



# PARLIAMENT OF THE REPUBLIC OF UGANDA

REPORT OF THE COMMITTEE ON GENDER, LABOUR & SOCIAL DEVELOPMENT ON THE EMPLOYMENT BILL, 2022

Office of the Clerk to Parliament Parliamentary Building, Kampala

November, 2022

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### 1. INTRODUCTION

The Employment (Amendment) Bill, 2022 was read for the first time on 21st September, 2022 and referred to the Committee on Gender, Labour and Social Development in accordance with Rule 128 (1) of the Rules of Procedure of Parliament. The Committee has considered the Bill in consultation with various stakeholders and, in accordance with Rule 129(2), hereby reports.

#### 2. BACKGROUND

Several years since the enactment of the Employment Act, 2006, a number of changes have occurred and situations not hitherto envisaged have arisen necessitating the need for the law to reflect them. These changes include labour externalisation, which was just taking root at the time of passing the Act; the need to provide for breastfeeding working mothers; and the need to address domestic and migrant workers, to mention just three. Further, the Act does not sufficiently provide for casual labourers and yet the bulk of the economy in Uganda is concentrated in the informal sector where they are prominent players.

#### 3. POLICY AND PRINCIPLES OF THE BILL

The object of the Bill is to amend the Employment Act 2006, to operationalize the provisions of Article 40 of the Constitution of the Republic of Uganda to all categories of workers in Uganda. The Bill specifically makes provision for the regulation of employment of domestic workers and casual employees so as to improve their working conditions; to provide for compulsory registration and licensing of recruitment agencies for domestic workers and casual workers; to provide for an explicit formula for calculation of severance pay; to remove the conditions attached to payment of severance pay; to provide for the recruitment and employment of migrant workers; to provide for scope of sexual harassment in employment; to provide for the protection of working breast feeding mothers; to require employers to put in place policies and facilities for breastfeeding mothers; to provide for the conversion of casual employment to term contract.

4. METHODOLOGY

4.1 Meetings and Written Submissions

The Committee met with or received written memoranda from the following:

- i. Hon. Agnes Kunihira, the mover of the Bill
- ii. Uganda Law Society
- iii. Federation of Uganda Employers
- iv. Centre for Policy Analysis
- v. SIGNUM Advocates
- vi. Platform for Labour Action
- vii. Uganda Women Parliamentary Association (UWOPA)
- viii. Domestic Workers' Association
  - ix. Multichoice Uganda Limited
  - x. Uganda Human Resource Managers' Association
- xi. Initiative for Social and Economic Rights
- xii. Central Organisation of Free Trade Unions (COFTU)
- xiii. Hon. Edson Rugumayo
- xiv. Hon. Abdulhu Byakatonda
- xv. Hon. Laura Kanushu

The Committee also sought to meet with the Ministry of Gender, Labour and Social Development, given that it is the Ministry responsible for labour under which employment falls, and which would have the responsibility of implementing the law if passed. However, while the Committee wrote to the Minister and copied in the Permanent Secretary, there was no written response to the Committee's invitation. The letter to the Minister and proof of receipt of the same are hereto attached marked 'Annex A' and 'B', respectively. Verbal engagements with the Ministers were also made by the Committee leadership with a view to realising a meeting where the Ministry would have an opportunity to present its position on the Bill but these were futile.

In light of the timelines in the Rules of Procedure of Parliament and the extension of time granted by the House on one hand, and the absence of a response from the Ministry on the other, the Committee was left with no choice but to proceed with the processing of the Bill without a submission from the Ministry.

# **4.2 Documentary Review**

- i. The Committee made reference to the following documents:
- ii. The Constitution of the Republic of Uganda, 1995
- iii. The Employment Act, 2006
- iv. The International Labour Conventions 189 and 190
- v. The Labour Disputes Act, 2006
- vi. The Workers' Compensation Act, Cap. 225
- vii. Domestic Violence Act, 2011
- viii. Persons with Disabilities Act, 2020
- ix. Children Act Cap. 59

- x. The Employment and Labour Relations Act Cap. 366 of Tanzania
- xi. The Employment Act, 2007 of Kenya
- xii. The Public Service Standing Orders, 2021
- xiii. The Employment (Recruitment of Ugandan Migrant Workers) Regulations, 2021
- xiv. The National Development Plan III
- xv. Case law

#### 5. GENERAL OBSERVATIONS

# 5.1 Compliance with the Constitution of the Republic of Uganda, 1995

The Committee observes that the Bill, through its principles, seeks to operationalise chapter four of the Constitution by providing for the rights of employees susceptible to marginalisation in the work place such as breastfeeding working mothers, domestic workers, casual workers, and persons with disabilities.

