

# Employment Act governs employee's rights in Zambia

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The Employment Act (Chapter 268 of the Laws of Zambia) is the principal piece of legislation governing employee rights in Zambia. A distinction is drawn between oral contracts of service, which are governed by Part IV of the Employment Act, and written contracts of service, which are governed by Part V.



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Section 26B of Part IV (oral contracts) defines the concept of redundancy and confers rights on employees who are terminated by reason of redundancy. However, Part V of the Employment Act (written contracts) lacks a corresponding provision and is therefore entirely silent on redundancy.

The Supreme Court of Zambia (SCZ) in *Barclays Bank Plc v Zambia Union of Financial Institutions and Allied Workers* (Judgment No 12 of 2007) held that s26B of the Employment Act does not apply to written contracts on the basis that "[i]n enacting this provision Parliament intended to safeguard the interests of employees who are employed on oral contracts of service which by nature would not have any provision for termination by way of redundancy".

The SCZ reaffirmed its view in *Chilanga Cement, Plc v Kasote Singogo* (Judgment No 13 of 2009).

Orders have been issued under the Minimum Wages and Conditions of Employment Act (Chapter 276 of the Laws of Zambia) to provide for redundancy benefits for certain occupations.

## Redundancy benefits

The Minimum Wages and Conditions of Employment General Order, (Statutory Instrument, No 2 of 2011) provides that where an employee's contract of service is terminated by reason of redundancy, the employee shall be entitled to at least one month's notice and redundancy benefits of not less than two months' basic pay.

However, the application of the General Order is limited to the following occupations:

- general worker;
- cleaner;
- handy person;
- office orderly;
- guard;
- driver;
- typist;
- receptionist;
- telephonist; and
- qualified clerk.

The scope of the General Order is further limited by the exclusion of employees of the Republic of Zambia, employees of local authorities, employees in management positions, employees engaged in domestic service and employees in any occupation where wages and conditions of employment are regulated by collective bargaining.

## **Other occupations**

Shop Workers Order, (Statutory Instrument, No 1 of 2011, as amended by Statutory Instrument, No 47 of 2012) provides that employees in other specified occupations are entitled to at least one month's notice and redundancy benefits of not less than two months' basic pay.

The list of included occupations is too long to list in this article; however, most of the included occupations pertain to the retail sector and the Shop Worker's Order, like the General Order, contains a long list of excluded occupations.

Employees with written contracts have no general entitlement to redundancy benefits, but certain occupations qualify for redundancy benefits under the General Order and the Shop Workers' Order. Employers are advised to consult the two Orders for guidance on whether their employees fall within protected occupations.

## **ABOUT THE AUTHOR**

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