



# Understanding Kenya's Labour Laws & Employment Regulations

**Presenter:** Jefferson Erick Pele

**Organiser:** **BIPO** | Make Life Easier.

# Your Webinar Experience

## Housekeeping Notes

01

Presentation slides will be shared.

02

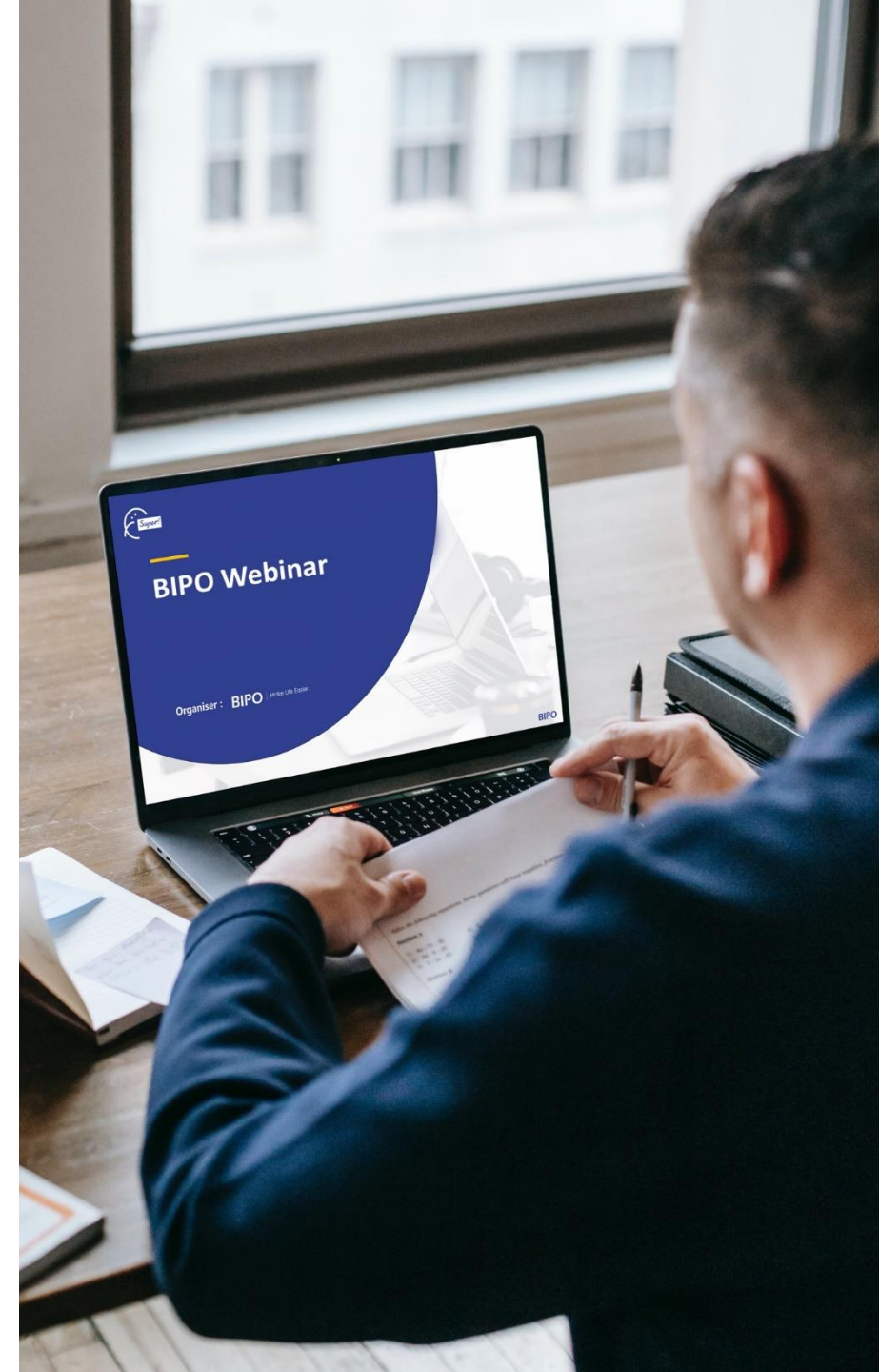
Q&A session is at the end.

03

Use the **CHAT** function to ask us your questions.

04

Give us your feedback through the form!



# About Us

Established in 2010 and headquartered in Singapore, BIPO is a global payroll and people solutions provider.

Our enterprise-ready **HR Management System** automates HR processes, simplifies workflows, and delivers actionable insights. Complemented by our **global payroll outsourcing** and **Employer of Record (EOR)** services, we support your global workforce needs through a network of 30+ offices, four R&D centres, and business partners in 100+ countries.

**30+**

Global Offices

**3,300+**

Clients

**460,000+**

Users



100

## Legend

- BIPO Offices (39)
- ◆ BIPO Business Partners (147)

◆ BIPO Business Partners (147)

# Coming Soon (14)

---

- Argentina
- Bosnia and Herzegovina
- Denmark
- Egypt
- France
- Italy
- Ivory Coast
- Kenya
- Nigeria
- Portugal
- Romania
- Rwanda
- Saudi Arabia
- Switzerland

- Argentina
- Bosnia and Herzegovina
- Denmark
- Egypt
- France
- Italy
- Ivory Coast
- Kenya
- Nigeria
- Portugal
- Romania
- Rwanda
- Saudi Arabia
- Switzerland

**An Asia-Based Global HR Tech & Service Provider.**

BIPO

# Awards & Recognition

## HR Magazine AWARDS 2021/22

### Hong Kong

- Best HR Vendor (HRIS) – **Gold**



### Singapore

- Best Payroll Software – **Gold**

### Hong Kong

- Best Consultancy of the Year - **Grand Prize Winner**
- Best HR Outsourcing Service Provider – **Gold**



