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REPORT OF THE COMMITTEE ON GENDER, LABOUR AND SOCIAL DEVELOPMENT ON THE EMPLOYMENT AMENDMENT NO.2 BILL 2022

**OFFICE OF THE CLERK TO PARLIAMENT
PARLIAMENT BUILDING
KAMPALA-UGANDA**

MAY 2023

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REPORT OF THE COMMITTEE ON GENDER, LABOUR AND SOCIAL DEVELOPMENT ON THE EMPLOYMENT AMENDMENT NO.2 BILL 2022

1.0 INTRODUCTION

The Employment (Amendment) Bill, 2022, a Private Member's Bill by Hon. Kunihira Agnes, Member of Parliament representing Workers 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 considered the Bill and prior to presentation of the Committee report, on 6th December 2022 the Minister responsible for Gender, Labour and Social Development tabled the Employment (Amendment) (No. 2) Bill, 2022 for First Reading.

The Employment Amendment Bill No.2 2022 was subsequently referred to the Committee on Gender, Labour and Social Development to harmonize with the Private Member's Bill and thereafter report back to the House.

The Committee has harmonized the two bills and now presents its report.

1.1 BACKGROUND TO THE BILLS

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. 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.

2.0 OBJECT OF THE BILLS

2.1 The object of both bills is based on similar issues as discussed below:

1. Regulating issues of labour externalization and activities of recruitment agencies

Labour externalization has in the recent years hugely expanded accounting for the existence of over 400 recruitment companies and exportation of a large population of migrant workers to mainly countries in the Middle East. As a result the industry has faced various challenges ranging from illicit or concealed movement of persons, continuous struggles and hardships for the migrant workers and difficulties in repatriation causing an outcry in the public for help. Currently there is no policy on Labour migration and the sector is being regulated by the Migrant Workers Regulations of 2021 and a Bilateral Labour Agreement with the Kingdom of Saudi Arabia (KSA). The bill therefore seeks to regulate the industry under Part IVA of the Employment Amendment Bill No.2 2022.

2. Harmonizing the usage of the terms dismissal and termination in Employment contracts

There is interchangeable use of the terms dismissal and termination in the current law, specifically in Sections 65 and 66. This has in effect created a gap in handling matters of concluding employment relationships between the employers and employees. The gap has largely been covered by case law and so the Bill intends clear this confusion by providing for grounds for dismissal under Section 65A and to harmonize with the established court rulings on the matter.

3. Regulating the powers of the Labour Officers

There is confusion with the limit to the powers of the labour officers owing to the fact that the power to adjudicate is a preserve of judicial officers according to established case law. Therefore the bill intends to clearly stipulate the extent of the powers and qualifications of the labour officers when handling labour disputes.

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4. Rights of breast feeding Employees

The bill is cognizant of new trends in the working conditions of employees and the need for them to support their babies that are breast feeding. It is in this regard that the bill introduces a proposal in Section 57 of the bill to protect the rights of breast feeding employees.

5. Protection from sexual harassment at the workplace

The bill seeks to strengthen the safety of employees at the workplaces by strengthening the provisions on sexual harassment under Section 7 in the current law.

It suffices that in certain instances, both bills propose amendments to similar issues, for instance on the rights of breast feeding female employees, protection from sexual harassment at the workplaces, powers of labour officers and migrant workers and in addition to these, the Employment Amendment No.2 Bill 2022 introduces other details like the distinction between dismissal and termination from employment.

6. Provide for severance allowances

The Bill provides severance allowances and allows workers to receive an allowance at the end of the employment relationship with the employer.

3.0 METHODOLOGY

3.1 Meetings and Written Submissions

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

1. Hon. Agnes Kunihira – Mover of the Private Members Bill
2. Ministry of Gender, Labour and Social Development
3. Ministry of Justice and Constitutional Affairs
4. International Labour Organisation
5. National Organisation of Trade Unions (NOTU)

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6. Central Organisation of Free Trade Unions (COFTU)
7. Platform for Labour Action
8. Uganda Law Society
9. Industrial Court
10. Bei Investments, a recruitment agency
11. Uganda Scientists, Researchers and Allied Workers Union
12. Kampala Associated Advocates
13. Shonubi, Musoke and Company Advocates
14. Federation of Uganda Employers
15. Centre for Policy Analysis
16. SIGNUM Advocates
17. Uganda Women Parliamentary Association (UWOPA)
18. Domestic Workers' Association
19. Multichoice Uganda Limited
20. Uganda Human Resource Managers' Association
21. Initiative for Social and Economic Rights
22. Migrant Workers Voice
23. Hon. Edson Rugumayo
24. Hon. Abdulhu Byakatonda
25. Hon. Laura Kanushu

3.2 Documentary Review

The Committee made reference to the following documents:

- i. The Constitution of the Republic of Uganda, 1995
- ii. The Employment Act, 2006
- iii. The International Labour Convention, C 190
- iv. The Labour Disputes Act, 2006
- v. The Workers' Compensation Act, Cap. 225
- vi. Persons with Disabilities Act, 2020
- vii. Children Act Cap. 59
- viii. ~~The Employment and Labour Relations Act Cap. 366 of Tanzania~~

