



# Employment Law

26 March 2026

## Kenya

Applicability of global HR  
policies to employees in Kenya



For more insight into our  
expertise and services

# Applicability of global HR policies to employees in Kenya

The modern workplace is increasingly global. Multinational corporations routinely operate across several jurisdictions, often through subsidiaries, branches or representative offices. To maintain consistency in governance and corporate culture, many such organisations develop group-level or global human resources (HR) policies covering matters such as ethics, disciplinary procedures, whistleblowing, anti-harassment, investigations and workplace conduct.

These policies often form part of a broader compliance architecture designed to ensure uniform standards across the organisation. They are frequently drafted at the parent company level and then rolled out to all entities within the group.

However, multinational employers also operate within distinct local legal systems, each with its own statutory framework governing employment relationships. As a result, employers often find themselves implementing two overlapping regulatory layers:

- global or group-level HR policies; and
- local employment policies designed to comply with domestic law.

While the coexistence of these frameworks is common, it is not always seamless. In practice, several legal and operational questions arise. Two of the most prominent are:

1. What happens where provisions of global HR policies are inconsistent with mandatory local employment laws?
2. To what extent can global or group policies be applied to employees who are locally employed under domestic employment contracts?

These questions frequently emerge in the context of workplace disputes, disciplinary processes, internal investigations and termination challenges. In many cases, the answer determines whether an employer's decision withstands scrutiny under Kenyan employment law.

This article explores the practical realities that arise when global HR frameworks intersect with Kenyan labour law, and highlights steps multinational employers can take to manage this intersection effectively.



### Practical challenges when global policies meet local employment law

#### *When global policy provisions conflict with local law*

The first and most immediate issue arises where a global policy contains provisions that conflict with mandatory local legal requirements.

Employment relationships performed in Kenya are grounded in the constitutional guarantee of fair labour practices under Article 41 of the Constitution of Kenya, 2010 and are principally governed by statutes such as the Employment Act, Cap. 226 (Employment Act) and the Labour Relations Act, Cap. 233.

These laws establish minimum protections for employees which cannot be waived or contracted out of through internal policies. This principle is expressly anchored in section 26 of the Employment Act, which confirms that the Employment Act constitutes the basic minimum terms and conditions of employment, and further provides that where any contract of service, collective agreement, regulation or other written law prescribes terms more favourable to an employee, such terms shall apply. Complementarily, section 3(6) reinforces the mandatory nature of these statutory safeguards by stipulating that the terms and conditions set out in the act constitute the minimum standards of employment, and any agreement to relinquish, vary or amend them to the employee's detriment is null and void. Accordingly, while parties are at liberty to enhance employee protections, any contractual or policy provision that falls below the statutory minimum standards is unenforceable to the extent of the inconsistency.

Global policies drafted in jurisdictions such as the US, UK or continental Europe may therefore contain provisions that are perfectly lawful in their originating jurisdictions but problematic when applied in Kenya. Common examples include:

- language suggesting that employment is "at will" or terminable without cause;
- disciplinary procedures that allow termination without a formal hearing;
- grievance processes that limit employee representation; and
- notice provisions shorter than those permitted by local law.

Where such provisions are applied in Kenya, courts are likely to disregard them to the extent that they conflict with statutory protections.

In other words, internal corporate policies cannot override mandatory labour legislation.

For employers, this can lead to a particularly difficult situation: a termination decision may appear compliant with internal corporate policies but nevertheless be deemed unlawful under Kenyan law.

#### *The question of contractual incorporation*

A second issue concerns whether global policies become legally binding on the employment relationship.



In many multinational organisations, employees are asked to acknowledge receipt of group policies through onboarding platforms or employee handbooks. However, the legal effect of such acknowledgements is not always straightforward.

If a global policy is expressly incorporated into an employment contract, it may become contractually enforceable. In such cases, employees may rely on its provisions when challenging disciplinary action or termination decisions.

For example, if a global investigation policy promises specific procedural safeguards, such as a defined appeals process or mandatory investigation timelines, employees may argue that failure to follow those steps constitutes a breach of contract.

Conversely, where policies are not clearly incorporated into employment contracts, employers may face the opposite argument: that reliance on a global policy cannot justify disciplinary action because the policy was never contractually binding on the employee.

The ambiguity surrounding incorporation therefore creates legal uncertainty for both employers and employees.

### *Procedural fairness in disciplinary processes*

Another point of tension arises during disciplinary proceedings and termination decisions.

Under the Employment Act, employers are required to observe procedural fairness before terminating an employee on grounds of misconduct or poor performance. This includes informing the employee of the allegations and providing an opportunity to respond.

Global disciplinary frameworks, however, often operate differently. They may involve:

- centralised investigations conducted outside the country;
- decision-making by regional or global HR teams;
- written submissions in place of oral hearings; or
- processes designed primarily for compliance reporting rather than employment law compliance.

While these models may satisfy corporate governance requirements, they do not always align with Kenyan statutory procedures.

