
THE UNITED REPUBLIC OF TANZANIA

BILL SUPPLEMENT

No.8

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THE NATIONAL EMPLOYMENT PROMOTION SERVICE ACT,1999

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NOTICE

The following Bill to be submitted to the National Assembly is published for general information with a statement of its objects and reasons

Dar es Salaam,
16th March, 1999

MARTERN Y.C. LUMBANGA
Chief Secretary

A BILL

for

An Act to provide for establishment of the National Employment Promotion Service and for other related matters

ENACTED by the Parliament of the United Republic of Tanzania

PART 1

PRELIMINARY PROVISIONS

1. (1) This Act may be cited as the National Employment Promotion Service Act, 1999 and shall come into operation on such date as the Minister may, by order published in the Gazette appoint.

Short title and
Commencement

(2) The Ministry may, by notice published in the *Gazette* appoint different dates of commencement in respect of certain provisions of this Act, regions, areas, or industries, trade or occupations.

Interpretation

(3) This Act shall apply in Tanzania mainland

2. In this Act unless the context otherwise require

“Act” means the National Employment Promotion Service Act,

“Appropriate authority” in relation to any act, appointment, dismissal, licence, permit, matter or other thing, means a person, committee or body of persons, permitted required or in any other way, made responsible by this Act, for doing the act, making appointment or issuing or dismissal, licence or permit the doing of that matter or thing;

“Appropriate officer” means

- a. in relation to a person other than an employer, the employment promotion office established for an area in which he ordinarily resides; and
- b. in relation to an employer, an employment promotion office established for the area which the employer carries on business at two or more places, or
- c. in relation to any such place, the employment promotion office for the region or area within which such place is situated;

“Area” when used in relation to any local government authority, means the area which a local government authority is established or empowered by or under the local Government (District Authorities) Act, 1982 or the Local Government (Urban) Authorities Act, 1982, to exercise jurisdiction.

“Citizen” means a citizen of the United Republic of Tanzania.

“Area Committee”

when used in relation to a local Authority means the committee established pursuant to the Local Government (District Authorities) Act, 1982 or the Local Government (Urban Authorities) Act, 1982 and when used in relation to this Act, means any of the area of local authority;

“Commissioner” means the Commissioner for Labour and includes a person to whom the Commissioner has delegated his power to perform any of his function under this Act;

“Employ” in relation to the person employing means to use as employer the service of any person under a contract of service;

“Employee” means any person who has entered into works under a contract of service with an employer whether by way of manual labour, clerical work or other wise and whether the contract is expressed or implied or is oral or written; “Employer” means any person who employs any other person on contract of service, and includes any person acting as an agent of an employer in the selection and appointment of employees, in dealing with matters relating to terms and conditions of service or in payment of remuneration;

“Employment promotion office” means a person with the rights and obligations more specifically prescribed by this Act and includes the commissioner of Employment Promotion Service, the Assistant Commissioner for Employment Promotion Services.

“Foreigner” means any person who is not a citizen of the United Republic of Tanzania;

“Informal Sector” means non farm small and self-employed income generating activities based on low level of organization, low capital and low technology;

“Job-seeker ” means any person who is looking for a job including unemployed persons and employed persons who want to change employment;

“Member” in relation to a committee means a member of the committee and includes the chairperson and the secretary of the committee;

“Micro-enterprise” means business employing not more than five workers with is capable of growth by creating income in excess of the survival needs of its member and whose productive period extends to more than four months in a year.

“Minister” means the minister responsible for labour;

“National employment Advisory” ” Committee means the National employment Advisory committee established by section 7;

“Private employment promotion Agency –PEPA” means the employment promotion Agency as approved by the Commissioner under section 21;

“Resident” means a person who ordinarily resides in the area of jurisdiction of the authority but does not include any person who:

- a. is under fourteen years of age;
- b. is incapable of working due to old age, illness or infirmity;

“Self-employed person” means a person who is involved in any lawful self-employment income generating activity;

“Self-employment” means lawful income generation undertaking;

“Service” means the National Employment Promotion Service established under section 3;

“Young person” means person below or over the apparent age of fourteen years but under the apparent age of eighteen years.

