

ENSURING PROTECTION AND RESPECT FOR LABOUR RIGHTS DURING THE COVID-19 PANDEMIC



UGANDA CONSORTIUM ON
CORPORATE ACCOUNTABILITY

U C C A



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i. INTRODUCTION

The Uganda Consortium on Corporate Accountability (UCCA), commends the government for acting swiftly and putting in place measures and restrictions to respond to the global coronavirus (COVID-19) pandemic. These measures whereas well intended, have nonetheless affected a majority of Uganda's working population in both the formal and informal sector. Broadly, labour relations have become critical areas of concern that need government intervention to ensure more stringent protective measures for both the stressed companies and their workers. It is now more critical that the government comes up with clear economic response plans to support stressed businesses and ensure employee retentions amidst the global pandemic.

Accordingly, the UCCA, would like to reemphasize the Government's obligation to protect and to ensure that companies respect human rights including labour rights during the COVID-19 pandemic. Specifically, the UCCA puts forward these Key Recommendation;

Key Recommendations;

The Government should monitor and ensure respect for human rights especially labour rights amidst ongoing COVID-19 pandemic containment restrictions and measures.

Business enterprises internal measures undertaken during this pandemic must be legal as per Uganda's labour rights policy and legislative frameworks.

The Government should speed up economic response measures to support and stimulate businesses especially SMEs. This will ensure that key businesses remain afloat and can in the interim maintain their employees as the economic situation improves and businesses normalize.

Business Enterprises should come up with internal measures that conform with the recently published Ministry of Gender, Labour and Social Development Guidelines, advancing respect for labour rights and enhancing social and economic protection of their employees.



ii. THE STATE OBLIGATION TO PROTECT LABOUR RIGHTS

It is important that the Government is reminded of its core obligation to protect the human rights of all people and ensure that non-state actors including business enterprises respect human rights—especially labour rights. The Ugandan Constitution enjoins the state to pursue social and economic objectives which fulfil the fundamental rights of all Ugandans to social justice and economic development.

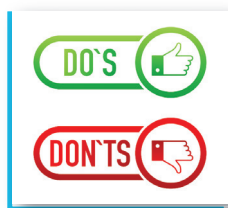
The government should monitor the effects and impact COVID-19 measures have on the business enterprises and their reactions and come up with an economic response to support and stimulate stressed businesses. This will protect employees at the risk of losing employment and those whose employers are not in position to pay salaries during this time.

In the interim, the state needs to put in place a clear economic strategy to enable some companies keep afloat and minimize workers lay-offs. These may target SMEs by providing flexible lines of credit or giving tax breaks that enable them to atleast continue running the business and paying salaries.

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iii. THE CORPORATE RESPONSIBILITY TO RESPECT LABOUR RIGHTS: THE DO'S AND DON'TS OF BUSINESSES ENTITIES



- Business enterprises desist from termination of employees as this would occasion more costs in terminal benefits.
- In Compliance with Section 19 of the Employment Act, all employers to provide returns and statistics on the number of workers likely to be affected by the COVID-19 pandemic.
- Any employee lay-offs should be in accordance with collective bargaining agreements or section 84 of the Employment Act as a temporary measure which should not break the continuity of service of employment.
This brief provides guidance to businesses that have remained operational during the pandemic and those that are closed respectively;

CATEGORY ONE: Businesses Still in Operation During the Lockdown

Frontline essential businesses still in operation despite the COVID-19 lockdown, need a number of personal protection equipment for their workers.

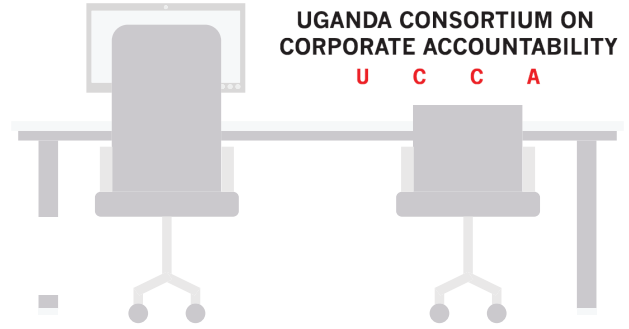


1. Occupational Safety and Health:

The Occupational Safety and Health Act 2006 places an obligation on employers to take reasonable care to maintain a safe and healthy workplace for their employees.