- ix. The Employment Act, 2007 of Kenya
- x. The Public Service Standing Orders, 2021
- xi. The Employment (Recruitment of Ugandan Migrant Workers) Regulations, 2021
- xii. The National Development Plan III
- xiii. Case law

4.0 GENERAL OBSERVATIONS

4.1 Compliance with the Constitution of the Republic of Uganda, 1995

The Committee observes that the Bills, through their principles, seek to operationalise Chapter four of the Constitution by providing for the rights of employees susceptible to marginalisation at the work place such as breastfeeding working mothers, domestic workers, casual workers, migrant workers and persons with disabilities.

4.2 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 Bills oblige the Minister to, by statutory instrument, prescribe a simplified and accessible complaint handling mechanism for workers with disabilities, domestic workers, casual employees, migrant workers 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

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decent work for all women and men, including for young people, Persons with Disabilities and equal pay for work and equal value.

It is the observation of the Committee that the Bills make a significant attempt at ensuring the attainment of a just and fair society in line with the Sustainable Development Goals.

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

The Committee observes that the Bills contribute 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 Bills address areas of migrant labour which are provided for under the Employment Policy but not catered for under the Employment Act, 2006.

5.0 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

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were UGX 4.9 trillion, representing 4% of Uganda's GDP at the time, which was an 18% increase from the previous year.¹

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.²

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.

The Committee recommends that the Employment Act is amended to

- a) Provide for the regulation of recruitment agencies which recruit for employment both within and out of Uganda.**
- b) Provide for the obligation of the recruitment agencies**
- c) Provide for the regulation of pre departure institutions.**

6.2 Protection for breastfeeding female employees

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

¹ Bank of Uganda, Inward Personal Transfers, 2018.

² Presentation made by the Ministry of Gender, Labour and Social Development to the Committee on 07th September, 2022

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female working employees that give birth to more than one child at the same time.

6.5 Additional time for Paternity Leave

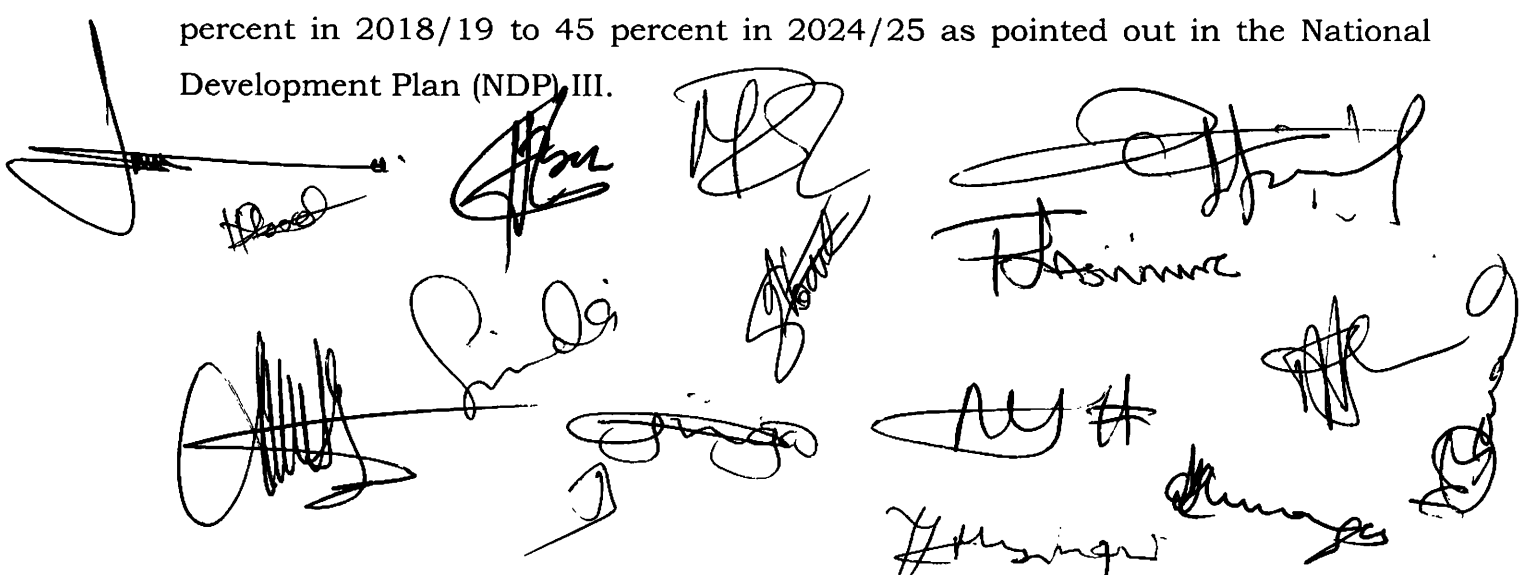
The Committee observes that while significant progress has been made regarding gender parity in terms of the law which is crucial for societal development, often times this has aimed at provisions that cater for only women. The Committee further observes that presently, the period for paternity leave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



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.