PART II

ESTABLISHMENT OF THE SERVICE

- Establishment and Composition of the Service
3. (1) There is hereby established a government service to be known as the National Employment Promotion service.
(2) The service established under subsection (1) shall be composed of the commissioner who shall be appointed by the president and such other member as member as maybe appointed for the service.
- Functions of the Service
4. (1) The service shall provide placement, vocational guidance and employment counselling active labour market intervention, labour market and occupational information and advisory services for lawful income generating undertaking and promotion of self-employment, and co-ordination of training needs.
(2) Without prejudice to the generality of the service shall include;
- (a) to make nominations for employment;
 - (b) to provide advice to persons registered for nomination as employees or employer;
 - (c) to distribute suitable and reliable information relating to careers and training opportunities;
 - (d) to promote employment within the context of national economic and social development plans;
 - (e) to provide for and carry out occupational aptitude and proficiency test of applicant for employment;
 - (f) to keep registers and records;
 - (g) to co-operate with all educational and training authorities and institutions relating to vocational guidance and employment counselling ;
 - (h) to participate in the formulation and execution of measures having a bearing on employment promotion within the context of national economic and social development plans;
 - (i) to provide or make arrangement for the registration, employment ,counselling, vocational rehabilitation and placement of persons with disability; and
 - (j) to do such acts and things as may be necessary to give vocational guidance.
- Organisation of the Service
5. The Service shall operate as National Employment Promotion Office and Area employment promotion offices as may be established by this Act.
- Functions of the commissioner
6. (1) The Commissioner of the service appointed under section 3 shall be responsible for the total administration of the provisions of this Act.
(2) The Commissioner shall subject to the provisions of this Act and to any directions and instructions given to him by or on behalf of the Minister, be responsible for the monitoring and co-ordination of all the activities carried out by the committees in connection with the provisions of this Act.

PART III

ADVISORY COMMITTEES

- Establishment of National Employment Advisory committee
7. (1) There is hereby established a Committee to be known as the National employment advisory Committee.
(2) The provisions of the schedule to this Act, shall have effect as to the composition and procedure of the Committee.
(3) The Minister may by order published in the *Gazette* amend, vary or replace the schedule to the act.

Functions of the national Employment Advisory Committee

8. The National Committee shall be responsible for consulting with and advising the Minister upon matters relating to the execution of the provisions of this Act on:
 - (a) Economically viable employment generating schemes suitable for urban and rural areas;
 - (b) Consulting and making recommendation to the appropriate authorities regarding matters for employment;
 - (c) The conducting of research in better ways of using the available human resources more productively in government, commercial, industrial agricultural land and informal sectors;
 - (d) Any proposed legislation relating to or affecting the deployment of human resources;
 - (e) Placement functions vocational guidance on employment counselling;
 - (f) Issues concerning the employment of persons with disabilities;
 - (g) Monitoring the activities of the informal sector and micro enterprises;
 - (h) Establishment of centres for informal sector Promotion and special funds for the purpose of financing informal sector activities;
 - (i) Such other matters as may, in its opinion facilitate the implementation of this Act; and
 - (j) Any other matter which may be referred to it by the Minister

Area Committees

9. Every Local Government Authority shall be the final authority in respect of matters relating to the implementation of the National Employment Promotion Service within its area of jurisdiction and shall each for the that purpose and subject to the provisions to the Act under which it is established, establish a committee to be known as the Local Authority Employment Promotion Committee which shall perform the functions prescribed under this Act.

Functions of the area committees

10. (1)The area committees established under section 9 shall perform such duties and function as may be delegated or assigned to them by the Nation Employment Advisory Committee.
(2)Without prejudice to subsection (1), the functions of the area committee may include: -
 - (a) to receive, evaluate and carry out the policy and plans laid out by the Minister for the purposes of this Act;
 - (b) to prepare plans for the promotion and development of employment generating projects and carry out plans approved by the National Employment Advisory Committee;
 - (c) to initiate the making of by. -law and regulations for the purpose of facilitating the establishment, enforcement and management of employment generating project within the area of its jurisdiction
 - (d) to give guidance on undertaking and execution and execution of self-help schemes;
 - (e) to advise the National Employment Advisory committee on matters relating to employment within the area and
 - (f) to do such acts and things as may be necessary for the efficient discharge of its functions.

