
BILLS**SUPPLEMENT No. 22****7th December, 2022****BILLS SUPPLEMENT***to The Uganda Gazette No. 72, Volume CXV, dated 7th December, 2022*

Printed by UPPC, Entebbe, by Order of the Government.

Bill No. 31 *Employment (Amendment) (No. 2) Bill* 2022

THE EMPLOYMENT (AMENDMENT) (NO. 2) BILL, 2022**MEMORANDUM****1. POLICY AND PRINCIPLES**

The object of this Bill is to amend the Employment Act, 2006; to provide for recruitment agencies thereby streamline the process of recruitment of employees for employment abroad; to provide for severance allowances and allow workers to receive an allowance at the end of the employment relationship with the employer; to provide for child care and breastfeeding facilities by employers; to require all employers to put measures in place that prevent sexual harassment at workplace; to provide for dismissal from employment and termination of a contract of service so as to eliminate the ambiguity caused by using the two words in the Act interchangeably; to introduce a new Part IXA on employment of migrant workers within Uganda and regulate which jobs may not be offered non-citizens and provide for other related matters.

2. DEFECTS IN THE EXISTING LAW

The current law on employment in Uganda was enacted in 2006. Due to the passage of time, some aspects of the Employment Act have become outdated, especially in the light of the present day Government policies, emerging international best practices in the

labour market and the legal environment. In particular, the Act is not aligned to the common law principles that govern the employer-employee relationship in as far as it brings more of a contradiction than clarity in the area of dismissal from employment and termination of the contract of service. Furthermore, Uganda has in the recent past witnessed an increase in numbers of Ugandans seeking employment abroad and migrants coming in for employment. However, these areas have remained inadequately regulated and have not been reformed despite the inadequacies. The employment Act in its current form does not require employers who have less than twenty-five employees to put in place measures that prevent sexual harassment at the work place. The Act does not address the subject of breastfeeding children or care taking of children of employees, at a work place. There is therefore a need for changes in the law to bring it in line with current Government policies and accepted common law principles that govern the employer-employee relationship.

3. REMEDIES PROPOSED TO DEAL WITH DEFECTS IN THE EXISTING LAW.

1. It is proposed to radically reform the Employment Act to revise the provisions to address the current gaps. It is proposed the provisions relating to recruitment of workers for employment abroad should be streamlined and the recruitment process. Accordingly, instead of having individual persons to engage in the business of recruiting persons, it may be better managed by companies registered in Uganda. More so, the provisions on externalization of labour are currently entrenched in Regulations made under the Act, however, the Government feels that the provisions are better placed in an Act of Parliament.
2. It is the intention of Government to have particular jobs performed by only Ugandans except in circumstances where Uganda has entered into agreements that allow nationals of a foreign country to be employed in Uganda to

perform similar jobs and vice versa or where the Minister has granted an exemption. It is proposed that the Minister responsible for Gender, Labour and Social Development declares certain jobs not available for employment for non- Ugandans.

3. It is proposed that the Act is amended to make it mandatory for every employer to have in place measures that prevent sexual harassment at work place and to allow breastfeeding employees some time and place to breastfeed their children or tend to their children at work place who are below 36 months.
4. The amendment brings harmony in the usage of the terms “dismissal” and “termination” in the Act. It provides a detailed procedure to be followed by employers in both circumstances. Basing on the decided cases and principles of common law that govern the contract of service, the amendment reconciles the principles of wrongful dismissal, unfair dismissal, summary dismissal and termination that are part and parcel of a contract of service. The amendment has sequentially aligned the provisions to allow the smooth flow of the provisions and better reading of the Act.

4. PROVISIONS OF THE BILL

The Bill consists of 26 provisions.

1. Clause 1 provides for interpretation of words and phrases used in the Bill.
2. Clause 2 of the Bill introduces an amendment to section 7 of the Act and provides for every employer to have measures to prevent sexual harassment in place and such measures to be displayed in a conspicuous place.

