

Employment Law in Practice: Navigating the Employment Relationship

(AS PER THE WORKERS' RIGHTS ACT 2019 AND ITS SUBSEQUENT AMENDMENTS)

HR practitioners in Mauritius work daily with the Workers' Rights Act 2019, a statute that is as much procedural as substantive: the lawfulness of an employer's decision often depends on how and within what time it was taken, and a legally flawed decision can carry heavy consequences. Many cases reaching the Industrial Court arise from errors of application, such as a late charge, a redundancy consultation documented as a decision rather than a negotiation, or a settlement purporting to waive entitlements that cannot lawfully be waived. This course therefore focuses on application and interpretation, presenting each topic through the statutory provision, its judicial interpretation, and a worked scenario, and is designed for HR professionals at every level of experience.

OBJECTIVES OF THE WORKSHOP

By the end of this workshop, participants will be able to:

- To equip participants with a working command of the provisions of the Workers' Rights Act 2019 that govern the formation, discipline, suspension, termination and post-termination stages of the employment relationship.
- To familiarise participants with the manner in which the Courts have interpreted the principal provisions, including the gradation of misconduct and the requirements of a fair disciplinary hearing.

ABOUT THE RESOURCE PERSON

Me Ravi Bhookhun
Experienced legal professional with a proven track record in civil, commercial, and employment law, combined with regular appearances before the Courts and Tribunals of Mauritius and the Judicial Committee of the Privy Council.

MQA APPROVED

DATE
11 & 13 NOVEMBER 2026

TIME
08:30 to 12:45

DURATION
8 hours

FEES
Rs 39,000
(Special Fee for Member: Rs37,000)

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BM-MCCI Building,
Rue du Savoir,
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WORKSHOP

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The Contract of Employment

- The statutory definitions of "agreement", "worker" and "employer", and the requirement of writing for contracts of determinate duration
- The three constitutive elements of a contract of employment: la prestation de travail, la rémunération and la subordination juridique
- The distinction between the contrat de travail and the contrat d'entreprise, and the decisive character of the lien de subordination
- Leaves entitlements

Ending the employment relationship

- Notice of termination: minimum period, the obligation to state the reason, payment in lieu and time off to seek further employment
- Additional requirements applicable to the termination and repatriation of a migrant worker
- Valid service of a charge, a notice to answer a charge and a notification of termination; deemed service on refusal or non-collection
- Suspension pending investigation or hearing: entitlement to basic salary, the requirement of written reasons, and the statutory maximum for suspension without pay imposed as a sanction
- Constructive dismissal: the circumstances in which a worker may claim that the agreement has been terminated by the employer, including resignation obtained by fraud or duress
- Abandonment of employment and the conditions on which it may be relied upon as a defence

Termination for misconduct

- The three statutory routes to termination and the consequences of selecting the wrong one
- The statutory timetable: notification of the charge, minimum notice of the hearing, completion of the hearing and the delay within which termination must be effected
- The effect of an investigation upon the running of the period for notifying a charge
- Pre-hearing disclosure of documents at the worker's request
- The inadmissibility of a written statement acknowledging guilt obtained at the instance of the employer
- Representation of the worker, and the provision of minutes on written request
- The gradation of misconduct and the consequence of each
- The weight to be given to length of service and other mitigating circumstances
- The concept of breach of the bond of trust as a ground of dismissal; the requirement that loss of confidence be founded upon objective elements
- The requirement that the employer be unable in good faith to take any other course of action
- Case study 1: a disciplinary process in which the investigation, the charge and the hearing are examined against the statutory timetable

Termination for poor performance

- The distinct statutory procedure applicable to poor performance and the manner in which it differs from the procedure for misconduct
- Performance improvement processes, written objectives and the documentary record
- Case study 2: a performance dismissal examined for procedural and evidential sufficiency

The disciplinary committee

- The constitution of the panel and the persons who may properly chair a disciplinary hearing
- The authorities on the participation of an employee, of the author of the charge, and of a human resource officer
- The test for bias as applied by the Supreme Court, and the requirement that objection be taken at the time
- The burden and standard of proof borne by the employer
- The material by reference to which the employer's decision is assessed, being that of which it was aware or ought reasonably to have been aware at the time of dismissal
- A working sequence for the conduct of a hearing, from constitution of the panel to communication of the decision

Competition and restraint

- The employee's obligation not to compete with the employer during the currency of the contract, arising by operation of law from the duty of loyal and good faith performance
- Breach of that obligation , and the limits of that proposition
- The validity of a clause de non-concurrence: legitimate interest, limitation in time and in space, and proportionality to the employee's activity

Reduction of workforce, terminal payments and leave

- Reduction of workforce: the undertakings to which the provision applies, and the obligation to notify and negotiate with the recognised trade union or workers' representatives
- The statutory alternatives to reduction which must be explored, and the evidential record required
- The Redundancy Board: constitution, conciliation, the orders which may be made, and the enforcement of a settlement
- Case study 3: a restructuring examined against the consultation requirements and the resulting financial exposure
- Severance allowance: the circumstances in which the Court may order it, the rate, the workers who are excluded, and the deductions which may be made
- Interest on severance allowance
- Reinstatement: the delay within which a complaint must be registered and the circumstances in which the remedy is unavailable
- End of year bonus: entitlement, the two instalments, the salary ceiling, and the pro-rated bonus payable to a worker who leaves during the year
- Annual leave: entitlement, the prohibition upon relinquishment, the worker's option to accumulate, and the refund payable upon cessation of employment
- Sick leave, vacation leave and the exclusion of migrant workers from the vacation leave entitlement
- Maternity leave and associated protections, including the restriction upon notice of termination; paternity leave; and special leave

The Portable Retirement Gratuity Fund, retirement gratuity and exits

- The employer's obligations in respect of the Portable Retirement Gratuity Fund: liability to contribute, the manner and date of payment, contributions for past services, joint liability with a job contractor, and information to be furnished
- Surcharge and interest upon late contributions
- The circumstances in which a gratuity becomes payable from the Fund, including retirement, permanent incapacity, incapacity arising from injury at work, long service and death
- The basis upon which a gratuity or lump sum is computed
- Retirement gratuity payable by the employer: the qualifying circumstances, the rate, the permissible deductions, and the prohibition upon requiring a worker to retire before retirement age
- The Workfare Programme: the Fund, the benefits available, and the employer's liability to refund
- Compromise agreements and terms of discharge: the statutory footing for negotiation during a disciplinary hearing, the elements of a valid transaction, the contents of a well-drawn agreement, and the entitlements which cannot lawfully be relinquished

Consolidation and closing clinic

- Ten recurring failures in disciplinary and redundancy practice
- The documentary file which an employer should be able to produce in the event of proceedings
- Closing clinic upon anonymized scenarios contributed by participants

IN-HOUSE TRAINING :

Business Mauritius also offers in-house training programmes tailored to meet your organisation's specific needs and requirements. Our training sessions can be customised in terms of content, and delivery to address your employees' development needs and support your business objectives. Please feel free to contact us to discuss your requirements and explore how we can assist your organisation.

PROFILE OF PARTICIPANTS

- HR Managers and HR Officers
- Employee Relations and Industrial Relations Practitioners
- Supervisors and Line Managers Involved in Staff Management
- Compliance Officers and Legal Officers Dealing with Employment Matters
- Employers, Managers, and Business Owners Responsible for Workforce Administration

METHODOLOGY

- Presentations
- Guided analysis of judgments of the Courts
- Case studies
- Group discussions on scenarios
- Questions and Answers