PART IV

DUTIES AND POWERS OF THE SERVICE

Registers and records

11. There shall be maintained at every employment promotion office a register of:-
 - (a) applicants for employment or job seekers;
 - (b) employers who apply for nomination of employees;
 - (c) Private Employment Promotion Agencies; and
 - (d) persons with disabilities

Contents of register

12. Every register maintained under section 11 shall be in such form and shall contain such particulars as may be prescribed.

Ethics of the Service

13. (1) In the performance of its function under this Act the Service shall:-
- (a) perform such functions without political, gender, religious, ethnic, or any discrimination.
 - (b) strive to serve the interests of employees and employers in Tanzania mainland;
 - (c) maintain neutrality in trade disputes;
 - (d) not to accept any notification of vacancy for employment where there is a strike or lockout if such vacancy occurs as a result of such strike or lockout.
- (2) The service shall, in making nominations for employment, accord preference in order of registration of persons applying for employment.
- (3) It shall be lawful for the Service to accord preference to citizens and in making such nominations the service shall have regard to the educational qualification the background, the character and antecedents of the nominee and to the national economy and accord preference accordingly.

Vocational guidance and employment counselling

14. The Service shall be all such acts and things as may be necessary to give vocational guidance and offer advice to persons registered for nomination as employees and employers and shall, in the case of school-leavers, college graduates and other persons who seek assistance have regard to their aptitude, qualification and antecedents and shall endeavour to advise them as to the type of gainful employment activities they can engage in which are most advantageous in the furtherance of national development.

Service to promote employment

15. The Service shall, in promoting employment, participate in the formulation and execution of measures having a bearing on employment promotion within the context of national economic and social development plans.

Application for registration

16. (1) Any person who wishes to be an employee or employer under this Act shall submit an application for registration in the manner and form as may be prescribed.
- (2) Every application for registration either as an applicant for employment or as an employer shall be made to the appropriate office or private employment promotion agency or agent for requested nominations.

Service to charge fee

17. (1) Nominal fees shall be charged by the appropriate office in respect of any service rendered by it.
- (2) Where the service is required to obtain any information or to publish any advertisement or to require the person making such request, out of occupational aptitude test, it shall be lawful for the service to request in addition to nominal fees under subsection (1) to reimburse the service of the expenses incurred by it.

PART V

PRIVATE EMPLOYMENT PROMOTION AGENCY

Establishment and duties of agencies or agents

18. (1) There shall be recognized and registered agencies to be known as the Private Employment Promotion Agencies or Agents.
- (2) The Agencies or agents recognized under subsection (1) shall carry out their duties in accordance with the provision of this Act and shall operate on the basis of complementing each other to ensure efficiency effectiveness and trustfulness in delivering the services.

Agencies to charge fees

19. The Agency or agent shall in performing its duties charge such fees as may be prescribed by the Minister for the service rendered.

Application for Registration as Agency or

20. (1) Every application for registration as a Private Employment Promotion Agencies or Agents shall be made to the commissioner in the prescribed form.

- Agent (2) The application made under subsection (1) shall be accompanied by such fees as may be prescribed and printed copies of the Memorandum and Articles of Association of such agencies or agents and the statement containing the following particulars.
- (a) Name address and location of the office of the agency or agent;
 - (b) Other information regarding activities as the commissioner may require to be furnished.
- Date of establishment of agencies or agents 21. (1) For the purpose of this Act, the Private Employment Promotion, Agency shall officially start operation upon receiving approval from the commissioner of the Service.
(2)The commissioner shall upon approval under subsection (1) issue a certificate of registration to the a pproved agency or agent.
- Cancellation of registration 22. A certificate of Registration Private Employment Promotion Agency or Agent may Be cancelled or withdrawn by the Commissioner if he is satisfied that
- (a) The certificate was obtained or issued by fraud or mistake;
 - (b) The Memorandum of Articles of Association of the agency or agent or its executive is unlawful;
 - (c) The agency or agent has been or is likely to be used for any unlawful purpose contrary to its objects or rules;
 - (d) The agency or agent has contravened any provision of this Act;
 - (e) The a gency or agent has ceased to exist.
- Appeal 23. (1) Any person aggrieved by the refusal or cancellation of certificate by the commissioner may appeal against such refusal or orders of the Commissioner to the minister who shall determine the matter.
(2) The applicant may where he is not satisfied with the decision of the Minister under subsection (1) appeal to the High Court and the decision of the High Court shall be final.

