



FEDERATION OF UGANDA EMPLOYERS

FUE EMPLOYERS' GUIDE DURING THE COVID-19 PANDEMIC

About this Guide

This guide has been developed by the Federation of Uganda Employers (FUE) to support employers during this pandemic. It is intended to guide and not to dictate what an employer should do. You are therefore encouraged to explore the best possible course of action to take. In case, you need further guidance or clarification, please do not hesitate to get in touch with us using the contacts provided.

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Introduction

There is a lot of uncertainty following an outbreak of Coronavirus Disease (COVID-19). This outbreak has now spread to over 150 countries around the world. Signs and symptoms of COVID-19 include; fever, cough, sore throat, difficulty in breathing, and other flu-like symptoms like running nose, sneezing and body weakness.

The Federation of Uganda Employers (FUE) is concerned about the continuance of the COVID-19 outbreak which is bound to adversely affect employers. We are aware about employers who have already done temporary layoff staff and those who are contemplating to do so. However, we would like to encourage employers to continue operating as guided by the Government while taking the required precautionary measures.

Immediate and follow up actions

We would therefore like to suggest as follows:

Immediate actions

1. Practice compulsory hand-washing for all persons (employees and visitors) who enter or exit places of work
2. Ensure availability of soap, water, hand rubs and make sure that these are well distributed for use frequently
3. Work place hygiene should be well maintained at all times
4. Avoid shaking hands, hugging and touching each other
5. Persons experiencing flu-like symptoms should be advised not to access the workplace premises and should be encouraged to seek health care immediately
6. Social distancing should be observed at all times especially when you notice someone is coughing or sneezing. Keep a distance of at least four meters from him/her.
7. Avoid meetings which involved more than ten people. If you must hold such meetings then you could use skype, social media platforms and other tools for such meetings
8. Companies should empower Occupation Safety and Health committees to ensure proper housekeeping, regular cleaning of surfaces, surveillance and health promotion, installing temperature monitors, raise awareness and display information on COVID-19.
9. Follow the detailed guidelines issued by the MOH and be vigilant all the time for any additional guidelines that might be issued in the nearby future.

Follow up actions

1. In case the COVID-19 outbreak continues and work premises are required to temporarily close or it no longer makes business sense to continue contractual obligations with employees in its current state, we encourage employers to carry out a cost benefit analysis on how they wish to deal with employees e.g. you may require them to utilize their annual leave even in advance (before it is earned) or lay them off meaning that their terminal benefits for the period that they have worked are cleared (with the option of recalling them once the outbreak is over) or continue paying the employees' salaries/ wages as if they had actually worked among others.
2. For employers that have recognized and are working with labour unions, we encourage them to engage, consult with them and come-up with an amicable resolution.

3. We encourage employers to reduce production levels and where necessary reduce on the number of shifts as well as overtime. You might also want to consider flexibility in terms of hours of work and the possibility of working from home depending on the nature of work. It is necessary to review the engagement of temporary employees at this stage. Therefore, freezing hiring of new staff is essential.
4. You may also consider the option of redeploying some staff members in case there are work opportunities available.
5. Contact your insurance service provider to determine what might be covered by your workplace insurance policies.
6. FUE is available in case you need to explore the option of redundancy. We do hope businesses will not have to close or terminate employees, however, if it becomes necessary please do not hesitate to contact us to guide you through the process of managing termination.

Further guidance to employers

Following requests from various employers, we have answered some of your questions and provided insights on certain issues related to the ongoing pandemic.

Managing leave during COVID-19 pandemic

Amidst the ongoing COVID-19 pandemic and further to the President's directives which required a lock-down throughout the country, it has been noted with concern that employers have been forced to require their employees to remain at home under annual or unpaid leave. While employers implement either or both of the leaves, the same should be applied within the confines of the employment laws of Uganda.

Below we present to you Frequently Asked Questions in regard to annual, sick and unpaid leave respectively to ensure strict adherence to the employment laws of Uganda:

i. Can an employer force an employee to take annual leave?

No. The employer and employee should agree in writing. In other words, there should be consent from the employee. This can also be done electronically by the employee to ensure that there is a record of consent. An employee is entitled to take each calendar year rest of 21 working days.

ii. What is the duration of sick leave?