### HRM Asia Readers' Choice Awards 2021

- Best HR Tech
- HRIS – **Gold**
- Time & Attendance Management System – **Gold**



### Singapore Business Review

#### Management Excellence Awards 2020

- COVID Management Initiative of the Year – HR Tech

### Hong Kong Business

#### Management Excellence Awards 2020

- COVID Management Initiative of the Year – HR Tech



ISO27001

Information Security Management System  
certification

**BIPO**



# Awards & Recognition



## **The Global Service Provider Program The HR Service Project Partner**

Presented by the Shanghai Municipal Human Resources and Social Security Bureau and Jing'an District People's Government



## **Best Human Resources Service Award in Greater China in 2021**

Awarded by HRTech China



## **Top 100 Human Resource Service Institutions in China –Top 30**

Awarded by Tophr



## **China's Top 10 Best Compensation Management and Outsourcing Solution Providers 2021**

Awarded by HR Excellence Centre (China)



## **BIPO HRMS 2021 Digital HRTech Awards (Best HRTech Providers/ Best HRTech Products)**

Awarded by HRTech China



## **2021 Best overseas human resources service organisation**

Awarded by HRSalon

# Scale Up Your Business with BIPO



## Globalisation

- Global Payroll Outsourcing
- Employer of Record (EOR)
- Enterprises Going-Global
- Enterprises Global Mobility Solutions



## Digitalisation

- **BIPO HRMS + Workio**  
Cloud and mobile-based platform
- Supports the **Employee Lifecycle**  
from onboarding to off-boarding
- **Payroll and Reporting**
  - > Payslips
  - > Attendance
  - > Leave Management
  - > Multi-language
  - > Multi Statutory Compliance



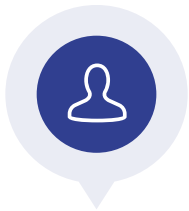
## Compliance

- Employment practices and labour regulations
- Payroll, Statutory Benefits & Tax Submission
- Visa & Work Permit applications
- Data security and privacy
  - > ISO 27001 certification
  - > Hosted on AWS and Ali Cloud

# About BIPO

- Supported by a professional team of experienced local talents, BIPO's service network **Enterprises and SMEs** scale with ease, **with or without a local HR**.
- Our integrated, one-stop HR service model offers comprehensive solutions for businesses – from global recruitment options, outsourced HR functions, local HR legal consulting to HR compliance management. Stay compliant, achieve efficiency and simplify overseas deployment and global mobility process with cost control.

## Without Overseas Business Entity Established



Employer of Record  
(EOR)



HR Compliance  
Consultancy



Dedicated local  
support and  
communication



Work Permit  
Application

## With Overseas Business Entity Established



Local salary  
computation



HR Compliance  
Consultancy



Dedicated local  
support and  
communication



Work Permit  
Application

**Payroll & People Solutions**



# Speaker



## Jefferson Erick Pele

HR Service Delivery Manager, Kenya

- An advocate of the High Court of Kenya and a human resource professional, he is seasoned with over 7 years' experience in Legal Audit/ Statutory Risk Assessment, HR consultancy, Employment Law and payroll management.
- Prior to joining BIPO, he worked with the USAID-Kenya as a HR & Administration Manager.
- Academic qualifications
  - Bachelor's degree in Law (JKUAT)
  - Post Graduate Diploma in Law (Kenya School of Law)
  - Master of Science in Human Resource Management (JKUAT).



# Contents

- 01.** Overview of Kenya

---
- 02.** Ten sectors in Kenya to Invest in

---
- 03.** Kenya's Labour Law

---
- 04.** Employment Regulations

---
- 05.** Types of Employment Contracts in Kenya

---
- 06.** Types of Leave in Kenya

---
- 07.** Terminations & Dismissal

---
- 08.** Statutory Payroll Deductions

01

## Overview of Kenya

# About Kenya

Found in [East Africa](#).

48th largest country by area (At 580,367 square kilometres (224,081 sq mi)).

Population: >47.6 million in the 2019 census; [29th most populous country](#) in the world.

Capital and largest city is [Nairobi](#), while its oldest, currently second largest city, and first capital is the coastal city of [Mombasa](#).

[Kisumu City](#) is the third-largest city and also an inland port on [Lake Victoria](#). Other important urban centres include [Nakuru](#) and [Eldoret](#).

As of 2020, Kenya is the third-largest economy in sub-Saharan Africa after [Nigeria](#) and [South Africa](#).

Kenya's GDP is 98.84 billion USD (2020).

02

## **Ten Sectors in Kenya to Invest in**

# Ten Sectors in Kenya to Invest

01

## Energy

- The proposed 400MW Meru Wind project
- The 140MW Olkaria 5 project
- The 1.5MW Gitwiki Hydro Falls, in Meru County. The payback period of the development is seven years. According to KenInvest, the annual projection period is US\$657,000.
- Kandebene Wind Project in Tigania East is proposed to generate 50MW. According to KenInvest, the project has an annual revenue project of US\$14.45 million with an estimated payback period of seven years.

02

## Transport

Kenya's road to improving its infrastructure has seen more transport projects being started in recent years to meet its Vision 2030. Transport sector projects to invest in include:

- The Lamu Port Southern Sudan Ethiopia Transport Corridor Project (LAPSSET).
- Nairobi Commuter Rail whose promoter is Kenya Railways Corporation. According to the manual by KenInvest, the project is seeking partners to run the commuter service of the rail and will include provision of rolling stock.



