disputes in Uganda. However, the practice has been to refer labour disputes filed with it to the Industrial Court and send workers compensation claims to the Chief Magistrates Court in whose geographical jurisdiction the dispute arises.

7. Disputes of a criminal nature

Quite often, an employment relationship may result in disputes of a criminal nature such as theft, usually of money or property belonging to the employer, destruction of property, and assault among others. Criminal complaints may be reported to Police for investigation, arrest of the suspect and if there is sufficient evidence, the file will be sanctioned by the Director of Public Prosecutions ("DPP") for prosecution in an appropriate criminal court, usually a Magistrates Court or the High Court.

A private prosecution may also be undertaken by the party complaining but the DPP has powers to take over the conduct of such a private prosecution at any time. In addition, the complaint may commence civil proceedings for recovery of the lost items or compensation against the suspect in the Magistrates' Court or the High Court.

8. Conclusion

While labour disputes are inevitable, there are elaborate dispute resolution mechanisms available. As illustrated above, these mechanisms are sequentially staged to provide a maximum opportunity for amicable settlements to avoid costly and long-drawn litigation. Moreover, the parties have a significant say in the direction of the dispute at each stage.

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At Deloitte, he lived and worked in Uganda, Kenya, Tanzania and the United Kingdom for over 6 years and subsequently became the firm's chief of staff for the Energy and Resources Industry Group seeing him play a lead advisory role in Uganda, Kenya, Tanzania, Mozambique, South Sudan, Somalia and Ethiopia.

Denis is widely published and a regular commentator in the local, regional and international media and speaker at various forums regarding the taxation and financing of energy projects as well as the protection of large capital projects within the framework of international investment law.

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Bill is a Senior Advisor with Cristal Advocates. He has concentrated on working with energy companies with a particular focus on cross border transactions and M&A since 1989 and is a leading global energy and tax practitioner with wide international experience. Between 1986 and 1998, he worked in London with the UK tax authorities and Big Four accounting firms. From 1998 to 2004, he was based in Kazakhstan working across the Caspian region with Deloitte. He was in the region at the time it was developing its infrastructure for crude oil production with international investment following the collapse of the Soviet Union.

From 2004 to 2008, he worked in Russia where he led Deloitte's oil and gas industry group and established Deloitte's office in Sakhalin. He moved to East Africa in 2009 leading Deloitte's energy and resources industry group in Uganda, Kenya, Tanzania, Rwanda, Ethiopia and Mozambique. He was initially based in Kampala, Uganda later relocating to Dar es Salaam, Tanzania. Bill returned to the UK in 2014 supporting Deloitte UK teams working on outbound projects investing in Africa and was a key member of Deloitte UK's energy and resource practice until his retirement from the firm in September, 2018.

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John leads the public policy and advocacy practice at the firm and combines unique public and private sector experience.

Prior to joining Cristal Advocates, he had worked as a Private Secretary to the President of the Republic of Uganda. During this time, he participated in several public and private sector engagements that included advising and coordinating activities relating to oil and gas as well as infrastructural projects of national significance. John had earlier worked with the Post Bank Uganda Limited and Shonubi Musoke and Co. Advocates.

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Dickens leads the oil and gas practice at Cristal Advocates. He has an in depth appreciation of Uganda's oil and gas sector having served as the maiden Company Secretary of the Uganda National Oil Company (UNOC) and the Uganda Refinery Holding Company Limited (URHC). UNOC represents the Government of Uganda commercial interests in the oil and gas sector while URHC represents government interests in the refinery project as well as managing the petrol based industrial park.

Dickens was instrumental in UNOC's formation and initial period of operation and also served as its head of Contracts, Negotiations and Advisory until May 2018. Prior to joining UNOC, Dickens was Legal Counsel at the Petroleum Directorate of the Ministry of Energy playing key legal advisory roles on the negotiation and implementation of PSAs, Joint venture and other oil and gas agreements. He was also part of the team that shepherded the process of enacting the current Ugandan oil and gas Legislations and Regulations including the local content requirements.

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