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The Legal 500 Country Comparative Guides

Cyprus

EMPLOYMENT & LABOUR LAW

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This country-specific Q&A provides an overview of employment & labour law laws and regulations applicable in Cyprus.

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CYPRUS EMPLOYMENT & LABOUR LAW



1. What measures have been put in place to protect employees or avoid redundancies during the coronavirus pandemic?

Over the course of the covid-19 pandemic, the Cyprus government introduced temporary measures and benefits to assist employers, employees, and self-employed individuals rather than introducing new laws to this effect. Some of the benefits granted to employers were provided on the condition that no employees would be dismissed for a certain amount of period following receipt of the benefit.

2. Following the covid-19 pandemic, have new employee rights or protections been introduced in respect of flexible or remote working arrangements?

Although remote work has been obligatory in Cyprus at times for certain sectors due to covid-19 social distancing restrictions, a law regulating remote work has yet to be introduced. As we understand the law is in the final stages of legal drafting and will be submitted for legal vetting in the following months.

No law has been introduced with respect to flexible working. However, as the definition of part-time employee is rather broad, requests for flexible working could arguably be accommodated under the existing law.

3. Does an employer need a reason in order to lawfully terminate an employment relationship? If so, state what reasons are lawful in your jurisdiction?

Yes, for a dismissal to be lawful in Cyprus it must be based on one of the following pre-defined grounds for fair dismissal:

- The employee has become redundant.

- The termination is due to force majeure (war, political uprising, act of God or destruction of the premises by fire not caused by the willful act or negligence of the employer).
- The employment is terminated at the end of a fixed-term contract or because of the attainment by the employee of the normal retirement age by virtue of custom, law, collective agreement, work rules, or otherwise.
- The employee's failure to perform in a reasonably satisfactory manner.
- The employee behaves in a way that legitimises the employer to terminate the employment without notice, including but not limited to:
 - Gross misconduct by the employee;
 - Commission by the employee of a criminal offence, in the context of employment, without the agreement, express or implied, of the employer;
 - Behaviour by the employee that makes clear that the employer – employee relationship cannot be reasonably expected to continue;
 - Improper behaviour by the employee in the course of employment; and
 - Serious or repeated contravention or disregard by the employee of work or other rules in relation to employment.

The only exception to the rule that there needs to be a reason to lawfully terminate the employment of an employee is when such employee is on probation. If the employee is on probation the employer is not required to have a reason to terminate nor provide a notice of termination.

4. What, if any, additional considerations

apply if large numbers of dismissals (redundancies) are planned? How many employees need to be affected for the additional considerations to apply?

If an employer has the intention to terminate the contract of multiple employees within a short timeframe, it is possible that such action is regulated under the protective scope of the collective redundancies law and thus an additional consultation procedure needs to be followed and further information obligations are in place. These additional obligations are only relevant if the thresholds set by the relevant legislation are met. The thresholds take into consideration the average number of employees under employment and the number of employees dismissed over a period of 30 days (cf. table below).

Average headcount	Minimum number of employees dismissed over the 30 days period
21 - 99	10
100 -299	10% of the workforce
300+	30

When the additional consultation process is to be observed, employee representatives are to be consulted with a view to reach an agreement about possible alternatives to avoid or reduce the number of dismissals or ways to mitigate its consequences. The employer must also provide written information to the employee representatives and the relevant authority with respect to the intended redundancies and ensure that no termination of an employee’s employment takes place earlier than 30 days from such notification.

5. What, if any, additional considerations apply if a worker’s employment is terminated in the context of a business sale?

If the business sale falls within the protective scope of the transfer of undertakings legislation, both the transferor and the transferee undertakings must exercise caution when proceeding with any dismissals. The transfer itself does not constitute a valid reason for dismissal, unless dismissal is for an economic, technical or organisation reason.

If either the transferor or the transferee terminates the employment of any employees whether in anticipation of the business sale, or because of, or following such business sale, such termination may be considered

unlawful, and may grant the right to the employee to bring a claim for damages for unfair dismissal.

Both the transferor and the transferee undertakings are under notification and consultation obligations with respect to affected employees, breach of which is an offence punishable with a fine.

6. What, if any, is the minimum notice period to terminate employment? Are there any categories of employee who typically have a contractual notice entitlement in excess of the minimum period?

An employer intending to terminate the employment of an employee who has at least 26 weeks’ seniority with that employer (or more depending on the agreed period of probation with the maximum period of probation being 2 years), is obliged to give the employee a minimum period of notice, depending on the length of service, as follows:

Length of Service	Notice by the employer
26 to 51 weeks	1 week
52 to 103 weeks	2 weeks
104 to 155 weeks	4 weeks
156 to 207 weeks	5 weeks
208 to 259 weeks	6 weeks
260 to 311 weeks	7 weeks
312 or more weeks	8 weeks

The parties may agree that a longer notice is served, but any clause in an agreement which purports to reduce the minimum amount of notice prescribed by the legislation is void.

Sometimes a longer period of notice is agreed in collective agreements or with respect to senior employees who view a longer period of notice as better protecting their interests.

