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THE EMPLOYMENT AND LABOUR LAWS (MISCELLANEOUS
AMENDMENTS) ACT, 2015

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THE UNITED REPUBLIC OF TANZANIA



NO.24 OF 2015

I ASSENT,

JAKAYA MRISHO KIKWETE

President

4th August, 2015

An Act to amend certain employment and labour laws.

ENACTED by Parliament of the United Republic of Tanzania.

PART I
PRELIMINARY PROVISIONS

Short title

1. This Act may be cited as the Employment and Labour Laws (Miscellaneous Amendments) Act, 2015.

Amendment of certain laws

2. The laws relating to employment and labour matters specified in different Parts of this Act are amended in the manner stipulated in the respective Parts.

PART II
AMENDMENT OF THE EMPLOYMENT AND LABOUR RELATIONS ACT,
(CAP. 366)

Construction
Cap. 366

3. This Part shall be read as one with the Employment and Labour Relations Act, hereinafter referred to as the “principal Act”.

Amendment of
section 4

4. The principal Act is amended in section 4, by inserting in appropriate alphabetical order the following new definitions:

““employment” means the performance of a contract of employment by parties to the contract, under employer-employee relationship;

“specific task” means a task which is occasional or seasonal and is non-continuous in nature;”.

Amendment of
section 14

5. The principal Act is amended in section 14, by inserting the words “within or” between the words “work” and “outside” appearing in subsection (2).

Amendment of
section 31

6. The principal Act is amended in section 31, by-
(a) deleting subsection (6) and substituting for it the following:

“(6) With the consent of an employee, the employer may require or permit such employee to work for the employer during a period of annual leave on condition that such employee shall not work for a continuous period of two years.”

- (b) deleting subsection (7) and substituting for it the following new subsection:

“(7) Subject to subsections (6) and (8), an employer shall pay the employee one month salary *in lieu* of annual leave to which that employee is entitled or was called upon to work.”.

Amendment of section 38

7. The principal Act is amended in section 38, by deleting the word “sixty” and substituting for it the word “thirty” appearing in subsection (3).

Amendment of section 72

- 8.** The principal Act is amended in section 72, by-
- (a) deleting the full stop appearing at the end of subsection (4) and substituting for it with a “full colon”;
 - (b) adding immediately after subsection (4) the following proviso:

“Provided that such deduction complies with the terms and conditions prescribed in the regulations.”

Amendment of section 73

9. The principal Act is amended in section 73, by deleting the word “Commission” and substituting for it the words “Labour Commissioner” wherever it appear in that section.

Addition of
section 102A

10. The principal Act is amended by adding immediately after section 102 the following section:

“Inconsistency
with written
laws

102A. In case of conflict between this Act and any other written law relating to employment standards, the standards stipulated under this Act shall prevail.”

PART III
AMENDMENT OF THE LABOUR INSTITUTIONS ACT,
(CAP. 300)

Construction
Cap. 300

11. This Part shall be read as one with the Labour Institution Act, hereinafter referred to as the “principal Act”.

Amendment of
section 14

12. The principal Act is amended in section 14, by-

- (a) deleting paragraph (c) of subsection (1); and
- (b) deleting subsection (2) and substituting for it the following:

“(2) The Commission may offer to mediate a dispute that has not been referred to it.”

Amendment of
section 31

13. The principal Act is amended in section 31, by adding immediately after paragraph (b) of subsection (2) the following new paragraph:

“(c) before assuming duties of office, shall take and subscribe to an oath or affirmation.”

Amendment of
section 35

14. The principal Act is amended in section 35, by-

(a) deleting subsection (3) and substituting for it the following:

“(3) The wage board shall consist of the following members-

(a) in case of the private sector:

- (i) the chairman;
- (ii) the Secretary;
- (iii) four members recommended by the council to represent interests of employees;
- (iv) four members recommended by the Council to represent interests of the employer;
- (v) four members recommended by the Council to represent interests of the Government; and
- (vi) three members nominated by virtue of their professions, appointed by the Minister responsible for labour;

(b) in case of public sector-

- (i) the Chairman;
- (ii) the Secretary;
- (iii) four members recommended by the council to represent interests of employees;
- (iv) four members recommended by the council to represent interests of Government;
- (v) two members nominated by virtue of their professions,

appointed by the Minister responsible for Public Service.

