Time up for companies violating labour rules

Employees and their representatives must apply appropriate pressure on their employers to comply with labour laws. FILE PHOTO | NMG

Governments around the world set workplace rules that employers must follow to protect workers’ rights. However, despite the clarity shown in labour regulations, many employers fail to comply with even the most minimum standards set.

Researcher Erin Kelly breaks down labour law noncompliance into two distinct types of employers. The first grouping of employers fails to update institutional policies to keep up with changing labour laws.

Employers in the first category neglect to keep abreast of updated NHIF, KRA, minimum wage, leave days, maximum working hours per day, required benefits, and numbers of days off.
according to labour regulations. Often such firms do not notice their noncompliance until an audit or a lawsuit. These companies do not value innovation and fail to prioritise their workforce.

The second type involves companies who practice outright noncompliance. These organisations fall under rational choice theory that explains their intentional deviant organisational culture. Some industries famously lobby legislators to form exceptions for their sectors in labour laws.

The agricultural industry is well known around the world for getting politicians and policy makers to exempt them from many minimum wage standards and minimum age requirements. However, when lobbying fails to get firms what they desire, some industries tend to intentionally disregard the law and deceptively proceed regardless.

In Kenya, both the private security sector and outsourced cleaning industry represent well-known offenders often not complying with government regulations on labour wages, days off, and benefits. While clients can pay guard firms upwards of Sh50,000 per full-time individual guard, those firms then often pay minimal amounts onward to their seconded employees.

In an ongoing USIU-A survey, more than half of guard companies and over 90 per cent of cleaning outsourcing firms assessed appear to not meet the minimum wage and days off mandated by Kenyan labour regulations. Not only does noncompliance increase the risk of theft to the client companies, but also decreases staff motivation and perpetuates cycles of employee poverty by firms operating outside the law.

Noncompliant guard companies often seem to give complex formulas not allowing any or minimal weekly time off and allocating instead some, but not all, of the time off required at the end of two-year periods in leave allowances that must be requested and sometimes not granted.

Also, several guard companies paying less than the legal minimum wage in Nairobi appear to hide their true salary figures in formulas through mandatory “savings” held without interest with the company or as uniform fees and other hidden fees not understood by their employee guards.

Despite the apparent high noncompliance in the sector, some guard firms go above and beyond minimum legal requirements and provide well for their workers.

Cleaning firms, on the other hand, are more likely to blatantly not pay minimum wages without hiding noncompliance in confusing formulas. Through interviews, both sectors seem not to provide payslips so that employees hold no direct evidence of their underpayment.

But times are changing. Lower income workers are being mobilised more by NGOs and have more direct access to labour laws through increased smart phone usage and availability of social media to share ideas and regulations.

When sourcing for guards or cleaners in your office, be sure to include questions in your vetting about the final remuneration paid to those individuals who will be sent to your in your firm.
Exciting new research being conducted at USIU-A seeks to uncover the extent of noncompliance to labour laws per industry and the effects on employee retention, satisfaction, commitment, and public safety.

Those interested in having you and your colleagues take part in the research study, please contact info@ScottProfessor.com and let us know your industry and the number of employees in your firm and we will get back to you quickly to arrange an interview. Participant responses will be kept strictly confidential and the research findings will be featured in academic journals and right here in the Business Daily.

Dr Scott may be reached on scott@ScottProfessor.com or on Twitter: @ScottProfessor