PART VI EMPLOYEMNT OF FOREIGNERS

- Application 24. This Part shall not apply to foreigners-
- (a) Who are selfemployed;
 - (b) Who are employed by non-profit making organisations of a religious or charitable nature;
 - (c) Who are exempted form the application of the provisions of this Part by the Minister by order in writing.
- Foreigners not to be employed in certain occupations 25. (1)No employment shall employ a foreigner as an employee in any employment or class of employment which the Minister may from time to time by notice in the *gazette* declare to be employment or class of employment in which citizens only may be employed.
(2) Any employer who employs any foreigner in contravention of subsection (1) commits an offence and is liable on conviction, to a fine not less than one million shillings or to imprisonment for a term not less than six months, or to both such fine and imprisonment.
- Work permit 26. (1) No person shall employ any foreigner, and no foreigner shall take up any employment with any employment with any employer, except under and in accordance with work permit issued to such foreigner.
(2) Any person who contravenes the provisions of this section commits an offence and is liable on conviction, to a fine not less than one million shillings or to imprisonment for a term not less than six months or to both such fine and imprisonment.

Application for
work permit

27. (1) Every application for work permit shall be made either by the foreigner intended to be employed or by person intending to employ the foreigner, to the Commissioner and shall be in such form as may be prescribed.
- (2) On receipt of an application for a work permit the Commissioner before recommending such application shall satisfy himself that all possible efforts have been explored to obtain a local expert but to no avail and forward such an application to the Director of Immigration Services.
- (3) The Commissioner may where there's sufficient cause to do permit in respect of any foreigner.
- (4) The person aggrieved by the refusal of the Commissioner to recommend for a grant of work permit under subsection (3) may appeal to the Minister and the Minister may where is satisfied that such refusal was without sufficient cause, reverse the decision of the Commissioner.
- (5) A work permit recommended under this section shall be in such form as may be prescribed and shall be for such duration and subject to such conditions as may be stated in the work permit.
- (6) Any person who employs a foreigner shall be required to establish effective training programme to produce local experts to undertake duties of the foreign expert.
- (7) Any person who employs a foreigner who does not hold a valid work permit, or who employs any foreigner in contravention of any conditions specified in the work permit, and every foreigner so employed, commits an offence and is liable on conviction, to a fine not less than one million shillings or to imprisonment for a term not less than six months, or to both such fine and imprisonment.

PART VIII MISCELLANEOUS PROVISIONS

Employer to
reimburse
travelling
expenses

28. (1) Where a person is nominated for employment by an employer at the request of such employer, and the employer refuses or fails to employ such person, the employer shall be liable to reimburse such person all expenses incurred by him; or where such expenses have been paid by the Service, to reimburse the Service for the same expenses.
- (2) Where at the request of an employer for nomination of an employee for employment the Service nominates any person for such employment the employer shall be liable for all expenses incurred by him in travelling from his residence to the place of employment and from there back to his residence where the employer refuses or fails to employ such person.
- (3) Any sum payable by a person under subsections (1) and (2) may be recovered by a civil suit commenced by the Commissioner on behalf of the person nominated for employment or on behalf of the Service, as the case may be.