(4) A member appointed under subsection (3) shall not be a member of the Council.

(5) The appointment of a member under this section shall consider the terms and conditions as may be prescribed in the regulations.”

(b) renumbering subsections (4) to (8) as subsections (6) to (10) respectively.

Amendment of
section 39

15. The principal Act is amended in section 39, by-

(a) deleting subsection (1) and substituting for it the following:

“(1) After considering the report and recommendations of the wage board and the council, the Minister shall make a wage order determining the minimum wage and other conditions of employment for employees in any

sector and area of economy-”

(b) inserting new subsection (2) as follows:

“(2) For the purpose of this section
“Council” includes Public Service Joint Staff
Council established under the Public Service
(Negotiating Machinery) Act;

Cap. 105

(c) by deleting subsection (5), and substituting for it the following:

“(5) Where the Minister fails to make a wage order within thirty days after receipt of the wage board and council’s report, the aggrieved party may, within thirty days, file an application before the Labour Court which shall compel the Minister to make the order with sixty days from the date of filing the application.”

(d) renumbering sub section (2),(3),(4),(5) and (6) as sub section (3),(4),(5),(6) and (7).

Amendment of
section 42

16. The principal Act is amended in section 42, by-

(a) deleting subsection (1), and substituting for it the following:

“(1) The Labour Commissioner shall provide staff members of the Ministry available to assist wage board in the performance of its functions.”

(b) inserting immediately after subsection (1), the following:

“(2) The wage board may form sub-committees to assist in the performance of its functions.”

(c) re-numbering sub section (2) as sub section (3).

Amendment of
section 43

17. The principal Act is amended in section 43, by deleting subsection (3) and substituting for it the following:

“(3) The Minister shall, subject to organizational structure approved by relevant authorities, appoint Assistant Labour Commissioners to assist Labour Commissioner in the performance of his functions.”

Amendment of
section 45

18. The principal Act is amended in section 45(1), by adding immediately after paragraph (i) the following new paragraphs:

- “(j) educate, advise and oversee the implementation of labour laws;
- (k) conduct and scrutinize any election or ballot of registered trade union or employers’ association if required to do so by the Labour Court or at the request of the union or association concerned; and
- (l) upon request, provide employees, employers, registered trade organisations and federations advice and training in skills for avoidance, prevention and settlement of disputes.”

PART IV
AMENDMENT OF THE PUBLIC SERVICE ACT,
(CAP.298)

Construction
Cap. 298

19. This Part shall be read as one with the Public Service Act, hereinafter referred to as the “principal Act”.

Amendment of
Section 6

20. The principal Act is amended in Section 6, by -
(a) adding the words “Review and” between the words “Performance” and “Appraisal” appearing in subparagraph (ii) of paragraph (a) of subsection (1);
(b) adding immediately after subsection (2) the following provision-

“(3) Every Permanent Secretary shall facilitate and oversee career development of cadres of employees under their respective Ministry.”

(c) renumbering subsections (3) to (7) as subsections (4) to (8).

Amendment of
section 8

21. The principal Act is amended in section 8, by -
(a) deleting paragraph (f) of subsection (3) and substituting for it the following:

“(f) to facilitate and approve schemes of service in the service;

(g) be the authority in respect of transfer of employees in the service; and”

(b) renaming paragraph (g) as (h).”

(c) adding immediately after subsection (5) the following new subsection:

“(6) The Permanent Secretary (Establishment) may delegate to executive officers specified under section 6(1) powers to transfer employees in the service stipulated under paragraph (g) of subsection (3)”.

Addition of section 34A

22. The principal Act is amended by adding immediately after section 34, a new section:

“Overriding effect

34A. Where there is an inconsistency between the provisions of this Act and any other law governing executive agencies, public institutions or such other public service offices, the provision of this Act shall prevail.”

PART V
AMENDMENT OF THE PUBLIC SERVICE (NEGOTIATING MACHINERY) ACT,
(CAP.105)

Construction Cap.105

23. This Part shall be read as one with the Public Service (Negotiating Machinery) Act, hereinafter referred to as the “principal Act”.

Amendment of section 2

24. The principal Act is amended in section 2, by deleting the phrase “or to compel the employer” appearing under the definition of the term “lock-out”.