3. Clause 3 of the Bill introduces an amendment to section 13 of the Act by repealing the words “arbitration” and “adjudication” from the section. Thus restricting the powers of the labour officer to settlement of disputes through conciliation and any other means but not arbitration and adjudication.
4. Clauses 4 and 5 repeal sections 37 and 38 respectively.
5. Clause 6 introduces an amendment to section 39 (1) of the Act on repatriation. The amendment is intended to limit the obligation of an employer to repatriate an employee to only an employee who works more than a hundred kilometres from his or her place of recruitment.
6. Clause 7 introduces a new part in the Bill that deals with the recruitment of persons for employment abroad. The part is composed of eight sections as follows—
 - (a) Section 39A on prohibition of illicit or concealed movement persons for employment abroad;
 - (b) Section 39B on licensing of recruitment agencies;
 - (c) Section 39C on recruitment agency to be a company;
 - (d) Section 39D on institutions not eligible to be licensed as licensed agency;
 - (e) Section 39E on recruitment to be upon issuance of a job order;
 - (f) Section 39F on the responsibility of a recruitment agency to carry out due diligence on the employer before the recruiting any person;
 - (g) Section 39G on the duty of a recruitment agency to orient persons intending to be recruited; and

- (h) Section 39H on a repatriation clause in the contract of service for a person recruited to work abroad.
7. Clause 8 provides for amendment of section 55 (1) (b) by substituting for the words “second month” with “sixth month”. This is as a result of the amendment that has been introduced in section 65A that makes sickness that continues for more than six months and renders the employee unable to perform his or her duties a reason for dismissal.
 8. Clause 9 introduces a new section in the Act. Section 57A on establishment of breastfeeding and childcare facilities.
 9. Clause 10 introduces a new section 65A on dismissal from employment. The section provides for grounds under which an employer may dismiss an employee.
 10. Clause 11 is an amendment to section 66 by replacement or substitution. The amendment is for purposes of removing the use of the words “dismiss” and “terminate” in the same section so as to bring clarity.
 11. Clause 12 introduces new sections in the Act, that is, section 66A on unfair dismissal, section 66B on wrongful dismissal and section 66C on circumstances that do not warrant dismissal or imposing a disciplinary penalty. Important to note is that section 66C is replacing section 75 which is proposed to be repealed.
 12. Clause 13 provides for the duty of an employer to give an employee reasons for dismissal. It is a replacement of section 68 intended to harmonize the language and make its intention clear.

13. Clause 14 is an amendment of section 69 by replacement. The amendment replaces section 69 of the Act. The purpose of the replacement is to harmonise the use of the words “dismissal” and “termination”.
14. Clause 15 introduces an amendment to section 70 by providing proper cross referencing. Section 75 of the principal Act is proposed for repeal but has been reproduced in the new section 66C in the Bill.
15. Clause 16 is a replacement of section 71. Whereas the headnote of section 16 in the Act speaks to unfair termination, the entire section is on the rights of an employee to lodge a complaint. Additionally, subsections (1), (2), (3) and (4) of the section do not speak to subsection (5). The amendment addresses the sequencing of the process of handling a complaint.
16. Clauses 17 and 18 of the Bill repeal sections 73 and 75 respectively.
17. Clause 19 is a replacement of section 77 for purposes of harmonizing the terms “dismissal” and “termination” which are used interchangeably in the provision under the Act.
18. Clause 20 is a replacement of section 78. The section has been redrafted to substitute the words “unfair termination” with “unfair dismissal”, to increase the amount of wages paid as compensatory order from four weeks’ wages to eight weeks’ wages, and to allow an order granted under this section by a labour officer to be executed under the Industrial Court.