# 5.2 Compliance with the 2030 Agenda for Sustainable Development

The UN 2030 Agenda containing the Sustainable Development Goals (SDGs) is a plan of action for people, planet and prosperity which seeks to strengthen universal peace and freedom.

Under SDG 8, the 2030 Agenda seeks to promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all. SGD 5 aims to achieve gender equality and empower all women and girls.

The Bill obliges the Minister to, by statutory instrument, prescribe a simplified and accessible complaint handling mechanism for workers with disabilities, domestic workers, casual employees and other categories of employees that he or she determines may require special protection. This is in line with SDG 8.5 which aims to achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work and equal value.

It is the observation of the Committee that the Bill makes a significant attempt at ensuring the attainment of a just and fair society in line with the Sustainable

Development Goals. A

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# 5.3 Compliance with the National Development Plan III and the Employment Policy, 2011

The Committee observes that the Bill contributes to both the goal and vision of the National Development Plan III which are; increased household incomes and improved quality of life for Ugandans and sustainable industrialisation for inclusive growth, employment and wealth creation respectively. This is through the provisions that cater for protection for domestic workers, transition of casual labourers into term employees, and increased protection for breastfeeding working mothers.

Through the provisions relating to migrant workers, the Bill addresses the externalisation of labour which is provided for under the Employment Policy but not catered for under the Employment Act, 2006.

### 6. SPECIFIC OBSERVATIONS AND RECOMMENDATIONS

# **6.1 Provision for Migrant Workers**

The Committee observes that migrant workers, both in and out of Uganda, play an important role in the economy. While the statistics about migrant workers in Uganda are scanty, there is no doubt there is need for a legal regime governing them. On the other hand, Uganda receives significant remittances from migrant workers, and numerous Ugandans work outside Uganda. A 2018 Report by the Bank of Uganda, for example, notes that remittances from Ugandans abroad were UGX 4.9 trillion, representing 4% of Uganda's GDP at the time, which was an 18% increase from the previous year.<sup>1</sup>

According to statistics from the Ministry of Gender, Labour and Social Development, between January and June, 2022, UGX 12 billion was collected by government from monies paid by employers in foreign countries for Ugandan migrant workers. According to the same Ministry, between 2016 and June, 2022, a total of 201,637 Ugandans had moved out of Uganda to work abroad through the Ministry.<sup>2</sup>

The scale of remittances, as well as the sheer numbers involved in labour export, necessitate the need to put in place legislation for this crucial area. At present, whereas the Employment Policy makes reference to externalisation of labour, there is no principal legislation in place for the sub sector, aside from the Employment (Recruitment of Ugandan Migrant Workers) Regulations, 2021.

<sup>2</sup> Presentation made by the Ministry of Gender, Labour and Social Development to the

Committee on 07th September, 2022

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<sup>&</sup>lt;sup>1</sup> Bank of Uganda, Inward Personal Transfers, 2018.

There is, therefore, need to provide for migrant workers through principal legislation.

The Committee recommends that the Employment Act, 2006 be amended to provide for the regulation of migrant workers, both within and out of Uganda, and the regulation of recruitment agencies.

# 6.2 Protection for breastfeeding working mothers

The Committee observes that whereas Article 40 (4) of the Constitution provides that the employer of every female worker shall accord her protection during pregnancy and after birth in accordance with the law, the Employment Act, 2006 falls short of providing the requisite protection. Thus, while the Act, under Section 56, provides for maternity leave of 60 working days for all women as a consequence of pregnancy at least four weeks of which must follow child birth, it is the observation of the Committee that the provision does not adequately cater for breastfeeding while at work, especially in light of the need to exclusively breastfeed babies up to the age of 6 months.

There is, therefore, need to put in place mechanisms to enable breastfeeding working mothers a chance to breastfeed while at the same time working.

The Committee therefore recommends that the Employment Act, 2006 be amended to provide for:

- a) 30 minute breastfeeding breaks in every two hours of continuous work or a reduction in the contractual hours of daily work for an additional sixty working days to enable a female employee feed her child; and
- b) establishment of a reasonable lactation station at the work place

# 6.3 Additional leave for female employees who give birth to more than one child at the same time

The Committee appreciates the strides made by Uganda in terms of providing for maternity leave for working mothers. As noted above, these are granted a maternity leave of 60 working days. However, it is important to appreciate that female employees who give birth to more than one child face a harder task looking after the children than their counterparts who give birth to one child. Other jurisdictions in the East African Community have already taken this step; in Tanzania, under Section 33(6) (b) of the Employment and Labour

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Relations Act, 2004, breastfeeding working mothers are granted a total leave of 100 working days.

