



THE LAW CREST LLP

EMPLOYMENT LAW: KEY DEVELOPMENTS IN 2025 AND 2026 OUTLOOK

Introduction

The labour and employment law landscape in Nigeria continues to evolve, and this evolution has been facilitated by the third alteration of the 1999 Constitution, which has enhanced the powers of the National Industrial Court ("NIC"), as well as the NIC's willingness to exercise these powers.

Aside from the NIC, there is a growing acceptance of concepts like international best practices, hitherto frowned upon by the Court of Appeal and the Supreme Court.

It is important to state that globalization has also played an important role in shaping the state of our employment jurisprudence, largely due to the influence of multinational organisations.

In this write-up, we will analyze the significant shifts that occurred in 2025 and as well look at possible trends for 2026.

1.0 **Review of 2025**

1.1 **Disciplinary hearing and fair hearing**

The concept of fair hearing and what constitutes fair hearing in an internal disciplinary hearing had long been a thorny issue.

This situation is not helped by the absence of a regulation, guideline, or code on the management of disciplinary hearings.

Whilst the NICN had held in a long line of cases that organisations in conducting disciplinaries must follow the provisions in its policy and that employees must be allowed to state their case and be informed of their infraction, there remained a certain level of uncertainty around the management of disciplinary cases.

In PILGRIMS AFRICA LIMITED v. ANTHONY BOYSON. CA/L/1157/2018 decided on the 27th of February 2025, The Court of Appeal held and reaffirmed the principle that while an employer has the right to terminate employment, such termination must comply with laid-down procedures and must not violate the employee's right to a fair hearing. In determining whether a dismissal is lawful, the Court emphasized three core considerations: (a) whether the dismissal followed the disciplinary procedure or applicable employment documents; (b) whether the person issuing the dismissal letter was competent to do so; and (c) whether the employee was afforded a fair hearing in accordance with natural justice.

In practice, notification by email of the infraction, the venue of the hearing, and reasonable notice of the hearing, and ensuring that the party making the accusation is not part of the disciplinary committee will satisfy this condition.

Employers must also ensure that the procedure in their policy is adhered to and that only penalties that are prescribed in the policy are applied.



1.2 Quantum of Damages

Another thorny issue with respect to termination was the subject of quantum of damages for wrongful termination.

Traditionally, the position is that the quantum of damages is restricted to the amount that the employee would have earned over the notice period.

In the aforementioned case, the Court of Appeal held that the current position is that damages for wrongful termination should not be restricted to one month's salary as notice pay; instead, a substantial amount may be awarded as general damages in deserving cases.

Whilst it is the case that there is as yet a lack of harmony as to how much that can be awarded, the NIC has, in some cases, used a benchmark of 6 months' wages in the past. This decision gives judicial backing to the departure from the common law principle with respect to the quantum of damages

1.3 Statute of Limitation

(First Bank Nigeria Limited v Mr. Godson Ikechukwu Nkume)

In 2019, addressing the issue of applicability of limitation law to employment contract, the Supreme Court held in the case of **National Revenue Mobilization Allocation & Fiscal Commission & Ors (NRMAFC) v Ajibola Johnson & Ors**¹ ("Ajibola's Case") that Section 2 of the Public Officer Protection Act ("POPA") does not apply in cases of recovery of land, breach of contract or claims for work and labor done. Therefore, POPA does not apply to cases of employment contracts. Following the decision on the Ajibola's case, the NIC in determining a Preliminary Objection on the issue of applicability of limitation law in the case of **Lilian Nnenna Akumah v First Bank of Nigeria Plc**² ("Akumah's case") held that while the Ajibola's case was on the applicability of POPA to employment contracts, the Akumah's case was on the applicability of limitation law of Lagos State on employment contract. The NIC went further to hold that there is no distinction between the POPA and the Limitation Law, both statutes being statutes of limitation of action. Therefore, both statutes stand side by side insofar as it relates to limitation of action in contract of employment.

In the Ajibola's case, the court did not refer to the limitation laws of Lagos. However, on the rationale that POPA and Limitation Laws are in same boat of statute, the Ajibola's case was given a blanket application in the Akumah's case and other like cases that emanated from employment contracts and limitation of action.

1 [2019] 2 NWLR [Pt. 1656] 247 at 270-271

2 Suit No. NICN/LA/402/2018, ruling delivered on the 10th of October 2019

One year after the decision in Ajibola's case, the Supreme Court departed from its stance and held in **Abubakar Abdulrahman v NNPC**³ and **Mr Idachaba & Ors V The University of Agriculture Makurdi & Ors**⁴ that limitation laws do apply to employment contracts. These conflicting decisions continued to extend arguments on the scope of the POPA in relation to employment contracts as well as its application where the Limitation Laws of a state are in contention. However, on the 15th of January 2025, the Court of appeal in a recent case of **First Bank Nigeria Limited v Mr. Godson Ikechukwu Nkume**⁵ settled the issue with its comprehensive and specific analysis of the applicability of POPA and Limitation Law to employment contracts.