19. Clause 21 is an amendment to section 81. The amendment introduces a period of 30 days as a time within which an employer may notify the Commissioner before collective termination of employees.
20. Clause 22 provides new grounds for an employer to pay severance allowance.
21. Clause 23 is a replacement of section 89. The amendment determines the amount of severance allowance to be paid.
22. Clause 24 introduces a new part in the Act, that is, Part IXA on Employment of Migrant Workers. The Part has six sections as follows—
 - (a) Section 92A which disapplies the Part from certain categories of persons including; a member of the Mission of a sending State or Government and his or her private servant under the Diplomatic Privileges Act; a non-citizen employed by a prescribed organisation under the Diplomatic Privileges Act and Statutory Instruments made under that Act; a non- citizen who is a worker or service supplier allowed to work or supply services under the Protocol on the Establishment of East African Community Common Market or any agreement to which Uganda is a party; an employee of a security agency of foreign State carrying out his or her duties in Uganda in collaboration with any of the security agencies in Uganda; and any other person exempted by the Minister under this Act.
 - (b) Section 92B which allows the Minister to declare a range of jobs that are not offered to migrant workers;

- (c) Section 92C which allows the Minister to make some exemptions;
 - (d) Section 92D which prohibits grant of entry permits to migrant workers who have been offered employment in jobs declared by the minister under 92B; and
 - (e) Section 92E on prohibition of employment of migrant workers in jobs which have been declared by the Minister under section 92B.
23. Clause 25 is a replacement of section 96. The substitution of this section is intended to revise the penalties upwards so as to deter abuse of the provisions of the Act.
24. Clause 26 introduces a consequential amendment to the Labour Disputes (Arbitration and Settlement) Act No. 8 of 2006. It is intended to remove the overlap of the procedure to be followed by a labour officer.

AMONGI BETTY ONGOM,
Minister of Gender, Labour and Social Development.

THE EMPLOYMENT (AMENDMENT) (NO. 2) BILL, 2022

ARRANGEMENT OF CLAUSES

Clause

1. Amendment of the Employment Act, 2006
2. Amendment of section of section 7 of principal Act
3. Replacement of section 38 of principal Act
4. Repeal of section 37 of principal Act
5. Repeal of section 38 of principal Act
6. Amendment of section 39 of principal Act
7. Insertion of new Part IVA in principal Act
8. Amendment of section 55 of principal Act
9. Insertion of new section 57A in principal Act
10. Insertion of new section 65A in principal Act
11. Replacement of section 66 of principal Act
12. Insertion of new sections 66A and 66B and 66C in principal Act
13. Replacement of section 68 of principal Act
14. Replacement of section 69 of principal Act
15. Amendment of section 70 of principal Act
16. Amendment of section 71 of principal Act
17. Repeal of section 73 of principal Act
18. Repeal of section 75 of principal Act
19. Replacement of section 77 of principal Act
20. Amendment of section 78 of principal Act

Clause

21. Amendment of section 81 of principal Act
22. Amendment of section 87 of principal Act
23. Replacement of section 89 of principal Act
24. Insertion of new Part IXA in principal Act
25. Replacement of section 96 of principal Act
26. Amendment of the Labour Disputes (Arbitration and Settlement) Act No. 8 of 2006

A Bill for an Act

ENTITLED

THE EMPLOYMENT (AMENDMENT) ACT, 2022

An Act to amend the Employment Act, 2006; to introduce a new part IVA on recruitment of persons for employment abroad; to provide for breastfeeding and child care facilities; to provide for severance allowances; to provide for dismissal and termination of contract of employment; to introduce a new Part IXA on employment of migrant workers and to provide for other related matters.

BE IT ENACTED by Parliament as follows:

1. Amendment of the Employment Act, 2006.

The Employment Act 2006, in this Act referred to as the “principal Act” is amended in section 2—

- (a) by substituting for the definition of “commissioner” the following—

““commissioner” means the commissioner for labour in the Ministry responsible for labour;”;

- (b) by substituting for the definition of “disability” the following—

““disability” means a substantial functional limitation of daily life activities caused by physical, mental or sensory impairment and environmental barriers resulting in limited participation;”;

- (c) by substituting for the definition of “dismissal from employment” the following—

““dismissal from employment”” means the discharge of an employee from employment at the initiative of his or her employer on any of the grounds provided under section 65A;”;

- (d) by inserting immediately after the definition of “industrial court”, the following—

““job order” means a written communication from a foreign recruitment agency or employer to a recruitment agency in Uganda, indicating the number of workers required for a specific job, skills required of the workers and wages to be paid.”