Consequently, employers occasionally find themselves defending termination decisions that were fully compliant with global policies but procedurally deficient under local law.

In employment disputes, courts tend to prioritise statutory procedural protections over internal corporate processes.

### *The practical reality: Policies often travel faster than law*

In practice, the rollout of global policies is often driven by corporate governance timelines rather than local legal review. Policies are circulated globally, translated where necessary and implemented across dozens of jurisdictions simultaneously.

Local HR teams may then be expected to enforce these policies even where aspects of the framework have not been fully adapted to local legal requirements.

Over time, this creates a patchwork system in which global policies exist alongside local legal obligations, with the two frameworks occasionally pulling in different directions.

When disputes arise, it is typically the local statutory framework that ultimately determines the legality of the employer's actions.



### **What should multinational employers do?**

The existence of global HR policies is not inherently problematic. In fact, such policies often play an essential role in maintaining consistent corporate standards across multinational operations. The key issue is alignment rather than uniformity.

Multinational employers operating in Kenya should therefore consider adopting a structured approach to integrating global policies with local legal requirements.

This may include the following:

#### *Local legal review of global policies*

Before implementing global HR policies locally, organisations should conduct a legal review to identify provisions that may conflict with Kenyan labour law.

Where inconsistencies exist, local addenda or independent/supplementary policies can be introduced to cure such inconsistencies or clarify how the global policy should operate within the jurisdiction.

#### *Clear hierarchy between policies and local law*

Policies should expressly recognise that local employment laws prevail in the event of inconsistency. This reduces ambiguity and ensures that local HR teams understand the boundaries within which global policies operate.

#### *Localisation of disciplinary procedures*

Even where misconduct investigations are conducted within global compliance frameworks, the final disciplinary process should be structured in a manner consistent with Kenyan statutory procedural requirements.

This ensures that corporate governance objectives are achieved without compromising legal compliance.

#### *Training for HR and management teams*

Finally, HR professionals and managers should be trained to understand the interaction between global policies and local employment law.

Policies are most effective when those responsible for implementing them are aware not only of the corporate rules but also of the legal framework within which those rules operate.

### **Conclusion**

Global HR policies are an important component of modern corporate governance. They help multinational organisations maintain consistent standards of conduct, ethics and accountability across diverse operations.

However, employment relationships ultimately exist within local legal systems. In Kenya, statutory employment protections and constitutional guarantees of fair labour practices form the framework within which all workplace decisions must operate.

For multinational employers, the challenge is therefore not whether global policies can be applied locally, but how they should be adapted to coexist with domestic legal requirements.

With careful localisation and proactive legal review, organisations can preserve the benefits of global governance while ensuring compliance with Kenyan employment law, reducing both legal risk and operational uncertainty.

**Desmond Odhiambo, Christine Mugenyu,  
Melisa Wekesa and Billy Oloo.**



## OUR TEAM

For more information about our Employment Law practice and services in South Africa, Kenya and Namibia, please contact:



### Aadil Patel

Practice Head & Director:  
Employment Law  
Sector Head:  
Government & State-Owned Entities  
T +27 (0)11 562 1107  
E aadil.patel@cdhlegal.com



### Anli Bezuidenhout

Director:  
Employment Law  
T +27 (0)21 481 6351  
E anli.bezuidenhout@cdhlegal.com



### Frieda Kishi

Director | Namibia  
T +264 83 373 0100  
E frieda.kishi@cdhlegal.com



### Fiona Leppan

Director:  
Employment Law  
T +27 (0)11 562 1152  
E fiona.leppan@cdhlegal.com



### Imraan Mahomed

Director:  
Employment Law  
T +27 (0)11 562 1459  
E imraan.mahomed@cdhlegal.com



### Nadeem Mahomed

Director:  
Employment Law  
T +27 (0)11 562 1936  
E nadeem.mahomed@cdhlegal.com



### Yvonne Mkefa

Director:  
Employment Law  
T +27 (0)21 481 6315  
E yvonne.mkefa@cdhlegal.com



### Phetheni Nkuna

Director:  
Employment Law  
T +27 (0)11 562 1478  
E phetheni.nkuna@cdhlegal.com



### Desmond Odhiambo

Partner | Kenya  
T +254 731 086 649  
+254 204 409 918  
+254 710 560 114  
E desmond.odhiambo@cdhlegal.com



### Jean Ewang

Counsel:  
Employment Law  
T +27 (0)11 562 1499  
E jean.ewang@cdhlegal.com



### Thabang Rapuleng

Counsel:  
Employment Law  
T +27 (0)11 562 1759  
E thabang.rapuleng@cdhlegal.com



### JJ van der Walt

Counsel:  
Employment Law  
T +27 (0)11 562 1289  
E jj.vanderwalt@cdhlegal.com



### Ebrahim Patelia

Legal Consultant:  
Employment Law  
T +27 (0)11 562 1000  
E ebrahim.patel@cdhlegal.com



### Daniel Kiragu

Senior Associate | Kenya  
T +254 731 086 649  
+254 204 409 918  
+254 710 560 114  
E daniel.kiragu@cdhlegal.com