7. Is it possible to pay monies out to a worker to end the employment relationship instead of giving notice?

Yes, the right to make a payment in lieu of notice is provided by the relevant law even if not expressly provided for in the employment contract.

8. Can an employer require a worker to be

on garden leave, that is, continue to employ and pay a worker during his notice period but require him to stay at home and not participate in any work?

Garden leave is not expressly provided for or regulated under Cyprus law.

It is not uncommon for such clauses to be included in contracts of employment for senior employees.

Such clauses can be challenged as being in breach of the implied right of an employee to receive work.

The enforceability and scope of such clauses has yet to be determined in decisive manner by the Supreme Court of Cyprus.

9. Does an employer have to follow a prescribed procedure to achieve an effective termination of the employment relationship? If yes, describe the requirements of that procedure or procedures.

A termination notice must be given in writing and must clearly state the last date of employment. This is the only express procedural requirement set out by the law for all lawful reasons of termination.

Although not expressly provided for in the relevant termination legislation, the Courts in Cyprus have many times highlighted the importance of following a structured procedure (depending on the reason of termination) before dismissing an employee, which includes at the very minimum giving the right to the employee to be heard before a dismissal. For example, it is expected that before an employer dismisses an employee for poor performance, it will previously inform such employee that their performance is poor, the reasons why it is poor providing examples, setting out expectations and standard of performance, and providing sufficient and reasonable period of time for such employee to improve.

Certain other procedural steps might be necessary in more specialised circumstances, for example, if the termination is by reason of redundancy. In such case, the employer must notify the relevant authorities of the impending redundancy at least one month prior to the termination date.

10. If the employer does not follow any

prescribed procedure as described in response to question 8, what are the consequences for the employer?

Failure to provide a valid termination notice would enable the employee to bring a claim in order to recover the amount equivalent to the notice.

If an employee brings a claim for unfair dismissal with respect to a termination for which, among other things, no proper procedure was followed, the Courts will take such improper procedure into consideration in their assessment of the legality of the termination and may decide that such termination is unlawful. If this is the case, the employee will be awarded statutory compensation and the Court may also award increased damages since the way the termination came about is one of the factors that Courts need to take into consideration when exercising their discretion for the award of increased damages.

11. How, if at all, are collective agreements relevant to the termination of employment?

Collective agreements will commonly provide additional requirements (such as consultation and notification obligations) before a termination of an employee takes place, especially with respect to redundancies or significant reductions in the workforce.

12. Does the employer have to obtain the permission of or inform a third party (e.g local labour authorities or court) before being able to validly terminate the employment relationship? If yes, what are the sanctions for breach of this requirement?

In the normal course of events, no permission or information obligation to any third party (except information obligation to employee representatives) is owed for the termination of the employment of an employee.

If the termination is due to redundancy or collective redundancies, transfer of business, merger, or other similar arrangements it might be necessary to provide termination information and/or consultation with appropriate parties/authorities.

13. What protection from discrimination or harassment are workers entitled to in respect of the termination of employment?

There is no single piece of legislation covering the protection of employees from discrimination based on protected characteristics, but there are several specific laws that individually cover different protected characteristics.

We set out below a non-exhaustive list of the protection afforded by different laws:

- No direct or indirect discrimination based on gender (pregnancy and maternity are considered as sex discrimination factors) for equal pay for equal work.
- No direct or indirect discrimination based on gender (pregnancy, giving birth, lactation, maternity, or any disease because of the pregnancy, giving birth) and protection against harassment and sexual harassment and obligation for positive actions to promote the equality of genders in respect of employment, vocational training and orientation or access to the employment or vocational training and orientation.
- No direct or indirect discrimination, harassment, or direction for the imposition of discriminatory treatment because of religion or religious beliefs, age, sexual orientation, race, or national origin.
- No direct or indirect discrimination for people with disabilities and obligation for reasonable adjustments.
- No discrimination for employees working on a part time basis and obligation to consider requests to become full time employees.
- No discrimination for employees working on a fixed term basis and obligation to consider employees for contracts of indefinite period.
- No direct or indirect discrimination because of the participation or non-participation of a person to trade unions.

Most of the above-mentioned laws also offer protection to victims of discrimination and/or harassment from retaliation.

14. What are the possible consequences for the employer if a worker has suffered discrimination or harassment in the context of termination of employment?

Possible consequences include orders for fair

compensation, criminal liability, and fines and in certain circumstances where the employer is a company its officers may also be held liable.

15. Are any categories of worker (for example, fixed-term workers or workers on family leave) entitled to specific protection, other than protection from discrimination or harassment, on the termination of employment?

With respect to fixed term contracts, where an employee works for the same employer for a period (whether continuous or not) of more than 30 months, the contract will automatically become indefinite, unless the employer can demonstrate objective reasons necessitating a fixed duration, including:

- The company needs for the execution of a project are temporary;
- The employee is replacing another employee;
- The specifics of the work undertaken, nature of duties and character of employment justifies fixed term employment;
- The employee is on probation;
- The fixed-term employment is in compliance with a judicial decision; and
- The physical and mental conditions of the employee are linked with the performance of the duties.

