

THE UNITED REPUBLIC OF TANZANIA



No. 5 OF 1969

I ASSENT,

Tulius K. Nyerere

President

6th FEBRUARY, 1969

An Act to amend the Employment Ordinance

[1ST MARCH, 1969]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Employment Ordinance (Amendment) Act, 1969, shall be read as one with the Employment Ordinance and shall come into operation on the 1st March, 1969. Short title
Cap. 366

2. Part V of the Employment Ordinance is amended—

Part V of
Cap. 366
amended

(a) in section 42, subsection (1) by deleting the semi-colon and the word "or" which occur at the end of paragraph (c), substituting therefor a comma and deleting paragraph (d);

(b) in section 47—

(i) by deleting the words "or of the recruiter who recruited him" which occur in the fourth line of subsection (4);

(ii) by deleting the words "or from the recruiter who recruited him" which occur in the last line of subsection (5);

(iii) by deleting the words "or recruiter" which occur in the first two lines of subsection (6).

3. Section 71 of the Employment Ordinance is repealed and replaced by the following section:—

Section 71
of Cap. 366
repealed and
replaced

"Priority of
wages and
severance
allowance

71.—(1) Where any sum of money is paid into court in execution of a decree and the court is satisfied that the person entitled to receive such sum or any part thereof, or the judgment debtor against whom the execution has been levied, is a person against whom a decree passed by any court in Tanganyika for:—

(a) wages due to his employee;

(b) any sum due from him under section 47 or section 53;

(c) any sum due from him to an employee under the provisions of the Severance Allowance Act, 1962, remains unsatisfied, the court shall, notwithstanding the provisions of any written law to the contrary, and subject to the provisions of subsection (3), first apply the money so received towards the satisfaction of the decree or decrees specified in paragraphs (a), (b) and (c).

(2) The provisions of subsection (1) shall apply notwithstanding that no application has been made for the execution of a decree specified in paragraphs (a), (b) or (c) thereof.

(3) The provisions of subsection (1) shall apply in respect of a decree for an employee's wages only to the extent of a sum equal to four months' wages of such employee:

Provided that nothing in this subsection shall be deemed to prevent the employee from recovering any balance due on such decree by ordinary process of law.

(4) Where any sum of money is paid in accordance with the provisions of this section for the satisfaction of a decree subsisting against the person entitled to receive such payment, the payment made in satisfaction of such decree shall be deemed to be payment made to the person so entitled.

(5) The Chief Justice may make Rules of Court to give effect to, and for the better carrying out of the purposes of, the provisions of this section, and may, for that purpose, modify any provisions of the Civil Procedure Code, 1966."

Section 77
of Cap. 366
repealed and
replaced

4. Section 77 of the Employment Ordinance is repealed and replaced by the following section:—

"Employ-
ment
of children

77.—(1) No child under the prescribed age shall be employed in any capacity whatsoever.

(2) Any person who employs any child under the prescribed age shall be guilty of an offence against this Part of this Ordinance.

(3) For the purposes of this section "prescribed age" means the apparent age of twelve years or such age between twelve years and fifteen years as the Minister may from time to time by order published in the *Gazette* declare to be the prescribed age for the purposes of this section.

(4) Nothing in this Part or in any other provision of this Ordinance or in any written law shall be construed as permitting employment of a child under the prescribed age."

Section 83
of Cap. 366
amended

5. Section 83 of the Employment Ordinance is amended by deleting the first three lines of subsection (1) and substituting therefor the following:—

"Subject to the provisions of section 84 no woman shall be employed between the hours of 10 p.m. and 6 a.m., and no young person shall be employed between the hours of 6 p.m. and 6 a.m., in any industrial undertaking except—"

6. Sections 105 to 120 (inclusive) of the Employment Ordinance are repealed and replaced by the following section:—

“Prohibition of recruitment

105.—(1) No person shall himself, or through agents or messengers, whether in his own name or otherwise, recruit, attempt to recruit or undertake to recruit for work or labour of any kind.

(2) Any person who, for himself or for any other person, recruits, attempts to recruit or undertakes to recruit for work or labour of any kind, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding Shs. 5,000/- or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

(3) Nothing in this section shall apply to recruitment for employment—

- (a) as a domestic servant;
- (b) on non-manual labour; or
- (c) within the same district on daily rates of pay.”

7. Sections 131 and 132 of the Employment Ordinance are repealed and replaced by the following sections:—

“Procedure where offence disclosed

131. Where, upon receipt of a report under section 130 or otherwise, a labour officer is of the opinion that an offence under the provisions of this Ordinance has been committed by an employer, employee or any other person, he may himself take such steps as may be necessary by making the facts known to the Police or otherwise, to bring the employer, employee or such other person before the court.”

“Labour officer to report disputes to court

132. Where, on receipt of a report under section 130, a labour officer does not act in accordance with the provisions of section 131 and is unable to effect a settlement between the parties, he may, at the request of either party or on his own motion, submit a written report to a magistrate setting out the facts of the case.”