Whenever an employee falls sick, for the first two months of being sick, the employer is required to pay the full wages of the employee. If the sickness continues for the third month, then the employer is entitled to terminate the contract of service on grounds of illness/ sickness subject to recommendation by a qualified medical practitioner. An employee who has been employed for a continuous period of 1 month or more is entitled to sick leave.

iii. Can an employee be sent on unpaid leave?

Yes. In such supervening circumstances like this pandemic, an employee may be sent on unpaid leave clearly specifying the length of such leave and the fact that it will not affect the continuity of service of the employee. This means that the employer would

have to discuss this option with the employee. In other words, an employer cannot use unpaid leave as a back door route to terminating an employee.

In consideration of the above, it is imperative to note that annual leave and unpaid leave must be undertaken by the employer after weighing the available options and circumstances under which each employee is in. In this way and through adherence to the provisions of the employment laws, unnecessary litigation and liability is avoided.

Temporary employees

While the Employment Act 2006 generally recognises the employment of temporary workers, their entitlement to pay during this crisis period will depend on whether they will continue working like the permanent employees and further as specified in the respective employers' terms and conditions of service. Since casuals are engaged in petty work within the confines of regulation 33 Employment Regulations 2011, they may not be entitled to any pay of wages (if no work is done) as per the employers' terms and conditions of service or prevailing collective agreement with a recognised labour union.

Can an employee work from home?

Yes. However, the employer needs to update its policies and procedures to include flexi and remote work arrangements that can be performed outside the official work space and hence be performed at a particular employee's home.

Duty of the employer to provide work

It is the duty of the employer to provide work to the employee in accordance with the contract of service. This duty may be affected where the contract has been brought to an end, its frustrated or the performance has been suspended for a particular period. This implies that a contract may be suspended due to the current crisis and the option of unpaid leave or termination considered. We do encourage unpaid leave instead of termination.

Entitlement to wages

In exchange for the employee performing the work that has been given to him/ her by the employer, he/ she is entitled to wages/ remuneration as agreed in the contract of service. The remuneration must be paid in legal tender and not in kind by the virtue of the nature of occupation/ undertaking. It may be paid in cash, bank cheque, postal order or wired directly to the employee's bank account. The wages are supposed to be paid directly to the employee although in cases where the employee has died, the wages may be paid to the personal administrators of the deceased's estate.

The wages are subject to statutory deductions for instance PAYE, NSSF contributions, union dues for those in union membership including bank loans or any advances which are taken by the employee and has agreed to pay for such incidentals.

Length of working hours

In all establishments, the maximum working hours for employees is 48 hours per week; 8 hours a day excluding the one hour for break. However the employee and employer may agree that the maximum working hours shall be more than the 48 hours. If the above is agreed, then the hours of work shall not exceed 10 hours a day or 56 hours per week.

Weekly rest

In the course of the employee's employment, he/ she is entitled to rest of 1 day customarily known or any other day agreed upon by both the employer and employee after working for 6 consecutive days. If the employee is to work on the day when he/ she is to rest, he/ she may take another day on which to rest or be paid overtime for the day on which he worked as may be agreed with the employer. This provision may not apply to persons holding high managerial positions or those employed in a family undertaking not exceeding 5 dependant people especially where the employer applies to the Minister for Labour who regulates such instances as this.

Discrimination in employment

Discrimination is prohibited at all times including this pandemic. The law emphasizes the principle of equal remuneration for equal work done. The employer is required to pay female and male employees equal remuneration for equal work done and all parties required to promote equality of opportunity. Discrimination of all kinds is prohibited beyond pay.

However, any exclusion or preference made as a result of the essential requirements of a particular job is not discrimination. In the same spirit, an employer is also obligated to have a policy against discrimination whatsoever at the workplace and the ways of implementing it.

Forced labour

The general rule is that everyone is expected to offer his/ her labour willingly and therefore no one is supposed to offer labour without his/ her prior consent. Even during this pandemic, an employee cannot be forced to work.

Termination of contract of service

Many awards of the Industrial Court of Uganda have decided that all layoffs or restructure or redundancies should comply with section 81 of the Employment Act, 2006.

