



FORCE MAJEURE CLAUSES AND EMPLOYMENT RELATIONS IN TANZANIA

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Of recent, businesses have been facing productivity challenges due to coronavirus. In the same manner, coronavirus has affected many personal, business, and employment relationships. These relationships are governed by contracts that call for review during these disastrous times.

Attention is focused on the *force majeure* clauses in contracts. Most of the contracts provide for the assumption of risks in case the parties fail to perform their obligations due to *force majeure* events. *Force majeure* events are what are sometimes known as acts of God; meaning actions that out of the control of the parties which would affect their performance in contracts. Thus, *force majeure* clauses are clauses in contracts that talk about future unforce able acts (beyond the parties' control) that may affect the parties' performance. The current coronavirus falls under this category as it is a pandemic out of the parties' control which was unforeseeable that is currently affecting the performance of contracts.

Taking an example of the implication of *force majeure* clauses in employment relations:

The Coronavirus interferes with the obligations of the employer and employee in an employment contract; in Tanzania. Looking at Force majeure clauses and employment relations in Tanzania, a simple example is "employees shall work and employers have the obligation to pay the employees" but now that there is the Coronavirus and employees are unable to work are employers still required to pay the employees for no work done?

The *force majeure* clauses chip in to excuse a party's nonperformance under a contract when extraordinary events prevent a party from fulfilling its contractual obligations. Force majeure clauses and employment relations in Tanzania has not been much understood. A simple scenario for example If the employment contract between the employers and the employees does provide for the *force majeure* clause parties will rely on such clause and each party may be relieved of their obligation until the situation is managed.

Additionally, under a *force majeure* clause or in the absence of a *force majeure* clause the employers/employees have the option to:

- Cancel the employment contract; or
- Propose new terms to accommodate the emergence of Coronavirus; or
- Suspend performance or claim an extension of time for performance of the contract.



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Force majeure clauses and employment relations in Tanzania might not be invoked but it is crucial for parties to understand that determining whether a force majeure clause can be invoked is a fact-intensive inquiry, as it depends on the specific language each independent contract. Generally, force majeure clauses are interpreted narrowly.

However, controversy has arisen in the interpretation of the force majeure clauses during the pandemic because the force majeure clauses and employment relations in Tanzania do not specifically mention the coronavirus as part of the 'acts of God'. For most discretion has been left on the parties to decide on how best to interpret these clauses during this trying time.