# Ten Sectors in Kenya to Invest

03

## Tourism

- The Ministry of Tourism is promoting the building of Isiolo Resort whose investment is US\$184 million. The project will include the development of a five-star hotel of four hundred rooms, two-three-star hotels of three hundred rooms, conference facilities, an office park, and a car park.
- Tourism Finance Corporation is promoting the Mombasa International Convention Centre whose investment is undisclosed. The project entails the development of a multi-purpose convention centre, with a contemporary design to ensure large-scale meetings, events and conferences can be facilitated in Kenya.

04

## Real Estate

- Konza City Technopolis promoted by Konza Technopolis Development Authority, its estimated investment is US\$14.5 billion and is to be carried out through joint venture participation.

# Ten Sectors in Kenya to Invest

05

## Education

- There are viable projects to invest into in the education sector. Moi University for instance has construction of seven student hostels and blocks to accommodate over 9,000 students. The build-operate-transfer model is being used by investors to invest in the project.
- Other projects in the education sector include Embu University College student accommodation, Maseno University Student Accommodation hostels and Egerton University student accommodation hostels, among others.

06

## Finance

- Jamii Bora Bank, which focuses on small and medium entrepreneurs seeking to scale up to become future corporate, has expansion plans underway. The bank is therefore seeking either equity or long-term debt to expand and match the growing demand of its clients.

# Ten Sectors in Kenya to Invest

07

## Agriculture

- The Tana Delta Irrigation Sugar Project is seeking an estimated investment of up to US\$120.402 million.
- The Fish Port Development Project, which is promoted by Coast Development Authority, needs an estimated investment of US\$820 million through public private partnerships.

08

## Water Supply

- Mwache Multipurpose Dam Development projects in Mombasa need an estimated investment of US\$285.04million through public-private partnerships. It will see the construction of an 83.7metres high dam with the capacity to produce 47.45 million m3 of water per annum for domestic use.
- Sabaki River Basin Integrated in Malindi is also seeking a public-private partnership to raise US\$100million. million. Promoted by Coast Development Authority, the project is set on 10,000 hectares. It will involve crop farming, livestock production and aquaculture, among others.

# Ten Sectors in Kenya to Invest

09

## Health

- Kenyatta National Hospital is seeking to build a 300-bed hospital in its private wing. In a build-operate-transfer partnership, the investor will finance, construct, operate and maintain the envisaged seven-storey building, a project that will need an estimated US\$36 million.
- Other projects in the sector include those promoted by the Ministry of health such as equipment lease and infrastructure improvement, an oxygen plant, and ICT services at Kenyatta National Hospital.

10

## Manufacturing

- Coast Development Authority is also promoting the Shimoni cement production project. Requirement of an estimated investment of US\$249.428 million.
- Flat Glass Production is promoted by the Coast Development Authority and Dongo Kundu Special Economic Zones which is being promoted by the Ministry of Industrialisation and Enterprise Development.

03

## **Kenya Labour Law**

# Kenyan Labour Law

## The Constitution

Contains provisions on fundamental rights and freedoms of the individual

- Freedom from discrimination (Art. 27)
- Freedom of association (Art. 36)
- Right to fair labour practices (Art. 41)
- Protection from slavery, servitude and forced labour (Art. 30)
- Provides for Employment and Labour Relations Court [Art.162 (2) (a)]

## The Employment Act, 2007

- Contains general principles of employment (forced labour, discrimination and sexual harassment)
- Contains the legal provisions that relate to the rights and duties of employers and employees
- Provides the basic conditions of employment
- Includes provisions relating to employment contracts
- Termination of employment



# Kenyan Labour Law

## **The Employment and Labour Relations Court Act, 2011**

- Establishes the Employment and Labour Relations Court (“ELRC”)
- ELRC is given exclusive original and appellate jurisdiction to hear and determine all disputes in accordance with Article 162(2)
- ELRC is also given the power to make orders in the exercise of its jurisdiction

## **The Labour Relations Act, 2007**

An Act that consolidates the law relating to trade unions and trade disputes

## **The Labour Institutions Act, 2007**

Establishes the various labour institutions which include:

- The National Labour Board (advise the Minister on all matters concerning employment and labour)
- Committee of Inquiry (appointed by the minister to inquire into any matter connected with or relevant to any trade dispute(s) in general,
- Labour Administration and Inspection (Labour Officers, Employment Officers and Medical Officers)
- Wages Council (to advise the minister on the remuneration and other conditions of employment of any category of employees in any sector)



# Kenyan Labour Law

## Occupational Safety and Health Act, 2007

This statute provides for the safety and welfare of employees and all persons lawfully present at workplaces.

## The Common Law

These are developed judicial decisions and considerations on the interpretation of contractual provisions and statutory provisions.

04

## **Employment Regulations**

# Employment Regulations

## Conditions of Employment

- The Act provides that after 3 months a casual employment automatically converts to a contract of service with monthly payment.
- Section 26 requires every employee to be given at least one day of rest for every seven days of work. Under Section 28, every employee is entitled to a paid leave of 21 work days after every one year of service. The Act also provides for maternity leave and sick leaves.
- Section 31 mandates an employer to provide reasonable housing accommodation to the employees or, in the alternative, pay the employees a sufficient sum to be used for obtaining housing accommodation.
- An employer is also mandated to ensure there is a sufficient supply of water at the place of work.

## Employment and Labour Relations Court "ELRC"

- Established by Article 162 (2) of the Constitution and the Employment and Labour Relations Court Act
- Equivalent to the High Court
- High Court has no jurisdiction to deal with any of the matters under the exclusive jurisdiction of the ELRC – disputes between employer and employee.
- Has the jurisdiction to enforce labour rights in Article 41 and jurisdiction to interpret the Constitution and fundamental rights and freedom.

