Termination of employment legislation digest

Country profile – Egypt

Information last updated December 2006. Contributed by Professor Ahmed EL BORAI, Law Faculty, Cairo University, Egypt, and Ms Angelika MULLER, ILO.

Sources of regulation

Employment relations in Egypt are regulated by Labour Act No. 12/2003 (hereafter “LA”), which was promulgated on 7 April 2003.

Prime Minister Decree No. 984 of 2003 deals with “The formation of local committees for deciding the close-down requests, and the Central Committee for complaints on the decisions of these committees”.

Specific provisions protecting trade union representatives against dismissal are contained in Trade Unions Act No. 35 of 1976 as amended.

Act No. 47/1978 deals with the status of public servants.

Provisions stipulated in individual employment contracts, collective agreements, enterprise internal regulations or those established by custom and practice are valid if they are more favourable to the worker than the provisions of the LA (Article 5, LA).

Scope of legislation

The termination of employment provisions of the LA (Article 4, LA) do not apply to:

- public servants employed by State agencies, public establishments and local authorities;
- domestic workers and the like;
- employer’s family members whom the employer is in charge of.
Contracts of employment

All individual employment contracts must be written in Arabic, in three copies: one for the employer, one for the worker, and one for the social insurance office (Article 32, LA).

The LA provides the definitions of various types of employment. Temporary work is work which by nature is part of the employer’s activities and of limited duration, or which involves executing a specific task. Casual work is defined as work lasting less than six months and which is not a usual part of the employer’s activities. Seasonal work is defined as that carried out during the traditionally recognized periodical seasons (Article 1, LA).

The period of probation cannot exceed three months (Article 33, LA).

Termination of employment

The contract of employment can terminate, not at the initiative of the employer, in certain circumstances, including at:

- the expiry of a fixed-term contract; and
- the completion of the task for which the contract was concluded.

A fixed-term contract is deemed renewed for an indefinite period, if both parties continue to abide by it after its date of expiry, exception made for foreign workers (Article 105, LA). By an express agreement of the two parties, the fixed-term employment contract may be renewed several times (Article 106, LA).

As regards employment contracts concluded for a specific task, and whose duration exceeds five years, the worker cannot terminate it before accomplishing the work in entirety as specified in the contract. (Article 107, LA). In cases where the employment relationship continues after the expiration of the contract concluded for a specific task, the contract is deemed renewed for an indefinite period (Article 108, LA).

As regards retirement, the employer has the right to terminate the employment of a worker who reaches sixty years of age, unless the contract is for a definite period of time and extends beyond this age. In this case, the contract will be terminated on the date mentioned in the contract at the moment of its conclusion (Article 125, LA).

The termination of employment is not possible for reasons of the worker’s illness, unless he/she has exhausted sick leave entitlement as determined by the Social Insurance Law, in addition to his/her annual leave. The employer has to notify the worker of the contemplated dismissal fifteen days before the end of the workers’ leave entitlement (Article 127, LA).

The employer is entitled to dismiss a worker in case of some custodial sentences, which are listed under Article 129 of the LA, such as “breach of honour, honesty or public morals”.
Dismissal

Under Article 110 of the LA, both parties may terminate an open-ended contract, provided notice period, provided in writing, is respected. However, the employer cannot dismiss a worker, except in the cases listed in Article 69 of the LA (see below), or for reason of worker’s incompetence, which must be established in respect of “endorsed regulations”.

A worker cannot be dismissed unless he/she has committed a serious offence (Article 69, LA). A worker is deemed to have committed a serious offence if he/she has:

- assumed a false identity or submitted false documents;
- acted negligently, causing the employer considerable loss, provided the employer informs the competent authorities of the incident within 24 hours of becoming aware of it;
- despite having received a previous written warning, failed to observe written instructions displayed in a prominent place, compliance with which is necessary to ensure the safety of the workers and of the establishment;
- been absent without a valid reason for more than 20 days a year, or for more than ten consecutive days, provided that the worker is first warned in writing by the employer after ten days’ absence in the former case and after five days in the latter;
- divulged professional secrets concerning the enterprise employing him/her, which caused serious damages to the enterprise;
- been competing with the employer in the same field of activity;
- been found in a state of obvious drunkenness or under the influence of drugs within working hours;
- assaulted the employer or the employer’s representative, or has committed a serious act of violence against any of his/her superiors during or in connection with his/her work;
- not respected the rules on strikes prescribed by the LA.

The decision to dismiss a worker as a sanction for serious misconduct is taken by a special committee established by the LA for this purposes (Article 68, LA). This kind of committee acts under the civil and commercial procedure law. Each committee consists of the following (Article 71, LA):

- two judges, of whom the senior judge is the chair of the committee according to the rules stipulated by the Judicial Authority Act;
- the head of the concerned Directorate of Manpower or his/her representative;
- a representative of the Federation of Egyptian Trade Unions; and
- a member of a concerned employers’ organisation.
The LA lists some invalid reasons for dismissal, such as, among others, colour, sex, social status, family obligations, religion political views, participation in trade union activities, and filing a complaint against the employer (Article 120, LA).

