# Study unit 8: Employment Contract

# Introduction

Contract of employment is usually defined to mean the same as a "contract of service". A contract of service has historically been distinguished from a contract for the supply of services, the expression altered to imply the dividing line between a person who is "employed" and someone who is "self-employed". The purpose of the dividing line is to attribute rights to some kinds of people who work for others. This could be the right to a minimum wage, holiday pay, sick leave, fair dismissal, a written statement of the contract, the right to organize in a union, and so on. The assumption is that genuinely self-employed people should be able to look after their own affairs, and therefore work they do for others should not carry with it an obligation to look after these rights.

# Learning Outcomes of Study Unit 8 8

By the end of this topic you should be able to:

8.1. Describe the Concept of Employment Contract

8.2 Discuss the rights of employees and obligations

8.3 Explain the rules that governs collective bargaining

8.4 Examine how "good faith" bargaining is determined

8.5 Discuss the rules about union dues

## **8.1. Describe the Concept of Employment Contract**

The employment contract should clearly state the terms and conditions of employment such as duration of employment, place of work, hours of work, wages, termination, etc.

The contract of employment is, however, a specialized form of contract. Rights and duties have been superimposed on those contractual arrangements classified as employment one and employers cannot derogate from these rights or duties even by contract.

The employee should read the employment contract thoroughly before signing. In case an employee does not understand any particular aspect of the employment contract, legal guidance should be sought from the worker’s union or from any other legal expert. If the employee is not in agreement with any part of the employment contract he or she has the right to request for changes to be made by the employer before he or she signs it.

All employment contracts must be in line with the provisions of the labour laws of Uganda. If this is not the case then that particular provision of the employment contract is rendered null and void.

Box 8.1: Employment Contract

An employment contract or contract of employment is a kind of contract used in labor law to attribute rights and responsibilities between parties to a bargain.

**Example of a contract**

Please note that the employment contract below is an example. Contracts may vary from one workplace to another or from one job to another.

This Contract is made on this ….. Day of …… (Month and Year)

BETWEEN

Name and Address of Company: … (Hereinafter Called “Employer”)

AND

Name and Address of Employee: ……..… (Herein called “Employee”)

**1. Appointment**
The Employee shall, subject to the General Terms and Conditions of Employment of Employer unless altered or amended by this Agreement, serve employer well and faithfully as …………………………..(position) reporting to the ………….. (CEO/Officer) of ………. (Company name) for a period of ……….(days/months/years) with effect from ………... The Employee shall use the best endeavors to promote the interests of the Employer.

**2. Place of work:** ……………………………………..

**3. Job description**
3.1 Job Title:…………………………………………………………
3.2 Duties:……………………………………………………………
……………………………………………………………
……………………………………………………………
……………………………………………………………
……………………………………………………………

**4. Payment**
4.1 Salary/Wage
The Employee will receive remuneration for services amounting to a gross salary of U Shs………. (Amount in words) per week/month

*4.2 Allowances*
The employee shall be entitled to:
(a) Transport allowance of:
(b) Housing allowance of:
(c) Medical allowance of:

*4.3 Overtime pay*
Where hours in excess of eight hours per day or forty eight hours per week are worked, they shall be remunerated at the minimum rate of one and a half times of the normal hourly rate if the overtime is on the normal working days, and at two times the hourly rate where the overtime is worked on gazette public holidays.

In accordance with the Laws of Uganda, the Employer shall deduct government taxes and NSSF contributions from the Employee’s due salary.

**5. Business Expenses**
Expenses incurred by the Employee in connection with the business activities of the Employer shall be reimbursed by the Employer against vouchers. The reimbursement of business costs will be according to the Employer’s policy, with which the Employee is obliged to familiarize herself or himself.

**6. Hours of Work**
The Employee will be required to work 48 hours per week excluding lunch and tea breaks. The normal hours of duty may be changed by Management to suit the requirement of the work programmes. The Employee may be required to work overtime from time to time.

**7. Leave**
The employee shall be entitled to an annual paid leave of 21 working days. This leave has to be taken within the respective calendar year. However, the right to this leave may be postponed for serious reasons, with prior written permission being given by the CEO. Leave will be taken at a time mutually convenient to both employer and the Employee.

**7. National Social Security Fund (NSSF)**
Membership of the NSSF is compulsory. The Employer will contribute to the Fund at the current stipulated rate of 10% of the Employee’s gross salary. The Employee will contribute the current stipulated amount of 5% of his gross salary.

**8. Termination of Contract**
This Contract may be terminated by either party at the end of any calendar month by giving notice in writing to the other party as set out in the Regulations or paying in lieu of notice. Termination may be effected under the following circumstances:

Failing to fulfill obligations under this agreement having first been given notice of the default and having continued in default, exercising unreasonable slowness or delays in carrying out obligations under this agreement having confirmed in default
In the event of such termination, the Employer will pay the Employee for the work as approved by the CEO and the HR/Administrator prior to effective date of termination. If the conditions of work are extremely unfavorable for the employee, if the employee wishes to resign for any other reason, he/she is free to proceed on condition that he/she notifies the management one month in advance.

**9. Other terms of employment:**

**10. Alteration of the Contract**
This Employment Contract comprises the totality of all contractual relations between the Employer and the Employee. It replaces all previous offers, promises and contracts in verbal or written form between the parties. No alteration in the Terms of the Contract shall be binding unless made in writing and signed by both parties.

**11. Applicable Law and Jurisdiction**
The Terms of this Contract shall be interpreted, the relations between the parties who are signatories thereto shall be determined, in accordance with the Laws of Uganda.

**12. Final Provisions**
All issues not mentioned in this Contract will be covered in accordance with the Labour Laws of Uganda.