2. Amendment of section 7 of principal Act.

Section 7 of the principal Act is amended by substituting for subsection (4), the following—

“(4) Every employer shall have in place measures to prevent sexual harassment at the work place and shall display the measures in a conspicuous place at the work place.”

3. Amendment of section 13 of principal Act.

Section 13 of the principal Act is amended in subsection (1) (a), by repealing the words “arbitration, adjudication.”

4. Repeal of section 37 of principal Act.

Section 37 of the principal Act is repealed.

5. Repeal of section 38 of principal Act.

Section 38 of the principal Act is repealed.

6. Amendment of section 39 of principal Act.

Section 39 of the principal Act is amended by substituting for subsection (1), the following—

“(1) An employee who is employed at a place which is more than one hundred kilometres from the place where he or she was recruited shall have the right to be repatriated at the expense of the employer to the place of recruitment in the following cases—

- (a) on the expiry of the period of service stipulated in the contract;
- (b) on the termination of the contract by reason of the employee’s sickness or accident;
- (c) on the termination of the contract by agreement between the parties, unless the contract contains a written provision to the contrary; and
- (d) on the termination of the contract by order of the labour officer, the Industrial Court or any other court.”

7. Insertion of new Part IVA.

The principal Act is amended by inserting immediately after Part IV, the following—

**“PART IVA—RECRUITMENT OF PERSONS FOR
EMPLOYMENT ABROAD**

39A. Illicit or concealed movement of persons.

(1) A person shall not facilitate the illicit or concealed movement of persons for employment abroad by organising the departure, transit or arrival of the persons in Uganda, or give assistance to any organisation for that purpose.

(2) An employer shall not employ a person whom he or she knows to be unlawfully present in Uganda.

39B. Licensing of recruitment agencies.

(1) A person shall not transact the business of a recruitment agency in Uganda without a licence issued by the Commissioner responsible for employment services.

(2) A licence referred to in subsection (1) may be subject to conditions as the Commissioner may determine and may be revoked at any time.

39C. Recruitment agency to be company.

(1) The Commissioner responsible for employment services shall not grant a licence to operate a recruitment agency unless the person seeking the grant of a licence is a company incorporated under the Companies Act, 2012.

(2) A recruitment agency granted a licence under this Act shall submit report of its operations to the Commissioner responsible for employment services every calendar year.

- (3) The Minister may, by regulations provide for—
 - (a) the procedure for obtaining a licence;
 - (b) the governance and general operations of recruitment agencies; and
 - (c) the fees payable.

39D. Institutions not eligible to be licensed as recruitment agencies.

A company in the category listed below is not eligible to be licensed as a recruitment agency—

- (a) a company whose object allows it to conduct a business of a travel agency or sales agency of an airline company;
- (b) a company that has any of the members of its board of directors engaged in the business of a travel agency;
- (c) a company with a political, religious or cultural agenda;
- (d) a company that is declared insolvent;
- (e) a company whose licence was cancelled; or
- (f) a company whose directors have been convicted of an offence relating to illegal recruitment of workers or trafficking of persons.

39E. Recruitment only on issuance of job order

(1) A recruitment agency shall not recruit any employee without a job order issued by the Commissioner responsible for employment services.

(2) A recruitment agency which recruits employees without a job order commits an offence and is liable, on conviction to a fine not exceeding five hundred currency points or a term of imprisonment not exceeding twelve months or both.

39F. Due diligence on employer

A recruitment agency shall carry out due diligence on the suitability of an employer whom the recruitment agency intends to recruit for, prior to recruiting for the employer.

39G. Orientation of employee for employment abroad

A recruitment agency shall—

- (a) before a person who intends to work abroad signs a contract of employment, orient the person on the policies, procedures and terms and conditions of employment including the rights and duties under his or her contract of employment, prior to signing the contract of employment for employment abroad;
- (b) ensure that the person who intends to be employed abroad is qualified for the job advertised;
- (c) ensure that the contract of employment is not prohibited under the laws of Uganda and is in accordance with the laws of the country where the person is to be employed;
- (d) assume full responsibility for all claims which may arise in connection with the use of the licence of the agency; and
- (e) keep and maintain a record of all persons recruited through the recruitment agency, including names and addresses, contracts of employment, bio data and passport photographs.