Amendment of
section 4

25. The principal Act is amended in paragraph (c) of section 4(3) by-

- (a) deleting the word “four” appearing in paragraph (c) and substituting for it the word “five”;
- (b) adding immediately after subparagraph (ii) new subparagraph (iii) as follows:
 - “(iii) a representative of regional administration and local government authorities.”
- (c) renumbering subparagraphs (iii) and (iv) as subparagraphs (iv) and (v).

Amendment of
section 7

26. The principal Act is amended in section 7, by deleting subsection (2) and substituting for it the following:

“(2) The Service Joint Staff Council shall meet twice in a year.”

Amendment of
section 26

27. The principal Act is amended by repealing section 26 and replacing it with the following new section:

“Rights and
conditions
to strike
and lock-
out

26.-(1) Subject to the provisions of this Part-

- (a) every public servant has a right to strike in respect of a dispute; and
- (b) every employer has a right to lock-out in respect of a dispute.

(2) A public servant may take part in a strike if the following conditions are satisfied:

- (a) there is a dispute;
- (b) the dispute is not resolved;
- (c) a ballot strike has been conducted under the supervision of the Labour Officer and the majority of the public servants in the respective Service Scheme support the strike;
- (d) sixty days have passed since notice was served to the Government, counting from the date on which a ballot strike was cast.

(3) An employer may take part in a lackout if the following conditions are satisfied:

- (a) there is a dispute;
- (b) the dispute is not resolved;
- (c) a forty eight hours notice has been served to the Chairman of a branch of trade union presenting the majority of employees at the work place, counting from the date of submission of the notice to the Chairman of the trade union.”

Amendment of section 27

28. The principal Act is amended by repealing section 27 and replacing it with the following:

“Strikes and lockout not allowed

27. Nothing in this Act shall authorize the striking or locking-out by

public servants or employer in any employment or service rendered the result of which may cause interruption or continued interruption which endangers life, health or personal safety of the whole or part of the population.”

Amendment of section 28

29. The principal Act is amended in section 29, by deleting the words “or lock-out” wherever they appear in that section.

Amendment of section 29

30. The principal Act is amended in section 28, by deleting the words “or lock-out” wherever they appear in that section.

Amendment of Schedule

31. The principal Act is amended in the Schedule by adding immediately after item 1(e) a new item 1A as follows:

“Criteria for division of regions **1A.** For the purpose of paragraph 1(c), where a new region is established by-

- (a) subdivision of a region, the new region shall be in the same zone with the subdivided region; or
- (b) subdivision of more than one region belonging to different zones, the Minister shall, decide the zone in which the new region shall belong.”

PART VI
AMENDMENT OF THE NATIONAL SOCIAL SECURITY FUND ACT
(CAP. 50)

Construction
Cap. 50

32. This Part shall be read as one with the National Social Security Fund Act, hereinafter referred to as the “principal Act”;

Amendment of
section 2

33. The principal Act is amended in section 2, by deleting the definition of the word “wages” and substituting for it the following:

“wages” means remuneration in money paid to an employee under a contract of service or apprenticeship whether at a payable fixed or determinable intervals of time-

- (a) in respect of the normal period of work to be performed by an employee;
- (b) where payment is calculated in relation to set tasks or journeys completed by the employee;
- (c) where payment is calculated in relation to the volume of work done, in respect of the volume completed by the employee,

and includes any allowance paid by the employer to the employee directly or indirectly in respect of living and any payment of wages instead of notice of termination of employment”.

PART VII
AMENDMENT OF THE LAPF PENSIONS FUND ACT
(CAP. 407)

Construction
Cap. 407

34. This Part shall be read as one with the LAPF Pensions Fund Act, hereinafter referred to as the “principal Act”;

Amendment of
Section 33

35. The principal Act is amended in section 33, by-

- (a) redesignating section 33 as subsection (1) of section 33;
and
- (b) adding the following new subsections:

“(2) Notwithstanding subsection (1) Members whose statutory terms of employment prescribe a shorter age of retirement such as Police Force or Prison Service or Fire and Rescue may retire in such manner as prescribed by such terms.

(3) Pensionable officer of the Police Force Prison Service, Fire and Rescue who has worked for a consecutive period of 25 years, may retire at any time thereafter.”

Passed by the National Assembly on 8th July, 2015.

DR. THOMAS D. KASHIHILAH
Clerk of the National Assembly