The Employee shall devote their entire professional capacity to the interests of the Employer, and will refrain from any activity which might be harmful to such interest.

The Employee may not disclose to third parties any confidential information, knowledge or documentation relating to transactions, organisational or business matters, production processes, products, developments or research findings of the Employer, both during or following termination of the Employer-Employee relationship, and may not provide third parties with the opportunity of obtaining this information.

In addition, the Employee is obligated to maintain secrecy about confidential information with which they are entrusted in connection with their work by the Employer, prospective customer, or other outside parties, or which they learn about in any other way.

In witness whereof, the parties have signed this Contract in duplicate on this ……. day of ……………………………………………………...

………………………………………. ………………………………………
Name: ………………………… Name: ………………….
CEO Employee
on behalf of ……. (Company name)

Witnesses:
1. Name and signature:…………………………………….

2. Name and signature: …………………………………….

## **8.2 Employer/Union Rights and Obligations**

The National Labor Relations Act forbids employers from interfering with, restraining, or coercing employees in the exercise of rights relating to organizing, forming, joining or assisting a labor organization for collective bargaining purposes, or from working together to improve terms and conditions of employment, or refraining from any such activity. Similarly, labor organizations may not restrain or coerce employees in the exercise of these rights.

**Examples of employer conduct that violates the law:**

* Threatening employees with loss of jobs or benefits if they join or vote for a union or engage in protected concerted activity.
* Threatening to close the plant if employees select a union to represent them.
* Questioning employees about their union sympathies or activities in circumstances that tend to interfere with, restrain or coerce employees in the exercise of their rights under the Act.
* Promising benefits to employees to discourage their union support.
* Transferring, laying off, terminating, assigning employees more difficult work tasks, or otherwise punishing employees because they engaged in union or protected concerted activity.
* Transferring, laying off, terminating, assigning employees more difficult work tasks, or otherwise punishing employees because they filed unfair labor practice charges or participated in an investigation conducted by National labor regulatory board (NLRB)

**Examples of labor organization conduct that violates the law:**

* Threats to employees that they will lose their jobs unless they support the union.
* Seeking the suspension, discharge or other punishment of an employee for not being a union member even if the employee has paid or offered to pay a lawful initiation fee and periodic fees thereafter.
* Refusing to process a grievance because an employee has criticized union officials or because an employee is not a member of the union in states where union security clauses are not permitted.
* Fining employees who have validly resigned from the union for engaging in protected concerted activities following their resignation or for crossing an unlawful picket line.
* Engaging in picket line misconduct, such as threatening, assaulting, or barring non-strikers from the employer's premises.
* Striking over issues unrelated to employment terms and conditions or coercively enmeshing neutrals into a labor dispute.

## 8.3 The rules that govern collective bargaining for a contract

After employees choose a union as a bargaining representative, the employer and union are required to meet at reasonable times to bargain in good faith about wages, hours, vacation time, insurance, safety practices and other mandatory subjects. Some managerial decisions such as subcontracting, relocation, and other operational changes may not be mandatory subjects of bargaining, but the employer must bargain about the decision's effects on unit employees.

It is an unfair labor practice for either party to refuse to bargain collectively with the other, but parties are not compelled to reach agreement or make concessions.

If after sufficient good faith efforts, no agreement can be reached, the employer may declare impasse, and then implement the last offer presented to the union. However, the union may disagree that true impasse has been reached and file a charge of an unfair labor practice for failure to bargain in good faith. The NLRB will determine whether true impasse was reached based on the history of negotiations and the understandings of both parties.

If the Agency finds that impasse was not reached, the employer will be asked to return to the bargaining table. In an extreme case, the NLRB may seek a court order to force the employer to bargain.

The parties' obligations do not end when the contract expires. They must bargain in good faith for a successor contract, or for the termination of the agreement, while terms of the expired contract continue.

A party wishing to end the contract must notify the other party in writing 60 days before the expiration date, or 60 days before the proposed termination. The party must offer to meet and confer with the other party and notify the Federal Mediation and Conciliation Service of the existence of a dispute if no agreement has been reached by that time.

## **8.4 How is "good faith" bargaining determined**

There are hundreds, perhaps thousands, of NLRB cases dealing with the issue of the duty to bargain in good faith. In determining whether a party is bargaining in good faith, the Board will look at the totality of the circumstances. The duty to bargain in good faith is an obligation to participate actively in the deliberations so as to indicate a present intention to find a basis for agreement. This implies both an open mind and a sincere desire to reach an agreement as well as a sincere effort to reach a common ground.

The additional requirement to bargain in "good faith" was incorporated to ensure that a party did not come to the bargaining table and simply go through the motions. There are objective criteria that the NLRB will review to determine if the parties are honoring their obligation to bargain in good faith, such as whether the party is willing to meet at reasonable times and intervals and whether the party is represented by someone who has the authority to make decisions at the table.

Conduct away from the bargaining table may also be relevant. For instance if an Employer were to make a unilateral change in the terms and conditions of employees employment without bargaining, that would be an indication of bad faith.

## **8.5 The rules about union dues**

The amount of dues collected from employees represented by unions is subject to state laws and court rulings.

The NLRA allows employers and unions to enter into union-security agreements, which require all employees in a bargaining unit to become union members and begin paying union dues and fees within 30 days of being hired.

Even under a security agreement, employees who object to full union membership may continue as 'core' members and pay only that share of dues used directly for representation, such as collective bargaining and contract administration. Known as objectors, they are no longer full members but are still protected by the union contract. Unions are obligated to tell all covered employees about this option, which was created by a Supreme Court ruling and is known as the Beck right.

An employee may object to union membership on religious grounds, but in that case, must pay an amount equal to dues to a nonreligious charitable organization.