The Committee observes that it is important to provide additional time for maternity leave to this category of female working employees.

#### Recommendation

The Committee recommends that Section 56 of the Employment Act, 2006 be amended to provide for maternity leave of 90 working days to female working employees that give birth to more than one child at the same time.

# 6.5 Additional time for Paternity Leave

The Committee observes that while significant progress has been made regarding gender parity in terms of the law which is crucial for societal development, often times this has aimed at provisions that cater for only women. The Committee further observes that presently, the period for paternity leave for working fathers is only 4 working days under Section 57 of the Employment Act.

It ought to be appreciated that if we wish to have a society where men play an increased supportive role to their spouses, it is important that more time be accorded to male employees to help their spouses. Jurisdictions in the East African Community such as Kenya have enhanced the time for paternity leave. Kenya's Employment Act, 2007 (Section 29(8)) accords male working employees two weeks' paternity leave.

The Committee recommends that Section 57 of the Employment Act, 2006 be amended to provide for 7 working days for paternity leave.

### 6.6 Provision for Domestic Workers

The Committee observes that despite the ubiquity of domestic work and the critical role it plays in the lives of Ugandans, there is limited protection afforded to domestic workers. There is, thus, a lack of appreciation of the role that domestic workers play, the unique nature of the work they do, and the vulnerabilities they face. Providing for additional protection for domestic workers would, therefore, contribute to reducing the informal sector from 51 percent in 2018/19 to 45 percent in 2024/25 as pointed out in the National

Development Plan (NDP) III.

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The Committee recommends that the definition of 'contract of service' in the Employment Act, 2006 be amended to make provision for domestic workers.

#### 6.7 Provision for Casual Workers

The Committee observes that save for Section 2 under which 'casual employee' is defined, there is no provision for casual workers in the Employment Act, 2006. At the same time, given the large informal economy and the need to reduce it, it is important to provide for protection of casual labourers to avoid exploitation as well as aid the reduction of the informal sector of the economy. Without protection, casual workers continue to suffer from denial of benefits such as social protection.

The Committee recommends that the Employment Act, 2006 be amended to provide for the protection of casual workers and provide for their transition into term employees.

# 6.8 Special Provisions for employment for persons with disabilities

The Committee observes that despite the strides made in terms of legal provisions for special interest groups, significant steps remain with regard to access to opportunities for persons with Disabilities, especially as regards access to employment. To bridge the imbalance, therefore, it is important that deliberate efforts are undertaken to target PWDs for inclusion.

According to the Uganda Manpower Survey 2016/17, only 9,122 of the employees in the formal sector in Uganda were persons with disability out of 721,098, which was 1.3%. 62% of these were employed by the public sector.

The Committee recommends that the Employment Act, 2006 be amended to provide that five percent of all appointments to the public service are accorded to persons with disabilities where applicable.

I beg to move

PROPOSED AMENDMENTS TO THE EMPLOYMENT (AMENDMENT) BILL, 2022

Clause 1: Amendment of section 2 of Act 6 of 2006

Clause 1 is amended—

a) in paragraph (b) by substituting for the proposed definition of "domestic

worker" the following-7

""domestic worker" means a person employed to do domestic work for remuneration for one or more households and includes, a contractual or migrant domestic worker;"

#### **Justification**

To cater for all categories of domestic workers and their working conditions.

- b) by substituting for the proposed paragraph (c), the following—
  - "(c) "employee" means any person who has entered into a contract of service or an apprenticeship contract, including without limitation, a domestic worker, any person who is employed by or for the government or Uganda, including the Uganda public service, a local authority or a parastatal organisation but excludes a member of the Uganda People's Defence Forces;"

#### **Justification**

To expressly define a domestic worker as an employee under the Act.

c) by substituting for the proposed paragraph (k) the following —

"(k) "workplace" means a place of work, a site or any area where work is carried out, including a permanent, indoor, factory, industry, household, a stationary place of work such as an office or shop and any temporary place of work such as a civil engineering site, an open air place such a field, forest, road, oil refinery, and mobile a place of work such as a cab of a truck, a seat of a tractor an excavator, a ship, galley, freight deck of an air craft, and without exception, a place where a worker is found as a consequence of his

or her work."

#### **Justification**

To capture all places of work in the definition of the word workplace.

# Clause 2: Amendment of section 3 of principal Act

Delete clause 2

#### **Justification**

To avoid interference with family relationships.