Power to enter
and inspect
place of
employment

29. (1) It shall be lawful for the Commissioner, or an officer in charge of the Employment Promotion Office, or any other officer of the Service on production of Certificate under the hand of a Commissioner, to enter on and inspect any place of Employment and to call for and examine and record all documents relating to employment for the purpose of ensuring compliance with the provisions of this Act.
- (2) Any person who, with intent to deceive, makes any false statement or representation to any officer, in the Service, commits an offence and is liable, on conviction, to a fine not less than five hundred thousand shillings or to imprisonment for a term not less than three months, or to both such fine and imprisonment.

Appeal

30. Any person aggrieved by an order or decision of the Commissioner any officer of the Service may appeal to the Minister.

Protection of
Members of
Committee

31. No matter of thing done by any member, officer, servant or agent of any committee established by or under this Act shall, if done bonafide in the execution or purported execution of the functions of such committee, subject to any such person to an

action, liability, claim or demand whatsoever.

Directions

32. The Minister may give to the Commissioner, any officer of the Service or any committee established by or under this Act, directions of a general character or in relation to any particular matter as to the performance of functions by the Commissioner, or any Officer of the Service or the committee under this Act and every such direction shall be given effect to accordingly:

Provided that the Minister shall not give any directions inconsistent with the provisions of this Act.

Regulations

33. The Minister may make regulation for the better carrying out the purposes of this Act and, without prejudice to the generality of the foregoing may make regulations:-
- a) prescribing the procedure at meeting of any committee established by or under this Act, and fixing the quorum of such meetings;
 - b) requiring employers to furnish such particulars as the Minister may consider fit;
 - c) prescribing forms of applications, permits and orders made under this Act and providing for payment of fees on any such application;
 - d) providing for the making of returns to the service, the forms of such returns, the persons by whom and the times within which they are to be made;
 - e) establishing a fund or funds into which payment received under the provisions of this Act may be deposited, and providing for and regulating payment out of any such fund or funds;
 - f) prescribing any thing which may under the provisions of this Act be prescribed.

Repeal of Act
NO.6 Of 1983

34. The Human Resources Deployment Act,1983 is hereby repealed.

SCHEDULE

Made under Section 7

THE NATIONAL EMPLOYMENT ADVISORY COMMITTEE

Composition
of the
Committee

1. (1) The committee established under subsection (1) of section 7 shall be composed of a Chairman and other members who shall be appointed by the Minister in accordance with subsection (2).
- (2) Member of the Committee appointed under subsection (2) shall include
- (a) a Chairman appointed by the Minister;
 - (b) a secretary who shall be the commissioner, and
 - (c) eleven other member to be appointed as follows-
 - (i). Two member who shall be appointed by the Minister after consultation with such body of persons which in the opinion of the minister, represents the interests of the employers in Tanzania mainland
 - (ii). Two members who shall be appointed after consultation with such body of persons which in the opinion of the Minister, represents the interests of the employees in Tanzania Mainland,
 - (iii). A representative of informal sector associations,
 - (iv). A representative of non governmental organizations, and
 - (v). A representative of Private Employment Promotion Agencies;
 - (vi). Director of Immigration or his representative;
 - (vii). Commissioner of trade or his representative;
 - (viii). Representative from ALAT; and
 - (ix). Director of TIC or his representative.

Tenure of
Office

2. A Member of the Committee shall unless his appointment is sooner revoked by the Minister or for any other cause he ceases to be a member
Hold office for a period of three years from the date of his appointment and shall be

eligible for re-appointment.

