

(Legislative Supplement No. 27)

LEGAL NOTICE NO. 63

THE LABOUR INSTITUTIONS ACT

(No. 12 of 2007)

IN EXERCISE of the Powers conferred by section 60 of the Labour Institutions Act, 2007, the Cabinet Secretary for Labour, Social Security and Services, after consulting with the National Labour Board, makes the following Regulations:—

THE LABOUR INSTITUTIONS (GENERAL) REGULATIONS, 2014

1. These Regulations may be cited as the Labour Institutions (General) Regulations, 2014.

Citation.

2. In these Regulations unless the context otherwise requires—

Interpretation.

“accreditation” means the grant of authority, in writing, to a private employment agent to recruit Kenyans to work locally or abroad;

“employment office” means an employment office, established under the Ministry for the time being responsible for matters relating to employment;

“principal” means a foreign person, partnership, or corporation hiring Kenyan workers through a licensed agency;

“foreign employment” means employment of Kenyan workers outside Kenya under a valid contract of employment.

3. A person may be accredited as an employment agent by the Director of Employment if the person—

Eligibility for accreditation.

- (a) is a Kenyan citizen and in the case of a non-citizen be in possession of the relevant permits;
- (b) has attained at least O-Level Education and is in possession of a relevant certificate or its equivalent;
- (c) is duly registered as a business, partnership or corporation by the Registrar of Companies;
- (d) is licensed to carry out business within the county of intended operation;
- (e) has a registered office and address;
- (f) has a tax compliance certificate from the Kenya Revenue Authority;
- (g) has executed a guarantee of Kenya Shillings one million from a reputable bank or insurance agency in Kenya;

- (h) has and in the case of a company all the Directors have a Certificate of Good Conduct from the Criminal Investigations Department which must be renewed after every six months from the date of issuance.

4. An applicant who requires accreditation to operate a private employment agency shall submit an application in the prescribed form to the Director of Employment together with—

Procedure for application for accreditation.

- (a) a certified copy of a certificate of incorporation or registration certificate in the case of a business name;
- (b) a copy of operating license from the county authority;
- (c) a duly signed valid lease or Tenancy agreement;
- (d) a copy of an identity card or of Passport of the applicant or all directors in the case of a company;
- (e) two Passport size photos of the applicant or of all the directors in the case of a company;
- (f) valid Certificate of Good Conduct from the Criminal Investigations Department, of the applicant or all directors in the case of a company;
- (g) a valid Entry Permit of the applicant or in the case of a company of any Foreign Director.
- (h) a duly completed application form.

5. (1) If the Director of employment is satisfied that an applicant qualifies to be accredited, the Director of Employment shall issue the certificate upon the payment of the fee specified in the Schedule.

Accreditation certificate.

(2) An accreditation certificate issued under these Regulations shall be valid for a period of one year.

(3) Notwithstanding paragraph (2), a certificate of accreditation shall expire on the last day of the calendar year in which it was issued.

6. (1) An application for the renewal of a certificate of accreditation shall be submitted at least one month before its expiry to the Director of Employment and the application shall be accompanied by-

Renewal of certificate.

- (a) proof that the agency has been submitting statistical returns to the Director of Employment, in the prescribed form;
- (b) particulars of the employer and principal who was involved during the preceding year; and
- (c) copy of a valid lease agreement in case of change of office location.

(2) If the Director is satisfied that the applicant qualifies for renewal of the Accreditation Certificate, the Director shall issue the renewal certificate upon payment of the prescribed fee.

7. Agencies shall charge from their principals a service fee to cover services rendered in the recruitment, documentation and placement of workers.

Fees and commissions.

8. Unless otherwise provided, an employer or agent shall in the case of foreign employment be responsible to the job seeker for the payment of the—

Cost to be met by agents or employer.

- (a) visa fee;
- (b) airfare; and
- (c) surety bond.

Provided that reasonable administrative costs may be charged by the agent in respect of trade test, occupational test or medical examination fees and the administrative fees shall not exceed one quarter of the job seeker's proposed one month's salary.

9. (1) Accredited agencies shall advertise job vacancies either within their premises, public offices or through the media and the advertisements.

Advertisement for jobs.

(2) An advertisement made under paragraph (1) shall specify—

- (a) the name and address of the agency including physical address;
- (b) the place where vacancy is available;
- (c) the terms and conditions of employment;
- (d) the job specification and description;
- (e) the number of available positions; and
- (f) the reference number of their Accreditation letter from the Ministry, Registration from the Attorney General's office and local Authority Trading License.

SCHEDULE

(r. 5(2))

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| Application for Registration | 20,000 |
| Annual Renewal of Registration | 10,000 |
| A copy of Registration Certificate | 500 |

Made on the 5th May, 2014.

SAMWEL KAZUNGU KAMBI,
*Cabinet Secretary for Labour, Social
Security and Services.*