

THE NATIONAL EMPLOYMENT PROMOTION

SERVICE ACT, 1999

ARRANGEMENT OF SECTIONS

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SCHEDULE

THE UNITED REPUBLIC OF TANZANIA



No. 9 OF 1999

I ASSENT,

Benjamin W. Mkapa

President

2nd June, 1999.

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 Minister 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.

(3) This Act shall apply in Tanzania Mainland.

Interpretation

2. In this Act unless the context otherwise requires-

"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 or required in any other way, made

responsible by this Act,

for doing the act, making
appointment or dismissing,

issuing licences or,
dismissing permits or
any other matter or
thing under this Act;

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

Act No.7
of 1982
Act No. 8
of 1982

person to whom the
Commissioner has
delegated his power to
perform any of his
functions under this
Act-

^{cc}"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 or works
under a contract of service
with an employer whether by
way of manual. labour, clerical
work or otherwise 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 services, and
includes any person acting as
an agent of an employer in the
selection and appointment of
employment, in dealing with
matters relating to terms and
condition of services or in
payment of remuneration;

"employment promotion office"
means the employment
promotion office or any other
office or place designated by
the Minister under section 5
as an employment promotion
office;

"employment promotion officer"
means a person with the rights
and obligations as more
specifically prescribed by this

Act and includes the
Commissioner of
Employment Promotion
Services, 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 scale 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 which is capable of growth by creating income in excess of the survival needs of its members 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;

(2) The Service established under subsection (1) shall be composed of the Commissioner and such other members as maybe appointed for the service.

Functions of the service

4.-(I) The service shall provide placement, vocational guidance and employment counseling, 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 subsection (1) other functions of the service shall include;

"private employment promotion

Agency-PEPA " means the

employment promotion

Agency as approved by the

Commissioner under section

21;

"self-employment person" means a

person who is involved in any

lawful self-employment

income generating activity;

(2) The Services establishment under subsection (1) shall be composed of the commissioner and such other members as may be appointed for the services

Function of the services

4.-(1) The services shall provide placement, vocational guidance and employment counseling, active labour market and occupation 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 subsection (1) other function of the services 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 applicants, for employment;

- (f) to keep register and records;
- (g) to co-operate with all education and training authorities and institutions relating to vocational guidance and employment counseling;
- (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,
counseling, vocational
rehabilitation and
placement of persons
with disability; and

- 0) to do such acts and
things as may be
necessary to give
vocational guidance.

Organization 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.-(I) 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 this Act.

Function of the
National
Employment
Advisory
committee

8. The National Employment Advisory 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 counseling;
- (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

9. Every Local Government

Committees

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 that Purpose and subject to the provisions of 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

10-0) The Area Committees established under section 9 shall perform such duties and functions as may be delegated or assigned to them by the National 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-laws and regulations for the purpose of facilitating the establishment, enforcement and

management of
employment generating
project with the area
of jurisdiction;

(d) to give guidance on
undertaking 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 II shall be contain 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 lock-
out if such vacancy
occurs as a result of such
strike or lock-out

(2) The services shall, in
making nomination for
employment, accord preference in

I 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 qualifications the background, the character and antecedents of the nominee and to the national economy, and accord preference accordingly.

Vocational
guidance and
employment
counseling

14.-(1) The Services shall do all such acts and things as may be necessary to give vocational guidance 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 antecedent and shall endeavor to advise them as to the type of gainful engage in which are most advantageous in the furtherance of national development.

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

Application 16.-(1) Any person who registration 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 application for employment or as an employment shall be made to the appropriate office or private employment promotion agency or agent for requested nominations.

Service to charge
fees

17.-(I) 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 tests, 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
agent

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

(2) The application made under subsection (1) shall be accompanied by such fees as may be proscribed and printed copies of the Memorandum and Articles of Association of such agencies or agents and the statement Containing the following particulars.

Promotion Agency or Agent may be canceled or withdrawn by the Commissioner, if he is satisfied that -

- (a) the certificate was obtained or issued by fraud or mistake;
- (b) the Memorandum and 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 agency or agent has ceased to exist.

Appeal

23.-(1) Any person aggrieved by the refusal or cancellation of the 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

EMPLOYMENT OF FOREIGNERS

Application

24. This Part shall not apply to foreigners-

- (a) who are self-employed;
- (b) who are employed by non-profit making

organizations of a religious or charitable nature;

- (c) who are exempted from 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 employer 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 of not less than one million shillings or to imprisonment for a term of 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 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 of not less than one million shillings or to imprisonment for a term of 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 by a 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 so, refuse to recommend for a work

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 he 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 of not less than one million shillings or to imprisonment for a term of not less than six months, or to both such fine and imprisonment.

PART VII

MISCELLANEOUS PROVISIONS

Employer to	28.-(I)	Where a person is
reimburse,		nominated for employment by an
traveling		employer at the request of such
expenses		

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 traveling 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
places of
employment

29.-(I) 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 purposes 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 of not less than five hundred thousand , shillings or to imprisonment for a term of 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 or any officer of the Service may appeal to the Minister.

Protection of
members of
Committee

31. No matter or 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 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, or any officer of 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 meetings 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-
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 payments received under the provisions of this Act may be deposited, and providing for and regulating payments 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) Members 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 members to
be appointed as follows-

(i) two members 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
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
Association of Local
Authorities of
Tanzania

(ix) Director of Tanzania
Investment Center
or his representa-
tive.

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 is 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 the Committee and shall also keep minutes of meetings and perform such other secretarial duties as 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 month notice of the time and place of every ordinary meeting of the Committee.

Vice Chairman

9. The Members shall elect one of their members 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

10.-(I) At any meeting of the Committee not less than one half of all members 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 the meeting.

Invitation of non-member

11. 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

12. 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 and in 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

13. 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 this Act.

Committee to
regulate its
procedure

14. The Committee shall
have power to regulate its own
procedure.

Passed in the National Assembly on the 16th April, 1999.


.....
Clerk of the National Assembly