- In the face of COVID-19, the Public Health (Control of Covid-19) Rules 2020 further makes it the duty of employers to;
 - Enlighten their employees about the danger of COVID-19,
 - Notify medical authorities in case an employee has symptoms of COVID-19,
 - Ensure social distancing at the place of work,
 - Conduct temperature checks at the workplace and
 - Provide personal protective equipment like face masks and sanitizers or water and soap at the work stations and to reasonably accommodate the employees at the workplace during the lockdown period.
- **Work from Home (WFH):** In compliance with employment laws and not resulting in abuse of labour rights like salary, working hours, weekly rests, overtime pay among others, some workplaces can adopt the WFH model to combat the spread of COVID-19.
- **Wages:** Since the businesses under this category are still operational during the lockdown, the employers ought to fulfill their obligation to pay wages under the Employment Act 2006 since performance of the contract of service is still possible by the employees.
- **Cost of Technological Advancement:** Furthermore, in the event that technological means are required such as internet, this should not pass a cost onto the employees.
- **Medical Care and Sick leave:** Where the employee is diagnosed with COVID-19 or another sickness and is unable to work, they are entitled to a paid sick leave under Section 84 of the Employment Act 2006.

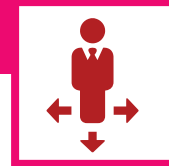


2. Workers Compensation:

Many frontline workers of essential services maybe exposed to various injuries and Compensation Act provides for compensation for injuries suffered and scheduled diseases incurred in the course of and out of employment.

- All Business enterprises and medical insurance cover should expand their medical coverage and offer treatment and compensation of all COVID-19 related injuries and disease.

3. Transportation to and from Work:



Transportation to and from Work: Due to the ban on public transportation and limiting driving of private vehicles, such companies in coordination with the COVID-19 Response Taskforce and other responsible agencies should organize ways of safely transporting their workers to and from work and in compliance with the Ministry of Health guidelines and restrictions.

CATEGORY TWO: Businesses Closed During the Lockdown



Section 40(1) of the Employment Act is to the effect that every Employer shall provide his or her employee with work in accordance with the Contract of Service. However, Subsection 2 of Article 40 provides that that duty shall not apply if the contract is frustrated or its performance is suspended.

- Section 40 notwithstanding, it is imperative that businesses do not use the pandemic and the lockdown as away to unlawfully terminate workers' employment relations.
- Employers and employees should negotiate ways of conduct in such hard terms and agree on a way forward that respects the labour rights of all workers.

Below are some of the options employers struggling with the economic stress can adopt during this covid-19 pandemic:



1. WFH and Teleworking:

Businesses that are able to work from home should explore Teleworking as a mode of retaining their key staff and keeping them engaged in work instead of terminating their contractual relations. However, as noted above, the employers should ensure that the staff have all the necessary tools and training to undertake the expected tasks. Where an employee needs a laptop, internet services and training to access and use set out tools like Skype, Zoom and other Teleworking platforms, the employer should offer such training to their staff.



2. Annual Paid Leave:

Employers may negotiate with their employees to take their accrued leave in order to prevent the eventuality of having employees take leave shortly after the lockdown period.



3. Unpaid Leave:

The Industrial Court in Labour Dispute No.062 of 2016 has guided that unpaid leave whilst not explicitly provided for in the Employment Act, is a possible consensual arrangement depending on the circumstances as long as the employee expressly agrees to it. This guarantees job security.

4. Temporary Lay-offs:



Under section 84(1)(c) of the Employment Act 2006, employers can consider temporary layoff of staff. Whereas this may affect employee benefits during the period of layoff, it does not affect continuity of service in accordance with Section 84.

- **Labour Union Employees:** Employers should ensure that they are following the requirements of collective bargaining agreements.
- **Non-Unionized Employees:** Employers should consider the employment contracts.



5. Restructuring/Collective Termination:

Termination of employees should only be considered as a last resort in accordance with Section 81 of the Employment Act.

In Conclusion;

1. The government should come up with an economic response strategy that protects employees and supports stressed businesses.
2. Businesses should take utmost care to comply with the relevant laws and guidelines issued by the state in dealing their employees during and after the pandemic.
3. Business corporate responsibility measures should give back to their community starting with their employees—as a key measure to guarantee job security.