### Lee Masuku

Senior Associate:  
Employment Law  
T +27 (0)11 562 1213  
E lee.masuku@cdhlegal.com



### Leila Moosa

Senior Associate:  
Employment Law  
T +27 (0)21 481 6318  
E leila.moosa@cdhlegal.com



### Christine Mugenyu

Senior Associate | Kenya  
T +254 731 086 649  
+254 204 409 918  
+254 710 560 114  
E christine.mugenyu@cdhlegal.com



### Kgodisho Phashe

Senior Associate:  
Employment Law  
T +27 (0)11 562 1086  
E kgodisho.phashe@cdhlegal.com



### Taryn York

Senior Associate:  
Employment Law  
T +27 (0)11 562 1732  
E taryn.york@cdhlegal.com



### Chantell De Gouveia

Associate:  
Employment Law  
T +27 (0)11 562 1343  
E chantell.degouveia@cdhlegal.com

## OUR TEAM

For more information about our Employment Law practice and services in South Africa, Kenya and Namibia, please contact:



**Ra'ees Ebrahim**

Associate:  
Employment Law  
T +27 (0)11 562 1735  
E raees.ebrahim@cdhlegal.com



**Ayesha Karjieker**

Associate:  
Employment Law  
T +27 (0)11 562 1568  
E ayesha.karjieker@cdhlegal.com



**Kevin Kipchirchir**

Associate | Kenya  
T +254 731 086 649  
+254 204 409 918  
+254 710 560 114  
E kevin.kipchirchir@cdhlegal.com



**Biron Madisa**

Associate:  
Employment Law  
T +27 (0)11 562 1031  
E biron.madisa@cdhlegal.com



**Thato Makoaba**

Associate:  
Employment Law  
T +27 (0)11 562 1659  
E thato.makoaba@cdhlegal.com



**Thato Maruapula**

Associate:  
Employment Law  
T +27 (0)11 562 1774  
E thato.maruapula@cdhlegal.com



**Sheilla Mokaya**

Associate | Kenya  
T +254 731 086 649  
+254 204 409 918  
+254 710 560 114  
E sheilla.mokaya@cdhlegal.com



**Sashin Naidoo**

Associate:  
Employment Law  
T +27 (0)11 562 1482  
E sashin.naidoo@cdhlegal.com



**Billy Oloo**

Associate | Kenya  
T +254 731 086 649  
+254 204 409 918  
+254 710 560 114  
E billy.oloo@cdhlegal.com



**Melisa Wekesa**

Associate | Kenya  
T +254 731 086 649  
+254 204 409 918  
+254 710 560 114  
E melisa.wekesa@cdhlegal.com

**BBBEE STATUS:** LEVEL ONE CONTRIBUTOR

Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

**PLEASE NOTE**

This information is published for general information purposes and is not intended to constitute legal advice. Specialist legal advice should always be sought in relation to any particular situation. Cliffe Dekker Hofmeyr will accept no responsibility for any actions taken or not taken on the basis of this publication.

**JOHANNESBURG**

1 Protea Place, Sandton, Johannesburg, 2196. Private Bag X40, Benmore, 2010, South Africa.  
Dx 154 Randburg and Dx 42 Johannesburg.  
T +27 (0)11 562 1000 F +27 (0)11 562 1111 E [jhb@cdhlegal.com](mailto:jhb@cdhlegal.com)

**CAPE TOWN**

11 Buitengracht Street, Cape Town, 8001. PO Box 695, Cape Town, 8000, South Africa. Dx 5 Cape Town.  
T +27 (0)21 481 6300 F +27 (0)21 481 6388 E [ctn@cdhlegal.com](mailto:ctn@cdhlegal.com)

**NAIROBI**

Merchant Square, 3<sup>rd</sup> floor, Block D, Riverside Drive, Nairobi, Kenya. P.O. Box 22602-00505, Nairobi, Kenya.  
T +254 731 086 649 | +254 204 409 918 | +254 710 560 114  
E [cdhkenya@cdhlegal.com](mailto:cdhkenya@cdhlegal.com)

**ONGWEDIVA**

Shop No A7, Oshana Regional Mall, Ongwediva, Namibia.  
T +264 (0) 81 287 8330 E [cdhnamibia@cdhlegal.com](mailto:cdhnamibia@cdhlegal.com)

**STELLENBOSCH**

14 Louw Street, Stellenbosch Central, Stellenbosch, 7600.  
T +27 (0)21 481 6400 E [cdhstellenbosch@cdhlegal.com](mailto:cdhstellenbosch@cdhlegal.com)

**WINDHOEK**

1<sup>st</sup> Floor Maerua Office Tower, Cnr Robert Mugabe Avenue and Jan Jonker Street, Windhoek 10005, Namibia.  
PO Box 97115, Maerua Mall, Windhoek, Namibia, 10020  
T +264 833 730 100 E [cdhnamibia@cdhlegal.com](mailto:cdhnamibia@cdhlegal.com)

©2026 15665/MAR