# Trade Unions

## What are they?

An association of employees that regulates relations between employees and employers.

## Employer Obligation

An employer is obliged to recognise a trade union for the purposes of collective bargaining.

## Collective Bargaining

Collective bargaining – where representatives of the management and the unions meet to negotiate terms & conditions of employment in good faith.

# Contents of the Employment Contract

## Statutory Minimum

- The name, age, permanent address and sex of the employee;
- the name of the employer;
- the job description of the employment;
- the date of commencement of the employment;
- the form and duration of the contract;
- the place of work;
- the hours of work;
- the remuneration; and
- the intervals at which remuneration is paid;





# Terms of Employment

## Employer Duties

- Duty to pay wages
- Duty to indemnify the employee
- Duty to take care of the employee's safety and working conditions



## Employee Duties

- Duty to give personal service
- Duty to obey reasonable orders
- Duty of reasonable care and indemnity Secret profits
- Duty to confidentiality



# Terms of Employment

## Employee Rights

- Basic minimum conditions of employment (subject to any other written law, court order, CBA, or written contract that provides better conditions)
- **Hours of work:** 1 rest day in a week
- **Annual leave:** 21 days with full pay
- **Maternity leave:** 90 days with full pay
- **Paternity leave:** 14 days with full pay
- **Sick leave:** 7 days with full pay and thereafter, 7 days with ½ pay per year, subject to notification
- Housing
- Water
- Food (where agreed in the contract)
- Medical attention



**Employer must display a statement on the employee's rights under the Act in a conspicuous place, which is accessible to all the employees.**

05

## **Types of Employment Contract in Kenya**

# Types Of Employment Contracts in Kenya

- **Employers and employees need to know about the Contract of Employment in Kenya, including fixed-term and short-term employment contract law, employee agreement, temporary contract law, work probation etc.**
- A contract of employment or service means an agreement, whether oral or written, expressed or implied, to employ or to serve as an employee for a period of time. This includes a contract of apprenticeship and indentured leadership but does not include a foreign contract of service.

# What Laws Govern Contracts of Employment/Service in Kenya that a Worker can Refer to?

- An individual relationship negotiated by the employee and the employer according to their special needs.
- These laws define the terms and conditions of employment, and consist mainly of three Acts of Parliament:
  1. **The Employment Act (2007)** and the Regulation of Wages and Conditions of Employment Act (2007) make rules governing wages, leave and rest, health and safety, the special position of children and women and termination of employment. The latter Act, in addition, sets up a process through which wages and conditions of employment can be regulated by the Minister.
  2. **The Factories Act (Cap. 514)** deals with the health, safety and welfare of an employee who works in a factory.
  3. **The Work Injury Benefits Act (2007- WIBA)** provides for ways through which an employee who is injured when on duty may be compensated by the employer. Permanent Total Disability - Compensation is equivalent to a maximum of 8 Years earnings or 96 Months earning. Temporary Total Disability - Compensation is equivalent to weekly earnings up to a maximum of 52 Weeks.

# Are There Different Types of Contracts?

**Four types of contracts** under which you can employ someone:

1. **A contract for an unspecified period of time (permanent)**: An employment contract which does not specify a fixed period of duration, is considered to be for an unlimited period of time, but can be terminated by notice of either party. However, in the organised sector collective agreements which give workers tenure limit the employer's ability to discharge and end the employment contract.
2. **Contract for a specified period of time (fixed)**: If the contract is for a definite period of time then the term should be specified. If an employment contract specifies a fixed period of employment, usually three months and above, the contractual relationship is automatically terminated at the end of this period, without being considered a resignation or a dismissal. Under section 39 of the Employment Act, such a contract may be prolonged for a period of service up to one month, if the employee is engaged in any journey.
3. **Contract for a specific task (consultancy)**: This is a kind of contract in which a person is employed for the performance of a specific task (section 9). Once the task is completed, that contract comes to an end.
4. **Contract for casual employment**: The “casual employee” is an individual who is paid at the end of every day and who is not engaged for a longer period than twenty-four hours at a time.



# How long should it take for a newly employed worker to be given a contract of employment by the employer?

- An employer shall, within two months after the beginning of employment, provide the worker with a written statement of the particulars of the main terms of the contract of employment (Employment Act, S 10).

## What is a “written statement of employment particulars”, and what are its ingredients?

- An employment particulars statement is a list of information about an employee and terms of engagement that the employer must supply to an employee within two months of the employee’s commencement of employment.

# Employment particulars must contain the following information about an employee

- Name, age, permanent address and sex of the employee
- Name of employer
- Date of commencement of employment
- Job description of employment
- Form and duration of contract
- Place of work
- Hours of work
- Remuneration, rate and method of calculation and details of any benefits
- Interval at which remuneration is paid
- Any other prescribed matter [section 10 (1) (2)]



## **Can I be employed via an oral contract?**

- Yes. Oral contracts are permissible;
- However, an employee must be supplied with a written statement of particulars containing the terms listed above. It is okay to enter a contract of employment because of any legal proceedings the burden of proving or disproving an alleged term of employment falls on the employer (section 10 (7)).
- If an employer fails to produce a contract of employment or written statement of particulars, he/she will then fail to prove any term contained therein and the dispute might be decided against him/her.

## **Do I as an employee have to be given a written statement of particulars or contract of employment even if I am employed for few days?**

- No. Any of the above-mentioned terms would apply to you as an employee if you worked for a period of three months or more.