39H. Repatriation clause in contract of employment.

A recruitment agency shall not recruit a person for employment abroad unless the contract of employment provides for the right of the employee to be repatriated at the expense of the employer under the following circumstances—

- (a) upon the expiry of the period of service stipulated in the contract of employment;
- (b) upon the termination of the contract of employment by reason of the inability of the employee to perform the contract; and
- (c) upon the termination of the contract of employment by agreement between the parties; or
- (d) upon the termination of the contract of employment by a competent court.”

8. Amendment of section 55 of principal Act.

Section 55 of the principal Act is amended in subsection (1) by substituting for paragraph (b) the following—

- “(b) if, at the expiry of the sixth month, the sickness of the employee continues, the employer is entitled to dismiss the employee upon complying with all the terms of contract of service up to the time of dismissal from employment.”

9. Insertion of new section 57A in principal Act.

The principal Act is amended by inserting immediately after section 57 the following—

“57A. Establishment of breastfeeding and child care facilities.

(1) Every employer shall make available at the place of work, time, space or a facility for breastfeeding and child care for children of the employees.

(2) The facility referred to in subsection (1) shall be for children between the age of three months and thirty-six months.

(3) The Minister shall, by regulations, prescribe operational standards for the breastfeeding and child care facilities.”

10. Insertion of new section 65A in principal Act.

The principal Act is amended by inserting immediately after section 65 the following—

“65A. Dismissal from employment.

(1) An employer may dismiss an employee from employment on any of the following grounds—

- (a) inability of the employee to perform duties assigned by the employer in the contract of employment;
- (b) redundancy of the employee;
- (c) disobeying lawful orders or instructions;
- (d) sickness which lasts more than six months and renders the employee unable to perform his or her duties under the contract of service;
- (e) abandonment of duty by the employee;
- (f) where the employer establishes that the employee presented forged documents or did not possess required qualifications at the time of recruitment;
- (g) where the continuous employment of the employee may lead to breach of a statutory obligation;
- (h) where the conduct of the employee inside or outside the employment may have an adverse effect on the business of the employer; or

- (i) any other ground specified in the contract of employment.

(2) An employer who is considering to dismiss an employee on the ground of redundancy under subsection (1) (b) shall show proof that, the employer—

- (a) has ceased business operations;
- (b) has ceased to carry on business in a place where the employee was employed; or
- (c) due to reorganization of work, introduction of labour saving devices or change in work pattern, the employer requires fewer employees for the existing work.”

(3) An employer shall, before dismissing an employee on the ground of sickness under subsection (1) (d) seek the opinion of the medical doctor of the employee relating to the medical condition of the employee.

(4) For purposes of paragraph (e), abandonment of duty is deemed to have occurred when an employee is absent from work without the permission and knowledge of the employer for a consecutive period of more than thirty days.”

11. Replacement of section 66 of principal Act.

For section 66 of the principal Act, there is substituted the following—

“66. Notification & hearing before dismissal.

(1) Notwithstanding any other provision of this Part, an employer shall, before reaching a decision to dismiss an employee, explain to the employee, in a language the employee understands, the reasons for which the employer is considering the dismissal of the employee.

(2) The employee may, during the explanation in subsection (1) have a person of his or her choice in attendance.

(3) Notwithstanding any other provision of this Part, an employer shall, before making a decision to dismiss an employee, hear and consider any representations which the employee or the person of the employee's choice under subsection (2), may make.

(4) The employer shall give the employee five working days within which to prepare the representations referred to in subsection (3).

(5) An employer who fails to comply with this section is liable to pay the employee a sum equivalent to four weeks' net pay.

(6) A complaint alleging failure on the part of the employer to comply with this section may be joined with any complaint alleging wrongful dismissal, and may be made to a labour officer by an employee who has been dismissed.

(7) The labour officer shall have power to order payment of the sum specified in subsection (5) in addition to making an order in respect of any other award or decision reached in respect of the dismissal.