# Clause 4: Insertion of new section 7A to principal Act

Delete clause 4

#### **Justification**

The proposed offences are elaborately catered for in other legislations including, the Penal Code Act, Cap 120, the Domestic Violence Act, 2010 and Police Act, Cap.303, among others.

# Clause 5: Amendment of section 12 of principal Act

Clause 5 is amended in the proposed subsection (3) by substituting for the word "may" the word, "shall"

#### **Justification**

To obligate the Minister to prescribe a simplified and accessible complaint handling mechanism for the categories of workers that require special protection.

Clause 7: Insertion of new section 28A to principal Act

Delete clause 7

**Justification** 

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This is in line with the doctrine of privity of contract.

# Clause 9: Substitution of section 34 of principal Act

Clause 9 is amended by numbering the current provision as subsection (1) and inserting immediately after the provision, the following—

> "(2) The Minister shall, every five years, review the regulations made under subsection (1) for the purpose of enhancing the special protection accorded to the categories of employees under this section."

#### **Justification**

The employment sector is dynamic and there is need for periodic reviews to keep up with workplace dynamics and protect the more vulnerable categories of workers.

#### **New Clause**

Insert a new clause immediately after clause 9 to read as follows;

# "Insertion of section 34A in principal Act

The principal Act is amended by inserting immediately after section 34, the following—

# "34A. Consideration of Persons with Disabilities in Public Service Recruitment

The Minister responsible for public service shall, through a circular to all Ministries, Departments and Agencies, ensure that five percent of all recruitments in to the public service are accorded to persons with disabilities where applicable."

#### **Justification**

To provide for affirmative action for qualified persons with disabilities who are most times discriminated against in employment opportunities due to their disabilities.

# Clause 10: Insertion of new section 34A in principal Act

Clause 10 is amended in the proposed section 34A —

- a) by substituting for the word, "labourer" the word "employee";
- b) by substituting for the word "four" the word "six" wherever it appears in the clause.

#### **Justification**

- To provide clarity.
- To avoid prolonged casual employment without regularisation and employee protection.

# Clause 11: Insertion of new section 37 in principal Act

Clause 11 is amended in the headnote by substituting for the phrase "section" the phrase "37A"

#### **Justification**

To correct a typographical error and ensure proper chronological numbering.

# Clause 12: Amendment of section 38 of principal Act

Clause 12 is amended—

- a) in the proposed subsection (2b),
  - (i) by substituting for paragraph (c), the following—
  - "(c) ensure that a migrant worker recruited or deployed by the agency is qualified for the job available;";
  - (ii) by deleting paragraph(d);

b) by inserting immediately after the proposed subsection (2b), the

following-

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"(2c) The Minister shall, by statutory instrument, prescribe a simplified, accessible and affordable complaints handling mechanism for dissolution of disputes arising from the recruitment of Ugandans for the external labour market.";

- c) in the proposed subsection (2d)
  - by deleting paragraphs (a),(b),(c) (d), and (k);
  - by renumbering the proposed paragraph (i) as subsection (2e); (ii)
  - by renumbering the proposed paragraph (1) as subsection (2f) and (iii) thereafter substituting for the word "five" the word "two";

#### **Justification**

- To avoid restricting job qualification to possession of documents since a migrant worker may possess experience, without necessarily possessing any documents.
- To ensure that there is a simplified, accessible and affordable complaints' handling mechanism for migrant workers to access justice.
- To create opportunity to all interested persons to engage in the business of recruitment and placement of migrant workers.
- The principal of prohibition of deductions on wages of an employee for purposes of securing employment is covered in section 45 of the principal Act.
- The punishment of imprisonment for a five year does not equitably align to the one hundred twenty currency points.

#### Clause 13: Insertion of new section 38A

Delete clause 13

#### **Justification**

The minimum standards should be negotiated and set in the bilateral agreements the government signs with the countries in which Ugandan migrant workers go to find employment and in the standard contract of service.

# Clause 14: Insertion of new section 38B to principal Act

Clause 14 is amended in the proposed section 38B by substituting for subsection (2), the following—

"(2) A recruitment agency shall put in place measures for obtaining a quarterly status report about the welfare of a worker it connected for employment and provide it on request."

#### Justification

To obligate a recruitment agency to follow up on the welfare of a worker it has matched with an employer.

# Clause 15: Amendment of section 39 of principal Act

Delete clause 15

### **Justification**

The conditions upon which repatriation should be based should be retained in the Act.

# Clause 16: Insertion of new section 56A to principal Act

Clause 16 is amended in the proposed section 56A by substituting for the word "shall", the word "may".