06

## **Types of Leave in Kenya**

# Types of Leave in Kenya

According to the Kenya employment act, employees are entitled to the following types of leave in Kenya:

- Annual Leave
- Maternity Leave
- Paternity Leave
- Sick Leave

Let's now focus on the main legal provisions for each type of leave.



# 1. Annual Leave

- Most popular leave and most respected by employers.
- An employee is entitled to annual leave after working for 12 consecutive months with full pay.
- Then, the leave should be at least 21 working days long.
- The law allows the employer to subdivide the annual leave days and have the employee take the leave at different intervals as long as he/she agrees. (i.e. in instalments).
- Any pending leave days are to be taken within 18 months from the date they were earned.
- If the employment contract awards the employee more days than the statutory 21 days, the two parties are to strike an agreement on how to use the extra leave days.

## 2. Maternity Leave

- Female employees are to be granted a **fully paid 3-months maternity leave**.
- This leave can't be substituted for the annual leave and is available to female employees nearing childbirth.
- The employee has a right to resume her previous position or such other fitting job that's equitable on terms/conditions (but not worse than) to the position she held before.
- Moving on, the maternity leave is deemed to end on the last date of the 90 days.
- The labour laws in Kenya require that the employee issue a 7-day notice to the employer before proceeding on leave specifying the date she wishes to commence the leave.
- The employee should also state the date she wishes to resume work in the notice.

### 3. Paternity Leave

- Male employees qualify for a paid [paternity leave in Kenya](#), ideally at the same time as the spouse.
- Of course, one only gets this right upon their spouses' childbirth.
- Notably, paternity leave is only applicable when the official wife (as per the employment records) bears a child and not unofficial lovers or additional wives (for polygamous men).
- The paternity leave is 14 calendar days long (weekends and holidays are counted) and the employee should notify the employer about his intention to take leave within a reasonable time.
- The finer details vary from one organisation to the next.



## 4. Sick Leave

- The Employment Act also awards employees a maximum sick leave of 7-days (fully paid) if they have worked for 2 months uninterrupted.
- To avoid abuse, the employer has a right to demand a medical certificate signed by a licensed medical practitioner to confirm the health status of the concerned employee.
- It's the duty of the employee to notify the employer of their sickness in a timely manner.
- If they don't recover fully, the employee may further earn a sick leave of 7-days with half pay for each period of 12 consecutive working months.
- He/she should, however, provide a certificate (signed by a licensed medical practitioner) to prove their incapacitation.
- There could be other requirements as per your employer's staff sick leave policy.
- **Once a worker has been with an employer for two months, they are entitled to 7 days of 100% paid sick leave. They can also take an additional 7 days at 50% of the normal pay rate.**

# Other Types of Leave

The following leaves are available in some organisations but are not provided for in the governing labour laws:



# Study Leave

- This purpose is to help employees study for higher qualifications without being overburdened with work.
- Where it's available, the study leave will be given in line with an organisation's policy.
- To recover lost time, most employers require the employee to work for them for a minimum set duration after completing the course.
- For example, teachers granted study leaves by the [TSC](#) are bonded for at least 1 year after the course.

## Compassionate Leave

- Even though the labour relations act Kenya is silent on this, some employers grant compassionate leave in Kenya.
- This allows the employees to be near their loved ones during unfortunate events such as death or hospitalisation of dependents.
- The length of the leave and leave application procedures depends on the organisation's labour policies.



# Sabbatical Leave

- A Sabbatical leave allows an employee to stay away from work while remaining employed.
- Employees may request sabbatical leaves to pursue a personal project, like climbing Mt Everest or driving across the Sahara.
- In some organisations, a sabbatical leave is equivalent to a career break and is an entitlement for long-serving employees (at certain intervals).

## Special Leave

- The employer might offer a volition grant of special leave to employees for any other purpose.
- In granting such leaves, Kenyan employers take into account their business interests as well as the well-being of their employees.
- Since such leaves are not catered by the labour laws in Kenya, it's upon the employer to establish the requisite guidelines.



# Leave of Absence

- This is still on individual employers to decide if it's appropriate or not.
- Where granted, it's mostly upon request and must be on compelling grounds.
- It's expected that the leave will let the employee tackle unusual circumstances in their personal lives.

## Compulsory Leave

- This is not really a benefit as it's imposed by the employer on the employee if they suspect them of wrongdoings at work.
- It can be unpaid or paid, depending on the employer.
- Again, the rest of the terms are determined by the existing company policies.

# Leave Types Summary

- For all types of leave in Kenya, it is important that the employee and the employer are on the same page.
- That way, the employee welfare will be catered for while the business won't suffer because of an employee's absence.
- The employer can even choose to compensate the employee by paying him/her a leave allowance for missed leave days if there's consensus.