Termination may take place in any of the following instances; where the contract is ended by the employer or employee with notice or if the contract was for a fixed term at the end of that task.

Whenever termination is to occur, either the employer or employee must give the other notice and if not given, the employer has to pay the employee for that notice not given and in turn the employee must forego the pay for notice not given to the employer.

The notice periods include not more than 2 weeks where a person has worked for not more than 1 year, not more than 1 month where the employee has worked for more than 1 year but not less than 5 years, not more than 2 months if the employee has worked for more than 5 years but less than 10 years and not less than 3 months where the employee has served for 10 years and more.

It is always prudent that the notice of termination of contract should be in writing. In addition, the employee will be entitled to certain benefits;

Any salary that is due to the employee including the period within which he/ she has been

serving the notice.

- a) Any annual leave that was due to the employee but was not taken in that calendar year.
- b) Any gratuity/ bonuses that accrue to the employee as a result of the Employer Policies.
- c) Repatriation if the employee was recruited 100km away from the place of work or has worked for the employer for more than 10 years. This is negotiable between the employer and employee.
- d) Severance allowance due where the employee has been employed for a continuous period of more than 6 months in addition to any of the following instances;
 - i. if the employee dies in the service of the employer or
 - ii. the employee terminated his contract with the employer as a result of physical incapacity not occasioned by his own willful misconduct
- e) Certificate of service if the employee has requested for it
- f) And any other benefits that may be specified in the Employers' HR Manual/ Rules and Regulations.

There are also instances where the employer may wish to terminate more than 1 employee. In such an instance, if the employer is going to terminate more than 10 employees at the same time because of technical, economical or structural challenges, the employer is required to notify the Commissioner for Labour of such Collective Termination showing the number of employees to be affected and the kind of work that they were executing. Also, the notice periods will apply depending on the length of service of each of the employees to be terminated.

However, the employee may complain to the Labour Officer that the termination is unfair if any of the following reasons are given by the employer while terminating the employee's contract of service; termination connected to a female's pregnancy, proposal by the employee to take annual leave of which he/ she is entitled to, employee's membership in the labour union, participation in the union activities, employee's race, colour, religion, sex, HIV status, employee's initiation of legal proceedings.

How can an employer manage employees who are still working?

The COVID-19 crisis is real so the demand on the leadership team in any organisation is increasing day by day. There will be significant financial losses due to lost productivity, absenteeism, poor morale, and employee turnover, however, this could be minimized using the right intervention by the leadership of your organisation.

In the face of COVID-19, it is more demanding to keep your employees motivated and engaged when there is so much negative information around. The leadership of your organization should approach the crisis differently; it cannot be business as usual. Leadership starts with creating the right attitude and mindset. Employees tend to reflect the mood of the leadership so it is always critical to start from the top. The leadership team should demonstrate the same level of commitment that they expect from the employees.

Uncertainties tend to create anxiety which in turn creates a desire to seek for information. It

is therefore important for your leadership team to adopt a transparent approach in handling the crisis. You need to be conscious that any information gap will be filled by corridor talk and fake news as we call it these days. It is the time when the leadership should ensure that employees are informed about the various courses of actions that have been chosen to deal with the crisis. Remember information is power, all kinds of information, fake or true.

Some quick actions you can take:

1. Share information about the crisis: Ensure that the Occupational Safety and Health Committee of your organisation is fully engaged in the crisis management.
2. Be available to listen: Take advantage of your workforce, ask them about possible interventions to keep the business running during this crisis.
3. Review workload: Consider redefining roles if necessary depending on the scope of your operation during this crisis period.
4. Damage control: Be well prepared, anticipate and act fast. There is no room for delay since things can change very fast.

There is room to learn from the crisis to enable you to be more effective and efficient after the crisis so take this as a learning opportunity as well. You need to lead from the front and provide the required sense of purpose and direction that your organization needs at this time. Together we shall defeat COVID-19. Keep your business going we are all counting on you to succeed and you can count on our support.

Innovation as a key driver for success during the COVID-19 crisis

Innovation is essential to the continued success of any organisation especially during this time of crisis. This is because a lot of the things will change or have already changed so we have to approach business in a different way.