The Respondent, an ex-employee of the Appellant instituted the action at the NIC seeking among other things a declaration that the Appellant was negligent having failed to pay compensations due to the Respondent with respect to the permanent injuries suffered by the Respondent resulting from the gunshot wounds he sustained in the armed robbery attacks on the Appellant bank as provided in the Group Personal Accident Insurance Scheme and non-payment of moneys spent on hiring a driver for one year. The Appellant brought a Preliminary Objection challenging the jurisdiction of the NIC to hear the matter, the cause of action being statute barred. In the dismissing the Preliminary Objection, the NIC relied on the Ajibola's case and held that the POPA and statutes of limitation of action do not apply to contracts of service and therefore the cause of action in the case was not statute barred. The appellant, aggrieved by the ruling of the NIC, appealed to the Court of Appeal. In addressing the issue of the applicability of statutes of limitation to employment contracts, the Court of Appeal in this appeal held that the statute of limitation applies to employment contracts.

Please note that the Ajibola case is still good law with specific reference to POPA.



1.4 Period of Interdiction/Suspension

Another landmark decision with huge ramifications for Nigeria's employment law jurisprudence is the case of **Dr. Otaru Abdulsalam Sani v. Transmission Company of Nigeria**.⁶

3 (2020) LPELR 55519 (SC)

4 (2021) LPELR-53081

5 unreported

6 SUIT NO. NICN/ABJ/197/2024

The NIC in this case awarded general damages of 50M (Fifty Million) and exemplary damages of 5M (Five Million).

It is important, therefore, to ensure that suspension is carried out in line with the provisions of the staff handbook. Suspend only where there is an express power to suspend, and ensure that the suspension is only for the period provided for in the policy of the organization.



1.5 Maternity Rights and Discrimination

An often overlooked section of the Labour Act is section 54, which provides security of employment for employees on maternity leave.

While the Labour Act applies only to workers, Section 54 has universal application as it uses the word “woman” and therefore applies to every woman, whether a worker or an employee.

The NIC on the 21st of January 2025, in **Ms. Binta Adejoh Vs. Arik Air SUIT NO. NICN/LA/290/2020** held that the termination of the employment of Ms. Binta (albeit constructively) while on maternity leave was discriminatory and wrongful.

In this case, the NIC awarded three years' salary as damages, as well as One Million Naira as punitive damages.

³ (2020) LPELR 55519 (SC)

⁴ (2021) LPELR-53081
unreported

1.6 GENERAL APPLICATION AND IMPLEMENTATION DIRECTIVE (“GAID”)

On the 19th of September 2025, GAID came into effect. This regulation provides operational guidelines for the Nigeria Data Protection Act 2023 and radically changes the management of personal data of prospective employees, employees, and ex-employees.

By virtue of the provisions of GAID, employees are considered data subjects, and their consent must be obtained expressly before collecting their personal information.

The GAID provides strict rules for the use of AI tools for making automated hiring decisions or appraisals.

HR, Legal, and compliance teams have to work together to ensure that a Data Protection Impact Assessment (DIA) is carried out before deploying AI tools.

An important provision of GAID is Article 21, which provides a framework for how long employers must keep personal data obtained as part of due diligence before entering into a contract where the contract does not materialize. Under the GAID, such personal information can be disposed of after 6 months.

Another innovative provision in the GAID is the Standard Notice to Address Grievance (SNAG). By virtue of SNAG:

- before an employee sues or reports an employer to the Commission, they can issue a SNAG.
- acts as a formal "internal remediation" step, giving the employer a chance to fix the privacy violation before it escalates to a legal battle or regulatory fine.

2.0 Outlook for 2026

As the workforce becomes more dynamic, educated, and aware, as well as with improved trust in the employment law dispute resolution regime, there is the likelihood of more cases being filed. In numbers, 8,608 cases were filed at the NIC between 2022 and 2025.

We expect the courts to lean more towards international best practices, especially with the termination of employment.

The issue of statute of limitations would appear to have now been resolved.

An area that remains fluid is the issue of co-employment and direct employment under outsourcing arrangements. in the case of **TotalEnergies E&P Nigeria Ltd v. Felix Adariku & Ors (2022) Appeal No. CA/ABJ/CV/563/2020 judgment delivered in December 2022**: The Court of Appeal overturned the ruling of the NIC and reestablished the principle of privity of contract.

On the above, we sound a note of caution to employers as the current mood of the Supreme Court and the Court of Appeal seems to favour international best practices, and therefore it would not come as a surprise if the Court of Appeal reverses itself or another division of the Court of Appeal departs from this position.

By November of this year, an aspect of the Guidelines on Labour Administration of third-party employees in the Food, Beverage, and Tobacco Industry will come into effect.

Whilst the guidelines came into force in 2023, an aspect of the guidelines with respect to core roles will come into effect on the 29th of November 2026.

By virtue of Article 1 of the guidelines, all core roles must be occupied by permanent employees.

When the guideline came into effect, organisations in the sector were given three years moratorium, which means that by the 29th of November, 2026, all organisations in the sector would have identified the core roles within their organisational structure. In addition, such identified core roles must be occupied by permanent employees.

There are similar guidelines for the financial services sector as well as the oil and gas sector.

It may well be the case that similar guidelines may be extended to other sectors in the year under focus.

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