# Public Holidays

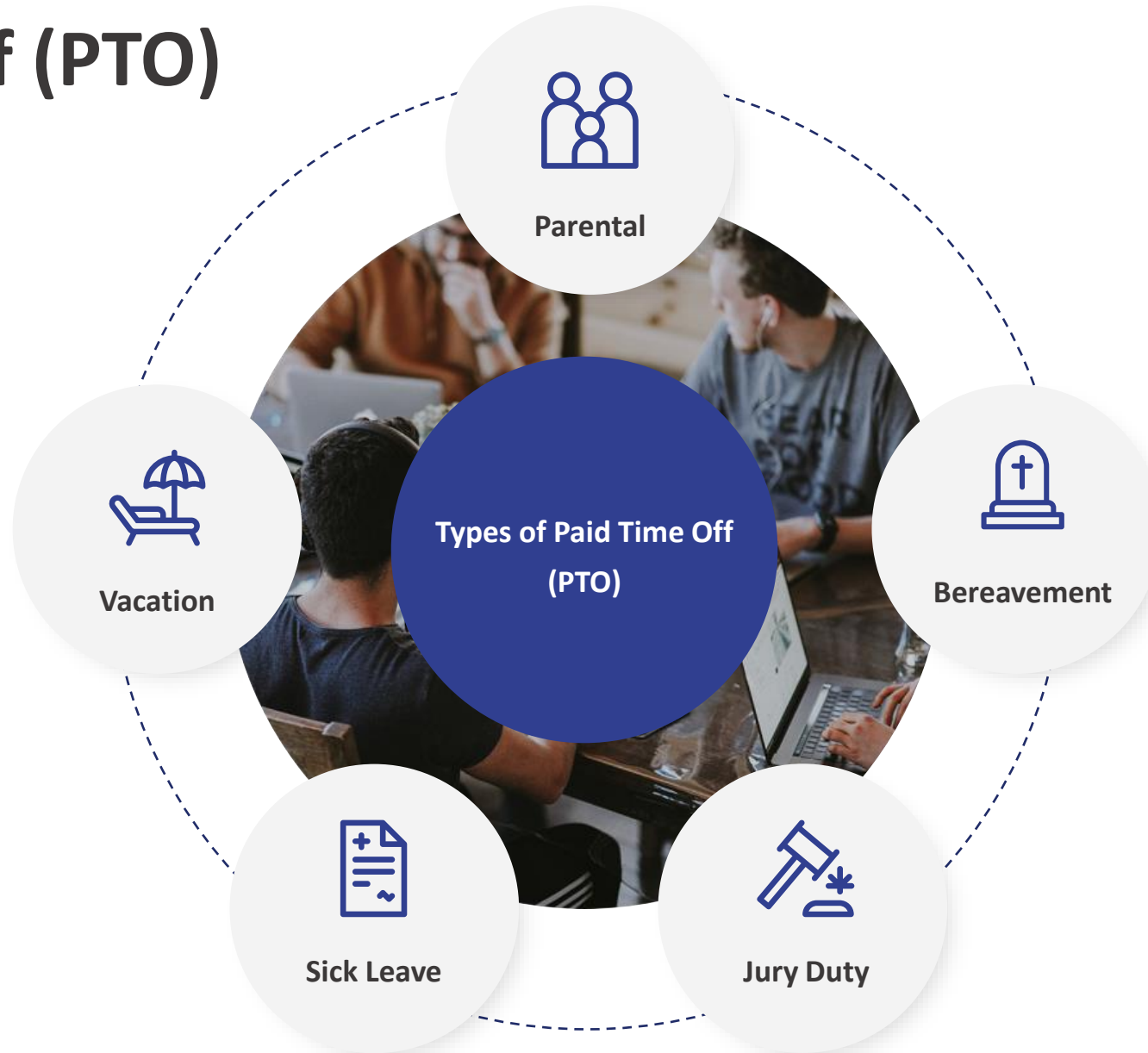
Kenya observes 12 paid public holidays:

Public Holiday	Date
New Year's Day	1 Jan 2022
Good Friday	15 Apr 2022
Easter Monday	18 Apr 2022
Labour Day	2 May 2022
Eid al-Fitr	2-3 May 2022
Madaraka Day	1 Jun 2022
Eid al-Adha	9-10 Jul 2022
Huduma Day	10 Oct 2022
Mashujaa Day	20 Oct 2022
Jamhuri Day	12 Dec 2022
Christmas Day	26 Dec 2022
Utamaduni Day	26 Dec 2022



# Paid Time Off (PTO)

- Refer to leave types





07

## **Termination and Dismissal**

# Forms of Termination

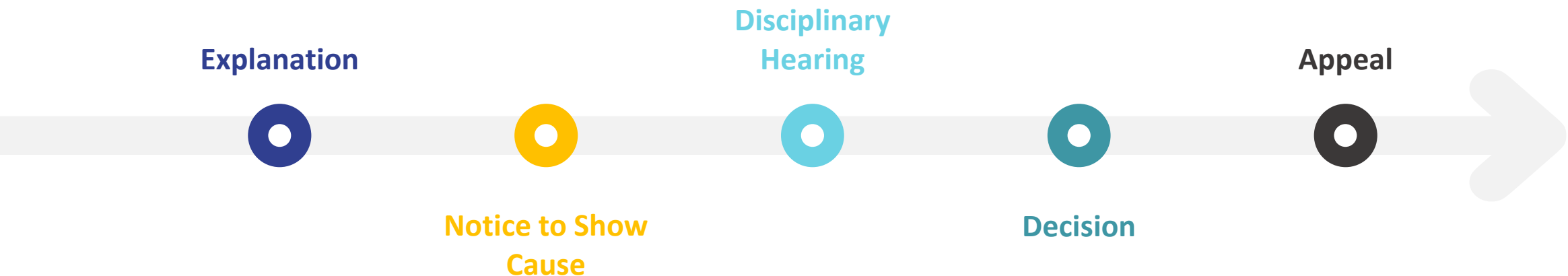
- Effluxion of time
- Termination by notice
- Mutual separation
- Summary Dismissal (Section 44 of the Employment Act) – when an employer terminates the employment of an employee without notice or with less notice than that to which the employee is entitled. The basis for summary dismissal is that the employee has fundamentally breached their obligations arising under the contract of service.
- Redundancy (Section 40 of the Employment Act)
- Constructive Dismissal

# Process of Dismissal

Process of Dismissal (Section 41 of the Employment Act – notification and hearing before termination on the grounds of misconduct).