On the employment front, ILO estimates that the COVID-19 crisis is expected to wipe out 6.7% of working hours globally (equivalent to 195 million full-time workers). Thus, the future of jobs will depend largely on the innovative measures that shall be adopted by workers, employers and government.

Most of organisations tend to focus on product and service innovation, however, innovation can be utilised in other areas of business as well including the business model, network, structure, process, platform, label and customer involvement. Innovation could be incremental or radical depending on the circumstances.

Critical success factors for innovation at your workplace

- 1. Leadership:** It is important to have a strong leadership with a clear sense of purpose. Innovation needs the right environment for it to be able to thrive. The management team needs to be fully committed to promoting innovation across all the various aspects of the business. The work processes should provide room for this to happen.
- 2. Innovation champions:** You need to identify innovation champions to work with you during this time of the crisis and beyond. The role of the innovation champions include among others; promoting the generation of new growth potentials, engaging colleagues to generate new knowledge and insights, fostering the use of innovation as

a strategic tool and promoting an innovation culture at the workplace.

- 3. Resources:** This means making available and dedicating resources for innovation activities (time, money and knowledge). Engage your team and all employees to provide suggestions of how available resources could be better utilised at this time. Some reallocation of resources might have to be done.
- 4. Competencies:** You need to assign roles and responsibilities to your employees based on their competencies. This implies that job profiles and current work responsibilities need to be relooked at to ensure that they are well aligned to the current operational needs. You can also consider working with experts outside your own organisation.
- 5. Strategy:** Clarity on the strategic direction of the organisation is essential to determine the kind of innovation that the organisation should be focusing on. This should take into account the potential risk and growth opportunities at this time.
- 6. Communication:** Transparency and clarity of communication is vital to the success of your organisation. It means all your team members should be aware about what your are trying to achieve, the progress already made and what still needs to be done with a given timeframe.

NSSF Amnesty to Ugandan businesses facing economic distress

According to NSSF Notice to the public, in support of Government interventions to combat the effect of COVID-19, NSSF put in place measures to ease the cash flow burden of affected employees/businesses in the private sector.

With effect from 31st march 2020, the fund will allow Ugandan businesses facing economic distress to reschedule their NSSF contributions for the next three months without accumulating penalty. Affected businesses are advised to send an email to amnesty@nssfug.org to work out the detailed modalities.

Summary of actions that you could undertake as an employer:

- Share information on COVID-19 with your employees on a regular basis. Employees tend to trust information from you as their employer.
- Maintain high level of workplace hygiene and follow the standard operating procedures in case your business is still operating
- Provide psychosocial support to your employees during this time
- Hold discussions with your employees on the possibility of utilizing annual leave during this period especially for non-critical staff.
- Provide clear direction and guidance to your employees during this period
- Work with your insurance company to address certain concerns which are covered during this period
- Consider redefining roles and working hours for your employees
- Engage the trade unions in case you have any agreements with them to explore the possibility of reviewing certain terms.
- Review all your contractual obligations with employees and suppliers to determine if there is any need to make changes
- Freeze hiring new staff and consider reducing supplementary labour

- Utilise your budgets to contribute to national efforts in fighting the pandemic
- Manage the expectations of employees by providing timely information on any changes that you need to make due to the pandemic
- Put in place a business continuity plan

Useful resources and contacts

Key resources

- COVID-19 guidelines for safe mass gatherings by Ministry of Health
- Employment Act 2006
- Employment Regulations 2011
- Labour Disputes Act 2006
- NSSF Amnesty notice to Ugandan businesses facing economic distress
- Occupational Safety and Health Act 2006
- Standard Operating Procedures by the Ministry of Health
- The do's and don'ts on coronavirus disease (COVID-19) by Ministry of Health
- Various information guides for employers produced by FUE
- Workers' Compensation Act 2000

Key contacts

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Ministry of Health

The public is advised to report any suspected cases to the nearest health facility or call our toll-free lines on 0800-203-033 and 0800-100-066 or the following officers:-

Mr. Atek Kagirita **+256 782 909153**, Dr. Allan Muruta **+256 772 460 297**



Together for Employers!

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