In addition, the Trade Unions Act No. 35/1976 protects members of boards of trade unions from suspension or dismissal, except pursuant to a court decision (Articles 26, 27 and 46).

In Egyptian law, collective dismissals can only be for economic reasons.

The employer cannot dismiss a woman during maternity leave (Article 92, LA).

The employer is entitled to terminate the apprenticeship agreement for reasons of ineptitude of the apprentice (Article 143, LA).

**Notice and prior procedural safeguards**

As regards the termination of an open-ended employment contract, the notice period is two months if the worker’s uninterrupted period of service with the employer is less than ten years, and three months if that period exceeds ten years (Article 11, LA). This notification cannot be addressed during the worker’s leave (Article 113, LA). During the notice period, the worker is entitled to a full day or eight hours a week, taken at time convenient for both parties and without loss of pay, for seeking other employment (Article 116, LA).

If a fixed-term contract is concluded for more than five years, the worker has the right to terminate it, without paying penalties to the employer, provided that a three-month notice period is respected (Articles 104, 106, LA).

Any party willing to terminate the apprenticeship agreement has to give the other party notice of at least three days (Article 143, LA). The employer may terminate the employment relationship if he/she considers that the apprentice lacks either the ability or the necessary inclination to learn the trade or occupation properly.

**Procedure for dismissal on disciplinary grounds**

Where a worker is accused of an offence for which the appropriate disciplinary penalty is dismissal, the employer must, before deciding to dismiss him/her, submit a request to do so to a committee (Article 71, LA).

The committee has to decide on a worker’s dismissal within 15 days. The decision is final and must be executed even if an appeal is lodged.

If the committee refuses the dismissal, the employer has to reinstate the worker and pay him/her any unpaid back wages. In case of the employer’s failure to do so, the dismissal is deemed as “arbitrary dismissal” and the worker is allowed financial compensation.
Procedure for collective dismissal for economic reasons

If contemplating collective redundancies, the employer must submit a request for closing the enterprise or reducing its size or activity to a committee established for this purpose. However, the employer is not allowed to ask for partial or total closure of the enterprise during mediation or arbitration (Article 200, LA).

The Prime Minister defined, by Decree No. 984 of 2003, the composition of these committees, their powers and procedures. Each committee must consist of a representative nominated by the General Federation of Egyptian Trade Unions, a representative of an employers’ organisation nominated by the concerned organisation, a technical and economic representative from the General Authority for Investment, and a representative from the National Social Insurance Authority. The chair is the concerned director of the Manpower and Emigration Directorate. The committee must prepare an argued decision, adopted by majority vote, within thirty days from the date of the submission of the request.

In the request to the committee, the employer must provide information including the reasons for the contemplated terminations, and the number and categories of workers likely to be affected (Article 197, LA). In case of authorisation of dismissals, the committee must fix the effective dates.

Each party may bring an appeal against the committee’s decision before the Central Committee for complaints established in the Ministry of Manpower and Emigration. The appeal has a suspensive effect on the decision.

The employer must inform the workers and trade unions concerned about the request to the committee and the decision received from the committee (Article 198, LA).

If the collective agreement in force in the enterprise does not provide any objective criteria for selecting the workers to dismiss, the employer must consult with trade union representatives. The criteria for selection must take into account the interests of both the enterprise and workers (Article 199, LA).

As an alternative to dismissing workers for economic reasons, the employer is entitled to propose modifications to the employment contract. If the worker refuses it, he/she has the right to leave the enterprise without giving any notice. In this case, the dismissal is deemed lawful and the worker keeps his/her rights to compensation prescribed for dismissals for economic reasons (Article 201, LA).

Severance pay

As regards terminations for economic reasons, the severance allowance must be equal to one month’s wage for each of the first five years of service, and one-and-a-half months for each subsequent year (Article 201, LA).

Employees retiring at the age of 60 are entitled to severance pay (Article 126, LA). At the age of 60, a worker is entitled to indemnity calculated on the basis of half of his/her monthly wage for each of the first five years of employment, and one month’s wage for each subsequent year, unless he/she is entitled to benefits under the old-age, disability and death insurance scheme provided for by the Social Insurance Law.
Avenues for redress

In case of unjustified termination of employment, the worker is entitled to resort to the committee, established under Article 71 of the LA, for compensation. Such compensation is determined by the committee, but cannot be less than the equivalent of two months’ wage for each year of service (Article 122, LA).

At the request of the workers whose dismissal was a result of trade union activities (Article 71, LA), the committee can order their reinstatement. The burden of proving that the dismissal was due to other reasons rests on the employer.

Further information

- Government of Egypt
- Labour Act of Egypt