(8) A complaint under subsection (6) shall be made within three months after the date of dismissal or such other later period upon providing reasonable grounds."

12. Insertion of new sections 66A and 66B in principal Act

The principal Act is amended by inserting immediately after section 66 the following—

"66A. Unfair dismissal.

Dismissal shall be unfair where the employer dismisses an employee for any reason other than the reasons specified in section 65A.

66B. Wrongful dismissal

(1) Dismissal shall be wrongful where the employer has not fulfilled his or her contractual obligations under the contract of employment while dismissing an employee.

(2) An employer shall, while dismissing an employee from service act in a just and equitable manner.

(3) In deciding whether the employer fulfilled his or her obligations under the contract of employment, a labour officer or court shall consider—

- (a) the terms and conditions of the contract of employment of the employee and the Code of Discipline set out in Schedule 1 to this Act;
- (b) the extent to which the employer complied with his or her contractual obligations before and after the dismissal of the employee;
- (c) the procedure followed by the employer in reaching the decision to dismiss the employee;
- (d) the communication of the decision to dismiss the employee and the handling of any appeal against the decision, if any;
- (e) the conduct and capability of the employee up to the date of dismissal;
- (f) the previous conduct of the employer while handling the situation which led to the dismissal; and
- (g) any other reason which the labour officer or court may deem just or equitable.”

66C. Circumstances that do not warrant dismissal or imposing disciplinary penalty.

An employer shall not dismiss or impose any disciplinary penalty on an employee on the basis of the following—

- (a) a female employee's pregnancy, or any reason connected with the pregnancy;
- (b) the fact that an employee took, or proposed to take, any leave to which he or she was entitled under the law or a contract;
- (c) an employee's membership or proposed membership of a labour union;
- (d) participation or proposed participation in the activities of a labour union outside working hours or, with the consent of the employer, within working hours;
- (e) an employee's seeking of office as, or acting or having acted in the capacity of, an officer of a labour union or a workers' representative;
- (f) an employee's refusal or proposed refusal to join or withdraw from a labour union;
- (g) an employee's race, colour, sex, religion, political opinion or affiliation, national extraction, nationality, social origin, marital status, HIV status or disability;
- (h) an employee's initiation or proposed initiation of a complaint or other legal proceedings against his or her employer, except where the conduct is, in the opinion of the labour officer, wholly irresponsible and without foundation; and

- (i) an employee's temporary absence from work for any period up to three months on reliable grounds, including illness or injury."

13. Replacement of section 68 of principal Act.

For section 68 of the principal Act there is substituted the following—

"68. Reasons for dismissal.

(1) An employer shall, in any claim arising out of dismissal, give reasons for dismissal of the employee, and where the employer fails to do so, the dismissal shall be deemed to have been unfair.

(2) The reasons for dismissal shall be which the employer, at the time of dismissing the employee, genuinely believed to exist and caused the employer to dismiss the employee.

14. Replacement of section 69 of principal Act.

For section 69 of the principal Act, there is substituted the following—

"69. Summary dismissal.

(1) Summary dismissal shall occur where an employer dismisses an employee without notice or with less notice than that which the employee is entitled to, under a statutory provision or contractual term.

(2) An employer may, summarily dismiss an employee, where the conduct of the employee constitutes a fundamental breach of his or her obligations under the contract of employment.

(3) An employee who is dismissed summarily is not entitled to claim for payment in lieu of notice."

15. Amendment of section 70 of principal Act.

Section 70 of the principal Act is amended by substituting for subsection (2) the following—

“(2) A labour officer, presented with a claim under this section, shall decide whether the dismissal was justified in the circumstances, having regard to section 66C and to the Code of Discipline set out in Schedule.”

16. Replacement of section 71 of principal Act.

For section 71 of the principal Act, there is substituted the following—

“71. Complaint to labour officer.

(1) An employee may lodge a complaint to a labour officer within three months from the date of the employee’s dismissal or such later period as the employee shall show to be just and equitable in the circumstances.