#### Justification

To obligate all employers to create lactation stations may inadvertently deter employers from employing women in child bearing age.

**New clauses:** 

Insert two new clauses immediately after clause 16 to read as follows;

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# "Amendment of section 56 of principal Act

Section 56 of the principal Act is amended by inserting immediately after subsection (1) the following—

(1a) Notwithstanding subsection (1), a female employee who gives birth to more than one child at the same time shall, have a right to a period of ninety working days maternity leave from work on full wages."

#### **Justification**

- A woman who gives birth to more than one child deserves more time to nurse them than one who gives birth to one child at a time.
- Best practice from East African countries like the Tanzanian through its Employment and labour Relations Act, Cap 366 have similar provisions protecting working mothers who give birth to more than one child at a time.

# "Amendment of section 57 of principal Act

Section 57 of the principal Act is amended in subsection (1) by substituting for the word "four", the word "seven".

### **Justification**

- To provide more time for a male employee to support his wife after child delivery.
- Best practice from East African countries like Kenya under the Employment Act, 2007, provide for paternity leave of 14 days for male employee.

# Clause 20: Amendment of section 97 of principal Act

Clause 20 is amended in paragraph (b) by deleting the proposed paragraphs (fa)

and (fd)

**Justification** 

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Domestic and casual workers have been incorporated into the definition of contract of service and the Minister has general powers to make regulations for carrying into effect the provisions of the Act covering all employees under a contract of service under section 97 of the Act.

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# PARLIAMENT OF UGANDA File Goal

# OFFICE OF THE CLERK TO PARLIAMENT

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In any correspondence on this subject please quote No.

AB/287/481/01

08th November, 2022

The Hon. Minister,
Ministry of Gender, Labour and Social Development
KAMPALA

# INVITATION FOR A MEETING TO CONSIDER THE EMPLOYMENT (AMENDMENT) BILL, 2022

The Employment (Amendment) Bill, 2022 was read for the first time on 21st September, 2022 and referred to the Committee on Gender, Labour and Social Development for consideration and report back.

The Committee has commenced scrutiny of the Bill and wishes to interface with you on the same. Please prepare 29 copies of your presentation to the Committee. Enclosed herewith is a copy of the Bill. A soft copy of the same can be obtained from the Parliament of Uganda website at <a href="https://www.parliament.go.ug">www.parliament.go.ug</a>.

The Committee therefore invites you for a meeting on Tuesday 15th November, 2022 in Committee Room 201, 2nd Floor North Wing, Parliament Building at 10:00 hours.

Please send soft copies of the presentation to <a href="mmpuga@parliament.go.ug">mmpuga@parliament.go.ug</a> and <a href="mmpuga@parliament.go.ug</a> and <a href="mmpuga@parliament.go.ug</a> and <a href="mmpuga.go.ug</a> and <a href="mmpuga.go.ug</a> and <a href="

Mohammed R. Mpuga

For: CLERK TO PARLIAMENT

cc. The Permanent Secretary, Ministry of Gender, Labour and Social Development

# **DISPATCH SHEET**

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# MEMBERS OF THE COMMITTEE ON GENDER, LABOUR AND SOCIAL DEVELOPMENT

# THE EMPLOYMENT (AMENDMENT) BILL, 2022

	CALL SECTION OF THE S		
1	Hon. Kabahenda Flavia Rwabuhoro	DWR Kyegegwa	Klans
2	Hon. Sarah Najjuma	DWR Nakaseke	
3	Hon. Linda Irene	Fort Portal City	Lila.
4	Hon. Bakkabulindi Charles	Workers Repr	
5	Hon. Acen Dorcas	DWR Alebtong	
6	Hon. Avako Melsa Maima	DWR Yumbe	
7	Hon. Laura Kanushu	PWD National	
8	Hon. Kaala Kevin Ojinga	DWR Pallisa	Joiga
9	Hon. Asiimwe Florence Akiiki	DWR Masindi	Herimuz
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17	Hon. Waako Peggy Joy	Ops National	Raato.

18	Hon. Musinguzi Yona	Ntungamo Municipality	r.h
19	Hon. Chemonges William	Kween County	Junay
20	Hon. Kabuye Frank	Kassanda South	100
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23	Hon. Nantongo Fortunate Rose	DWR Kyotera	Alexander 1
24	Hon. Businge Joab	Masindi Municipality	
25	Hon. Muhindo Harold	Bukonzo East County	. 0
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29	Hon. Rwabushaija Margaret Namubiru	Workers	