Additionally, as already discussed, there are laws protecting both fixed term employees and part-time employees from discrimination and there is a positive obligation on employers to inform and consider such employees for indefinite contracts and full time work respectively.

16. Are workers who have made disclosures in the public interest (whistleblowers) entitled to any special protection from termination of employment?

Yes, such employees are protected against retaliation including termination of employment and a compensation order can be issued by the Court together with an order for reinstatement if the employee so wishes.

17. What financial compensation is

required under law or custom to terminate the employment relationship? How is such compensation calculated?

As already discussed, depending on the reason for dismissal an employer will be obliged to serve at least the minimum statutory notice to an employee before dismissing such employee, unless a longer period has been agreed with the contract of employment. The notice period can either continue working until the lapse of the notice period or the employer may decide to make a payment in lieu of notice.

The employer must also pay any other salary entitlement of the employee including accrued salary up to the date of termination, outstanding holiday entitlement, pro-rata 13th salary (if payable) and any other contractual entitlements, if such are payable on termination (e.g. bonus).

Other than the above amounts, an employer dismissing an employee on a lawful ground of dismissal will have no further payment and/or compensation obligations.

However, it is not uncommon when employers want to dismiss employees and there is dispute or uncertainty as to the legality of the dismissal to offer compensation relative to the sums the employee would have been entitled to receive as minimum compensation in a claim for unfair dismissal in the Industrial Disputes Tribunal. The minimum compensation an employee is entitled to is in accordance with their year of service as follows:

Years of Employment	Weekly salary	Years of Employment	Weekly salary
1	2	14	35
2	4	15	38
3	6	16	41,5
4	8	17	45
5	10,5	18	48,5
6	13	19	52
7	15,5	20	55,5
8	18	21	59,5
9	20,5	22	63,5
10	23	23	67,5
11	26	24	71,5
12	29	25	75,5
13	32		

18. Can an employer reach agreement with a worker on the termination of employment in which the employee validly

waives his rights in return for a payment? If yes, describe any limitations that apply, including in respect of non-disclosure or confidentiality clauses.

Yes, parties can enter into settlement and/or termination agreements to settle any employment related claims they might have against each other. There are no specific requirements that need to be followed prescribed by legislation, however it needs to be clear from the wording of the agreement that the amount the employee is receiving is made in promise by the employer and in reliance by the employee that the former will not bring an action against the latter and that the amount received is in full and final satisfaction of all claims relating to the employment and its termination.

19. Is it possible to restrict a worker from working for competitors after the termination of employment? If yes, describe any relevant requirements or limitations.

It is not unusual for employment contracts to contain post-termination covenants. It is doubtful whether such restraint of trade clauses are enforceable under Cyprus law.

Firstly, such clauses can be in breach of the constitutional right to enter freely into any contract. It is generally perceived that an employer has a significant bargaining power over an employee and as such clauses restraining an employee from entering any other contracts might be considered to be against the relevant section of the constitution.

Secondly, in accordance with Cypriot Contracts Law, post-termination clauses in contracts are considered, in most cases, to amount to a restraint of trade and therefore are void and unenforceable, unless they fall under specific exceptions set out in the law (i.e. partnership and quasi partnership relationships).

To date, the Supreme Court of Cyprus has not examined in any useful detail the ambit of such clauses and therefore it would be difficult to predict how the Cypriot courts would approach such an issue. It is possible that a Court examining restrictive covenants seeks guidance from analogous common law treatment of the issue. If indeed this is the approach, the Court would probably examine whether such clause as drafted (duration, geographic scope, type of restrictions, etc.) falls within the relevant legitimate interest and reasonableness tests.

20. Can an employer require a worker to keep information relating to the employer confidential after the termination of employment?

As the law currently stands trade secrets can remain confidential even after the termination of employment. The trade secrets definition is not however very broad and does not include any confidential information that could have been subject to protection during the employment period.

It is not uncommon for employers that wish to ensure further protection to any confidential information (whether it amounts to a trade secret or not) to offer a departing employee a non-disclosure agreement for an extra amount to have a contractual obligation additional to the standard implied duty arising from the employment relationship.

21. Are employers obliged to provide references to new employers if these are requested? If so, what information must the reference include?

An employee may request a former employer to issue a certificate setting out the period during which the employee was working for said employer and the type or types of work performed. The employer cannot include any derogatory comments in such certificate.

22. What, in your opinion, are the most common difficulties faced by employers in your jurisdiction when terminating employment and how do you consider employers can mitigate these?

We consider that the introduction of a statutory and/or institutionalised skeleton procedure to be followed in all different instances of dismissal which will be accompanied with approved guidelines (both from employer and employee representatives) providing further support to both employers and employees in such situations, will allow the employers to be better prepared in undertaking any dismissal exercise and would minimise terminations that could have been avoided. This becomes more important with time, since the Courts are increasingly considering whether a fair procedure was followed in the context of unfair dismissal claims.

23. Are any legal changes planned that are likely to impact on the way employers in your jurisdiction approach termination of employment? If so, please describe what impact you foresee from such changes and how employers can prepare for them?

At the time of drafting, we are not aware of any such legal changes.

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