8. Section 134 of the Employment Ordinance is repealed and replaced by the following section:—

“Proceedings subsequent to report to magistrate

134.—(1) On the receipt of a report under section 132 the magistrate shall, where the facts appear to him to be such as may found a civil suit, issue such process as he may think fit to cause the parties or either of them and the witnesses to attend before him.

(2) Upon the attendance of the parties the magistrate shall proceed to try the issues disclosed in the report as if the proceedings before him were a civil suit, without requiring the parties or any party to file any pleading.

(3) The provisions of the Civil Procedure Code, 1966 shall, in so far as they may be applicable, apply to proceedings under this section:

Sections 105 to 120 of Cap. 366 repealed and replaced

Sections 131 and 132 of Cap. 366 repealed and replaced

Section 134 of Cap. 366 repealed and replaced

Provided that the magistrate shall hear and determine such proceedings according to substantial justice without undue regard to technicalities of procedure.

Magistrate may convert criminal case to a civil suit

134A.—(1) A magistrate may in any criminal case for an offence under this Ordinance, if it shall appear to him that the subject matter of the charge could more properly or conveniently be dealt with in a civil suit, order, at any time before judgment is delivered by him, that the remedy (if any) for the matters complained of shall be by a civil suit and not by way of criminal charge.

(2) Where a magistrate makes an order under subsection (1), may, if in his opinion the issues in the proceedings before him are satisfactorily defined, proceed to determine such issues as if such proceedings were a suit, without requiring any party or parties to file any pleading and may give judgment, which judgment shall be of the same force and effect as a judgment given in a civil suit and may be executed or otherwise enforced accordingly.

(3) The provisions of the Civil Procedure Code, 1966 shall, in so far as they may be applicable, apply to all proceedings heard by way of a civil suit in accordance with this section:

Provided that the magistrate shall hear and determine such proceedings according to substantial justice without undue regard to technicalities of procedure.”

Section 138 of Cap. 366 amended

9. Section 138 of the Employment Ordinance is amended by adding immediately below subsection (3) the following subsection:—

“(4) For the purposes of this section “plaint” shall include a report made under section 132.”

Section 141 of Cap. 366 amended

10. Section 141 of the Employment Ordinance is amended by deleting subsection (1) thereof and substituting therefor the following new subsection:—

“(1) Notwithstanding the provision of any other written law the Labour Commissioner or any officer duly authorized by him in writing in that behalf shall have the right to appear and be heard in any appeal before the High Court arising out of any criminal or civil proceedings under this Ordinance, and may represent any party to such appeal where he satisfies the court that he has been duly authorized by such party to so represent him.”

Section 142 of Cap. 366 repealed and replaced

11. Section 142 of the Employment Ordinance is repealed and replaced by the following section:—

142.—(1) Where, in any proceedings under this Ordinance, the magistrate is satisfied that any person who is a party to such proceedings or a necessary witness has not the means or is otherwise unable to maintain himself pending the determination of the proceedings, the magistrate may cause such person to be supplied with a subsistence allowance by the Government, at such rates as the magistrate may consider just:

Provided that—

- (a) the rates of subsistence allowance paid under this section shall not exceed the rates of subsistence allowance paid to witnesses in a criminal case;
 - (b) where such proceedings are proceedings of a criminal nature and the accused is convicted of the offence with which he is charged, the magistrate may order the accused to pay to the Government the amount of subsistence allowance paid to any person in accordance with the provisions of this section and such amount may be recovered from the accused as if it were costs ordered to be paid by an accused under the Criminal Procedure Code;
 - (c) where such proceedings are proceedings of a civil nature the magistrate may, in his discretion, either order the party against whom the judgment is entered to pay the amount of subsistence allowance paid in accordance with this section or may apportion such amount between the parties to the proceedings in such manner as he may think just, and such amount shall be recoverable by the Government from the party ordered to pay the sum as if such order were a decree entered in favour of the Government.
- (2) The provisions of this section shall be in addition to and not in derogation of the provision of any written law providing for payment of subsistence allowance to witnesses:

Provided that where any witness is paid subsistence allowance in accordance with this section he shall not be entitled to any additional subsistence allowance under any other written law.”

12. The Employment Ordinance is amended by adding immediately below section 147 the following section :—

“Recovery of amounts due to Government

147A. Where, in any proceedings under this Ordinance, an order is made for the payment by any party to such proceedings of any amount to the Government, such amount may be recovered on behalf of the Government at the instance of the Labour Commissioner.”

New sub-section 147A added to Cap. 366

13. The Employment (Recruitment) Regulations, 1957 are hereby revoked.

Revocation of subsidiary legislation Cap. 366, Supp. 57, p. 13

Passed in the National Assembly on the ninth day of January, 1969.


Clerk of the National Assembly