## Grounds (General)

1. Gross Misconduct
  2. Physical Incapacity
  3. Poor Performance
- The employer must explain the reason for which he is considering termination and give the employee the right of representation during this explanation.
  - The employer must hear and consider any representations made by the employee on the grounds of misconduct or poor performance together with those of the Employee's representative.



# Redundancy (Section 40 Employment Act)

What constitutes a redundancy loss of employment, occupation, job or career:

- By involuntary means
- No fault of the employee
- Termination at the initiative of the employer

The employer must demonstrate that the services of an employee are superfluous, not a result of an employee's performance, conduct, or actions.

There are key aspects to consider in the redundancy of roles:

- The substance or rationale for the redundancies and
- The process of effecting the decision

# Redundancy

## Common Reasons for Redundancy



### **Economic Downturn**

Factors beyond the control of an employer.



### **Commercial Judgment**

The employer considers that there are too many employees employed in a particular area or overall.



### **Cease of Work**

Requirements of a business for employees to carry out work of a particular kind ceasing or diminishing.



### **Mechanisation of modes of production & reorganisation**

the business or adoption of a new business strategy.

# Procedural Steps of a Redundancy

## n 1

Notice (intended redundancy)

Oral communication of the intention does not amount to notice under the law.

## n 2

Issuance of 1 month written notice to the labour officer.

Each labour officer in charge of the area where the employees are employed must be served with a notice.

For the unionised employee, Union must be notified of the intended redundancy.

## n 3

Each employee affected by the redundancy to be served personally with 1-month written notice.

## n 4

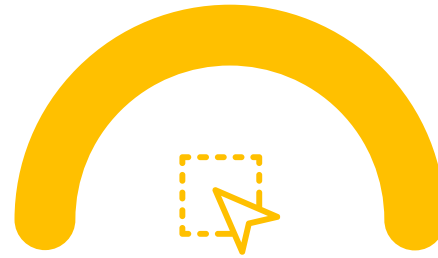
Mandatory contents of the notice: the reasons for and extent of the redundancy.

# Procedural Steps of a Redundancy Exercise



## Consultation

Explaining the reasons for the redundancy and the planned redundancy programme.  
Explaining the criteria to be used in selection.  
Invite employees to share their concerns and address them.  
Discussing any possible alternative to minimise terminations.  
Explain the package to be offered to employees who are selected.  
Union representatives are entitled to represent the employee in consultations.



## Selection

Involves determination of the employees to be declared redundant.  
Selection criteria provided for in law – seniority in time, skill, ability, and reliability.  
The rationale for selection must ultimately be defensible.  
The exact considerations made and the full results of the selection process are not for publication.



## Termination

Must only take place after the expiry of the 1 month notice period issued after the initial notice of intention to carry out a redundancy.  
Issuance of termination letters and certificates of service to employees selected for redundancy.  
Employees will be advised of their final dues in the termination letters.  
Termination may be by notice or by payment in lieu of notice.

# Procedural Steps of a Redundancy Exercise

## Redundancy Package

- Salary for the period worked up to date of termination
- Notice pay
- Accrued leave paid in cash
- Severance pay – 15 days paid for every completed year of service, however, if an employer has been paying NSSF for an employee during termination, there is no severance payment to be made.
- Pension as applicable under the applicable pension rules



# What Amounts to Unfair Dismissal?

- **Validity**  
The employer fails to prove that the reason for the termination is valid.
- **For a Fair Reason**  
Lack of capacity, incompatibility, bad conduct, based on operational requirements of the employer.
- **Fair Procedure**  
The employer fails to prove that he has employed fair procedure in effecting the termination.
- **Justice and Equity**  
The employer fails to prove that they acted in accordance with justice and equity in terminating the employee.  
*(How was the decision arrived at? How was the decision communicated? How was the appeal dealt with? Consistency, any warning letters etc.).*



# Possible Consequences of Unfair Dismissal

## Damages/Remedies

1. Payment in lieu of 1 month's notice
2. The wages due for the period of time for which the employee has worked
3. The equivalent of a number of month's wages or salary not exceeding 12 months

Very rare cases, reinstatement of the employee

Any payments made for unfair termination are subject to statutory deductions.

08

## **Statutory Payroll Deductions**

# Statutory Payroll Deductions

A mandatory amount of money the law requires employers to take from an employee's salary for tax and other payments.

Deduction	Amount	Deadline
Pay As You Earn (PAYE)	Dependent on salary	9 <sup>th</sup> of the following month
The National Social Security Fund (NSSF)	Minimum Ksh. 200	15 <sup>th</sup> of the following month
The National Hospital Insurance Fund (NHIF)	Dependent on salary	9 <sup>th</sup> of the following month
Higher Education Loans Board (HELB) - <b>Optional</b>	Varies	15 <sup>th</sup> of the following month

# Statutory Contributions

Three authorities govern payroll in Kenya. Employers are expected to make contributions and take out taxes on workers.

The authorities are as follows:

01

Kenya Revenue Authority (KRA)

02

National Social Security Fund (NSSF)

03

National Hospital Insurance Fund (NHIF)

# Statutory Contributions

## Employer contributions include:

- 5% NSSF contribution with a maximum of 200 KES monthly.
- 50 KES per employee - National Industrial Training Authority.
- WIBA - Permanent Total Disability - Compensation is equivalent to a maximum of 8 Years earnings or 96 Months earning. Temporary Total Disability - Compensation is equivalent to weekly earnings up to a maximum of 52 Weeks.