(2) An employee whose services are under a probationary contract shall not lodge a complaint under this section.

(3) The right of an employee to make a complaint under this section is in addition to the right an employee may enjoy under any agreement between an employer or group of employers and a labour union.

(4) A labour officer shall, upon receipt of a complaint, handle the complaint in accordance with this Act and Regulations made thereunder.

(5) Where in accordance with this Act, a labour officer or an employee has referred the complaint or dispute to the Industrial Court and the Industrial Court finds that the dismissal was unfair, the Industrial Court may—

- (a) subject to subsection (6) (a), order the employer to reinstate the employee; or
- (b) order the employer to pay compensation to the employee.

(6) The court shall require the employer to reinstate or re-employ the employee unless—

- (a) the employee does not wish to be reinstated or re-employed;
- (b) the circumstances surrounding the dismissal of the employee are such that a continued employment relationship may be intolerable;
- (c) it is not reasonably practicable for the employer to reinstate or re-employ the employee; or
- (d) the dismissal is unfair only because the employer did not follow a proper procedure.”

17. Repeal of section 73 of principal Act.

Section 73 of the principal Act is repealed.

18. Repeal of section 75 of principal Act.

Section 75 of the principal Act is repealed.

19. Replacement of section 77 of principal Act

For section 77 of the principal Act, there is substituted the following—

“77. Remedies for unfair dismissal

Where a labour officer determines that an employee’s complaint for unfair dismissal under section 71 is well founded, the labour officer may grant the employee an order for compensation under section 78.”

20. Replacement of section 78 of the principal Act.

For section 78 of the principal Act, there is substituted the following—

“78. Compensatory order

(1) An order of compensation to an employee who has been unfairly dismissed shall, in all cases, include a basic compensatory order for eight weeks' wages.

(2) An order of compensation to an employee whose services have been unfairly dismissed may include additional compensation at the discretion of the labour officer, which shall be calculated taking into account the following—

- (a) the employee's length of service with the employer;
- (b) the reasonable expectation of the employee as to the length of time for which his or her employment with that employer might have continued but for the termination;
- (c) the opportunities available to the employee for securing comparable or suitable employment with another employer;
- (d) the value of any severance allowance to which an employee is entitled under Part IX;
- (e) the right to press claims for any unpaid wages, expenses or other claims owing to the employee;
- (f) any expenses reasonably incurred by the employee as a consequence of the termination;
- (g) any conduct of the employee which, to any extent caused or contributed to the termination;
- (h) any failure by the employee to reasonably mitigate the losses attributable to his or her termination; and

- (i) any compensation, including ex gratia payments, in respect of termination of employment paid by the employer and received by the employee.”

(3) An order of a labour officer made under this section may be executed in the Industrial Court.

(4) The Minister shall, by statutory instrument, make rules to prescribe the procedure of executing the order of a labour officer in the Industrial Court.”

21. Amendment of section 81 of the principal Act.

Section 81 of the principal Act is amended in subsection (1) (b) by inserting immediately after the word “out” the following—

“thirty days before the termination”

22. Amendment of section 87 of the Principal Act.

Section 87 of the principal Act is amended by as follows—

- (a) by inserting immediately after paragraph (c), the following—

“(ca) the employer terminates the contract of employment of the employee due to the employee’s physical incapacity;

(cb) the position of the employee is declared redundant or the employer refuses to pay the wages of the employee and the contract of service is terminated by labour officer in accordance with section 31(1) of this Act.;

- (b) by repealing paragraphs (d), (e) and (f).”

23. Replacement of section 89 of the principal Act.

For section 89 of the principal Act, there is substituted the following—

“89. Calculation of severance allowance.

The severance allowance payable to an employee under this Part shall be one month’s salary for each year worked by the employee.”

24. Insertion of new Part IXA of in principal Act.

The principal Act is amended by inserting immediately after Part IX, the following—

“PART IXA—EMPLOYMENT OF MIGRANT WORKERS

92A. Disapplication of this part.

