



## PROCESS OF FIRING AN EMPLOYEE IN TANZANIA

Involuntary termination usually occurs when an employer dismisses or fires an employee due to misconduct, incapacity, incompatibility and the employer's operational requirements.

The process of firing an employee in Tanzania is governed by the Employment and Labour Relations Act of 2004 and the Employment and Labour Relations (Code of Good Practice) Rules.

Before an employer decides to fire their employee, they have to first abide by section 37 of the Employment and Labour Relations Act that provides for unfair termination by an employer. The law describes the grounds and procedures to be followed when terminating employment and the remedies thereof. These laid provisions regarding termination must be observed by both parties to the employment contract.

### **THE FIRING PROCESS**

#### **1. THE GROUNDS**

As stated earlier, an employer may decide to fire their employee for a number of reasons as provided for under the Employment and Labour Relations (Code of Good Practice) Rules. Rule 9 (1) provides that an employer shall follow a fair procedure before terminating an employee's employment which may depend to some extent on the kind of reasons given for such termination. Such grounds as provided under Rule 9 (4) include:

- Conduct as per Rule 11 and 12
- Capacity as per Rule 15
- Compatibility as per Rule 22
- Employer's operational requirements as per Rule 23

#### **2. THE PROCEDURE**

The procedure for terminating an employee is provided for under sections 41 to 44 of the Employment and Labour Relations Act. The following provisions provide as follows:

##### **Section 41- Notice of termination**

- The period of notice shall not be less than seven days if notice is given in the first month of employment.
- The notice should then be given in four days if the employee is employed on a daily or weekly basis or 28 days if the employee is employed on a monthly basis.
- A notice that is longer than that stated above may be agreed by both the employer and employee provided that the agreed notice is the same for both parties.



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- The notice should be in writing stating the reason for termination and the date when the notice of termination was given.
- Further, the notice must be in writing stating the reasons for termination and the date on which the notice is given. **However**, such notice should not be given during any period of leave taken under the Act; or to run concurrently with any such period of leave.
- The law allows the employer to pay the employee the remuneration that the employee would have received if the employee had worked during the notice period.
- If the employee refuses to work during the notice period, the employer may deduct, from any money due to that employee on termination.

### **Section 42- Severance Pay**

- An employer shall pay severance pay on termination of employment if the employee has completed 12 months of continuous service with the employer but shall not be paid to an employee whose termination is fairly done on grounds of misconduct, capacity, compatibility or operational requirements of the employer but who unreasonably refuses to accept alternative employment with that employer or any other employer.
- The law requires the employer to pay the employee severance pay which is the amount equal to a 7days' basic wage for each completed year of continuous service with that employer up to a maximum of ten years.

### **Section 43- Transport to the place of recruitment**

- Where an employee's contract of employment is terminated at a place other than where the employee was recruited, the employer shall either transport the employees and his personal effects to the place of recruitment; pay for transportation of the employee to the place of recruitment; or pay the allowance for transport to the place of recruitment and daily subsistence expenses during the period, if any, between the date of termination and the date of transport.
- **Provided that** the allowance paid shall be equal to at least a bus fare to the bus station nearest to the place of recruitment.

### **Section 44- Payment on Termination and Certificate of Employment**

- Upon termination of employment, then the employer shall pay the employee the following entitlements: any remuneration for work done before the termination; any annual leave pay due to an employee for leave that the employee has not taken; any annual leave pay accrued during any incomplete leave cycle; severance pay and transport allowances.



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- Further, on termination, the employer will issue to an employee a prescribed certificate of service.