## Employee contributions include:

- 5% toward the NSSF
- 150 to 1,700 KES for the NHIF for employees making more than 100,000 KES monthly
- 10 - 30% income tax

# Income Tax

Tax Bands	Annual	Monthly	Rates
On the first	Shs. 288,000	Shs. 24,000	10%
On the next	Shs. 100,000	Shs. 8,333	25%
On all income in excess of	Shs. 388,000	Shs. 32,332	30%
Personal relief of Kshs. 28,800 per annum (Kshs. 2,400 per month)			

## Taxation for Non-resident's Employment Income

Any amount paid to Non-Resident individuals in respect of any employment with or services rendered to an employer who is a resident in Kenya or to a permanent establishment in Kenya is subject to income tax charged at the prevailing individual income tax rates.

Non-Residents are however not entitled to any personal relief.

# Payroll Compliance in Kenya

- As an employer, you must understand and follow the rules listed above. Failing to do so can result in penalties and fines from Kenyan authorities.
- The [Kenya Revenue Authority's website](#) lists several penalties for late filings, failure to file, and failure to take deductions. Offences vary in penalty amounts but tend to be between 5-10% of the amount due.



# BIPO RESOURCE HUB

BIPO TIMES

June 2022 Vol. 58

www.biposervice.com

Lao Labour Law & Employment Regulations

**概述**

老挝人民民主共和国是东南亚地区快速发展的经济体之一。该国拥有丰富的矿产、农产品和林业。至2020年，在老挝国内生产总值(GDP)中，农业贡献18.21%，工业贡献32.15%，服务业贡献49.64%。服务业的贡献率约为49.64%。该国经济受益于中国跨境贸易和外国直接投资，以及农业和矿业等增长。

首都  
万象

人口  
750万

货币  
老挝基普  
(LAK (1美元兑换≈0.008美元))

人均GDP  
USD 2,629.70  
(截至2019年)

**一、雇佣合同**

在老挝，雇佣合同必须以书面形式呈现，并由双方共同签署。雇佣合同可以以固定期限或无固定期限。固定期限雇佣合同可以延期不超过3次，一旦合同到期，雇主必须续签为无固定期限合同。如果雇主在合同到期前30天内发出通知，雇佣合同将自动续签。所有雇佣合同必须包含以下内容：

- 雇主和雇员的姓名；
- 雇工的工作范围、权利、义务、责任和职业要求；
- 雇员的薪酬；
- 雇佣期限和期限，由雇主和雇员共同商定；
- 雇主的支付形式；
- 试用期限；
- 为雇员提供的福利及其他政策；
- 工作目的、休息日和节假日；
- 雇员在雇佣期间应遵守的其他规定；
- 双方约定的其他事项。

雇佣期限	备注
固定期限合同	不得超过30天
无固定期限合同	试用期不得超过30天

**二、最低工资**

老挝的最低工资由该国劳动法确定，目前老挝的最低工资标准是每月最低工资为每月LAK 1,000,000。

**三、工作休息安排**

工作休息安排	备注
工作时间	标准工作时间为每周40小时，最长不得超过48小时。
休息时间	每周至少休息一天。
加班时间	加班时间不得超过每周4小时。
休息日	休息日为每周至少休息一天。

BIPO TIMES

June 2022 Vol. 58

www.biposervice.com

Lao Labour Law & Employment Regulations

**Overview**

Laos

The Lao People's Democratic Republic is one of the fastest-growing economies in East Asia. The country is rich in minerals, agricultural commodities, and forestry.

In terms of gross domestic product (GDP) by sector, agriculture contributed 18.21%, the industry sector contributed 32.15%, and services contributed about 49.64% in 2020. The country's economy has also benefited from foreign direct investments (FDI) in hydropower dams along the Mekong river and copper and gold mining, among other projects.

Capital  
Vientiane Capital

Population  
7.5 million

Currency  
Lao Kip (LAK)

GDP Per Capita  
USD 2,629.70  
(as of 2019)

**1. Lao Labour Law**

The Lao labour law provides the minimum standards of operations for organisations to establish their system of governance, monitoring, recruitment, evaluation, and labour protections.

The labour law is a guideline for both employer and employee relations under the specific employment, as it is tailored to fit organisational purposes. Organisations, however, typically have their own practice, giving enhanced benefits while still respecting the implications of the Lao labour law.

**2. Employment Contract**

Employment contracts have to be in written format. The employer has to give at least 15 days' notification for fixed-term contracts before the contract expires. The extension will have to commence within 60 days of the contract's expiration.

E-BOOK

Data Driven HR: People Analytics for the New World of Work

People Analytics for the New World of Work

Read More >

INFOGRAPHIC

5 Tips for Digital Adoption Infographic

5 Tips for Digital Adoption Infographic

Read More >

GUIDE

8 Virtual Onboarding Tips for the Hybrid Workspace

8 Virtual Onboarding Tips for the Hybrid Workspace

Read More >

WHITEPAPER

SaaS Security for Business 4.0 Whitepaper

SaaS Security for Business 4.0 Whitepaper

Read More >

INFOGRAPHIC

SaaS Solutions Made Easy Infographic

SaaS Solutions Made Easy Infographic

Read More >

INFOGRAPHIC

4 Tips to Ensure Compliance Across the Greater Bay Area (GBA) Infographic

4 Tips to Ensure Compliance Across the Greater Bay Area (GBA) Infographic

Read More >

BIPO TIMES  
Labour Laws & Employment Regulations

Business Continuity  
Blog, Trends and Checklists for the HR community

BIPO

**Q&A**

THANKS



**Jefferson Erick Pele**

HR Service Delivery Manager, BIPO Kenya

✉ : [jefferson.pele@biposervice.com](mailto:jefferson.pele@biposervice.com)

☎ : +254717879905



Fill in the form to receive the webinar deck and register for upcoming events!

<https://bit.ly/bipowebinarfeedback2022>