(1) This part shall not apply to—

- (a) a member of the Mission of a sending State or Government and his or her private servant under the Diplomatic Privileges Act;
- (b) a non-citizen employed by a prescribed organisation under the Diplomatic Privileges Act and Statutory Instruments made under that Act;
- (c) a non-citizen who is a worker or service supplier allowed to work or supply services under the Protocol on the Establishment of East African Community Common Market or any agreement to which Uganda is a party;
- (d) an employee of a security agency of foreign State carrying out his or her duties in Uganda in collaboration with any of the security agencies in Uganda; and
- (e) any other person exempted by the Minister under this Act.

(2) Notwithstanding section 9 (1) of this Act, the Commissioner responsible for employment services under the Ministry responsible for labour is responsible for the implementation of this Part acting under the directions of the Minister.

92B. Declaration of jobs.

Subject to section 6 (5) of this Act, the Minister shall, by notice in the Gazette declare a range of jobs that migrant workers shall not be offered for employment.

92C. Exemption.

The Minister may make an exemption for a migrant worker to be employed in a job declared under section 92B, where—

- (a) Uganda has an existing agreement with a foreign organisation or company where the migrant worker wishes to be employed;
- (b) Uganda has an agreement with a State or the Government of the migrant worker that allows the movement of workers or services on reciprocal arrangement; or
- (c) a particular skill is required and there is no one within Uganda to provide such a skill.

92D. Prohibition of grant of entry permits to migrant workers.

(1) The National Citizenship and Immigration Board shall not issue an entry permit to a migrant worker who is offered employment in a job declared by the Minister under section 92B, except where the migrant worker possesses an exemption certificate issued by the Commissioner responsible for employment services.

(2) The Minister may, by regulations, prescribe the procedure for obtaining the exemption certificates.

92E. Prohibition on employment of migrant workers.

An employer shall not offer an employment to a migrant worker in a job which the Minister has declared under section 92B, unless the migrant worker possesses a certificate of exemption issued by the Commissioner responsible for employment services.”

25. Replacement of section 96 of the principal Act.

For section 96 of the principal Act, there is substituted the following—

“96. Offences and penalties.

(1) A person who knowingly—

- (a) furnishes false information for the purpose of procuring an entry permit or exemption certificate;
- (b) obtains or attempts to obtain any document by means of fraud or false pretence or by presenting or submitting a false or forged document;
- (c) obstructs or hinders an authorised officer in the execution of his or her duties under this Act;
- (d) grants an entry permit to a migrant worker for a job declared under section 92B; or
- (e) contravenes any condition attached to an entry permit,

commits an offence and is liable, on conviction to a fine not exceeding five hundred currency points or imprisonment for a term not exceeding five years, or both.

(2) A person who contravenes a provision of this Act, for which no penalty is expressly provided is liable, on conviction to a fine not exceeding five hundred currency points and on a second or subsequent conviction for the same offence, is liable to a fine not exceeding seven currency points or to imprisonment for a term not exceeding seven years, or both.

(3) Where an employer acts in contravention of any provision of this Act not specifically designated as an offence, a labour officer may caution him or her in writing against repeating or continuing such behaviour and if, having received a written caution, the employer repeats the infringement in respect of which a caution, has been given, he or she commits an offence and is liable on conviction to a fine not exceeding five hundred currency points or to imprisonment not exceeding five years, or both.

(4) Where an employer was previously convicted under subsection (2) commits a subsequent offence against the same provision of the Act, the employer is liable to a fine not exceeding seven hundred currency points or to imprisonment for a term not exceeding five years, or both.

(5) Where a court imposes a fine under this Act, it may direct that the fine, when recovered, or such part of it as the court thinks fit, shall be applied to compensate any employer, employee or other person for any wrong done.”

26. Amendment of Labour Disputes (Arbitration and Settlement) Act No. 8 of 2006.

The Labour Disputes (Arbitration and Settlement) Act, 2006, is amended by repealing sections 3, 4 and 5 of the Act.

Cross References

Companies Act, 2012, Act No.1 of 2012

Diplomatic Privileges Act, Cap. 201

Labour Disputes (Arbitration and Settlement) Act, 2006, Act No. 8 of 2006