Cessation of membership	3.	Any member of the Committee may resign by giving notice in writing addressed to the Chairman and as from the date specified in the notice or if no date is specified from the date of receipt of the notice by the Chairman the member shall cease to be a member of the Committee.
Casual vacancy	4.	(1)The Minister may fill any casual vacancy occurring in the membership of the Committee. (2)A member appointed to fill such casual vacancy shall hold office for the remainder of the term of his predecessor.
Temporary member	5.	Where any member of committee id for any cause unable to perform this duties as a member of the committee, the Minister may appoint temporary member for the period during which that member is disabled.
Secretary to convene meetings	6.	The Secretary shall, in Consultation with the Chairman or in his absence the Vice-Chairman, convene meetings of committee and shall also keep minutes of meetings and perform such other secretarial duties of the committee may require.
Procedure	7.	The Committee shall ordinarily meet not less than twice in every year and at such additional times as may be fixed by the Chairman.
Notice of meeting	8.	The Secretary shall give to each member one months notice of time and place of every ordinary meeting of the committee.
Vice Chairman	9.	The Member shall elect one of their member to be the Vice Chairman of the Committee and any member elected as Vice Chairman shall subject to his continuing to be a member, hold office for a term of one year from the date of his election but shall be eligible for re-election.
Quorum	9.	(1)At any meeting of the Committee not less than one half of all member of the committee shall constitute a quorum. (2) At every meeting of the Committee the Chairman or in his absence the vice Chairman shall preside at meeting
Invitation of non member	10.	The Chairman may at his discretion invite any person who is not a member of the Committee to attend and take part, but such member shall not vote in the proceedings of any meeting of the Committee.
Decisions of the committee	11.	All questions at the meeting of the Committee shall be decided by a majority of votes of the members present and voting at the meeting andin the event of an equality of votes the Chairman shall be entitled to a casting vote in addition to his deliberative vote
Powers of the Committee	12.	Subject to directions by the Minister the Committee may prepare and act upon matters which are within the scope of the functions exercisable by the Committee under
Committee to regulate its procedure	13.	The Committee shall have power to regulate its own procedure.

OBJECTS AND REASONS

The objects of the Bill is to reform and strengthen a section of the labour Department of the Government to deal with National Employment Promotion Services in Tanzania(Mainland). The Bill is divided into VII Parts under which Part I deals with preliminary matters of citation commencement and interpretation of terms used in the Bill.

Par II of the Bill proposes to reform and promote the section and its functions while Part III relates to the appointment of the National Employment Advisory Committee on employment promotion, services, its responsibilities and appointment of the Committee in various stages.

Part IV proposed provisions relating to the activities and powers of the section together with the keeping of records in relation to responsibilities of the section.

Part V proposes provisions relating to Private Employment Agencies and Part VI provides for the regulation of employment of foreigners.

Part VII provides for other miscellaneous matter which relate to the reform and promotion of the section its functions and its operations. This Part proposes the repeal of the Human Resources Deployment Act, 1983 and the power of the Minister to make regulations under the proposed Act.

MADUMUNI NA SABABU

Madhumuni ya Muswada huu ni kuimarisha na kuendeleza sehemu na Kitengo maalum katika idara ya Kazi inayoshughulikia masuala yote ya ajira nchini. Muswada huu uumegawanyika katika sehemu saba ambapo sehemu ya I inaweka masuala ya kiutangulizi, jina na ufafanuzi wa maneno na misamati.

Sehemu ya II inapendekeza kuimarisha na kuendeleza Sehemu ya ajira na shughuli zake na Sehemu ya III inahusu uundaji wa Kamati ya Taifa ya Ushauri wa mambo ya ajira, majukumu yake na namna Kamati hiyo itakavyoteuliwa katika ngazi mbalimbali.

Sehemu ya IV inapendekeza masharti yanayohusiana na shughuli na mamlaka ya Sehemu ya ajira pamoja na utunzaji wa kumbukumbu na maasili ya utendaji wa kazi za Sehemu ya ajira.

Sehemu ya V inapendekeza masharti yatakayoruhusu Wakala binafsi na ajira kufanya shughuli kwa mujibu wa Sheria na Sehemu ya VI inaweka utaratibu wa ajira ya wageni, masharti, mipaka na mambo ya kuxingatia kabla ya ajira ya namna hiyo.

Sehemu ya mwisho inaweka masharti mengineyo yanayohusiana na uanzishaji, uendeshaji au utaratibu mzimz wa shughuli za Sehemu ya ajira. Sehemu hii pia inapendekezwa kufutwa kwa sheria ya nguvu kazi ya mwaka 1983 na kuweka mamlaka ya Waziri ya kuunda shria ndogo chini ya sheria hii.

PAUL. P. KIMITI,
Waziri wa Kazi ma Maendeleo ya Vijana

Dar es Salaam,
15th March, 1999