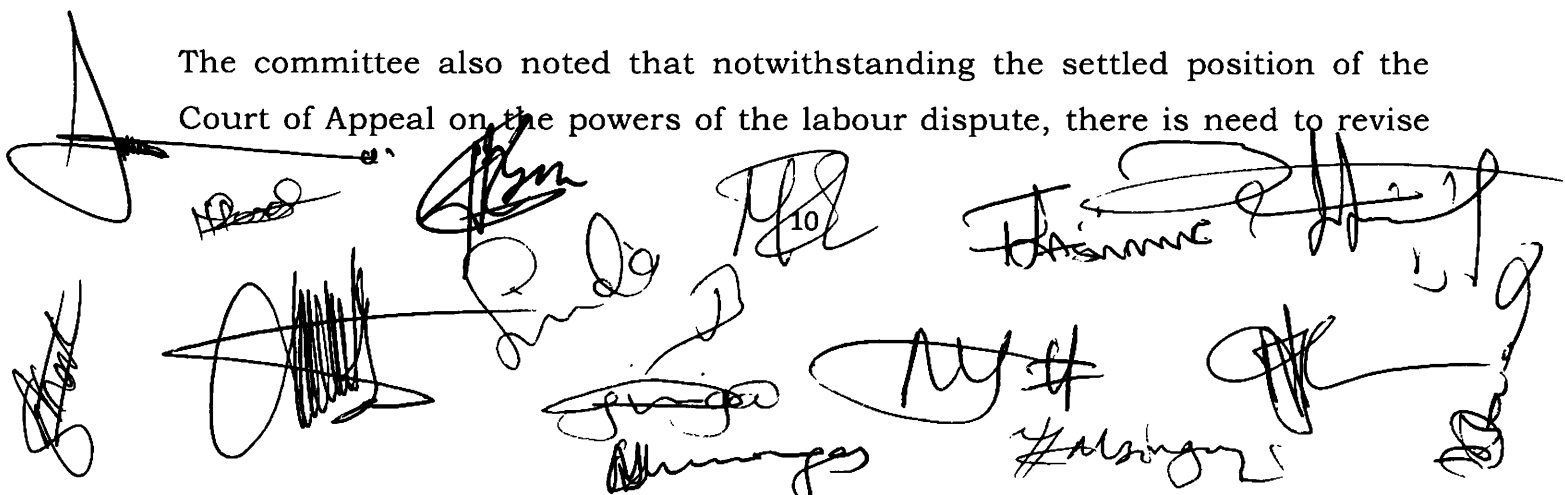
The Committee recommends that the Employment Act, 2006 be amended to provide for the protection of casual workers and provide for their transition into term employees.

6.8 Provision on the powers of a labour officer

The Committee reconciled section 13 and section 93 of the Employment Act which give contradicting positions on the powers of a labour officer in handling labour disputes with the settled principle in the case of Eng. John Eric Mugenzi vs. Uganda Electricity Generation Co. Ltd CACA No. 167 of 2018. In the stated case court, court ruled that a labour officer can only entertain the matter if it concerns an infringement of the rights granted or obligations under the Employment Act and any other made in respect of compliance to terms of service is corollary to the primary jurisdiction to deal with infringement of the Act and further that any claim in tort arising out of an employment relationship shall be brought before a court and the labour officer has no jurisdiction to deal with infringement of the Act.

Court further stated in the Eng. Mugenzi case that an employee appearing before a labour officer can only apply the methods of settlement by conciliation or mediation.

The committee also noted that notwithstanding the settled position of the Court of Appeal on the powers of the labour dispute, there is need to revise



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the labour disputes (Arbitration and Settlement) Act to address the issues of case backlog since the principle in the case of Eng. Mugyenzi seeks to limit the powers of the labour officer to conciliation and mediation.

The Committee recommends that the Employment Act is amended to align the law with the settled principle in the Court of Appeal case of Eng. Mugyenzi

The Committee further recommends that in case of increasing the jurisdiction of the labour officer, there should be a requirement for a training in legal knowledge since the function of adjudication is a preserve of a judicial officer and a labour officer is not a judicial officer.

6.9 Provision on dismissal from employment

The Committee observes that the Employment Act in its current state, does not distinguish clearly termination and dismissal from employment. The distinction is that termination can occur at the initiative of either the employer or employee upon service of notice whereas dismissal from employment is usually at the initiative of the employer in the case of misconduct of the employee. It has been left to the courts to settle the contradiction and fill the gap in the law.

The Committee therefore seeks to distinguish the grounds that lead to termination of employment from the grounds for dismissal from employment.

The Committee recommends that the Employment Act is amended by providing for clear grounds that can lead to either termination of employment or dismissal from employment.

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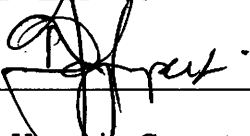
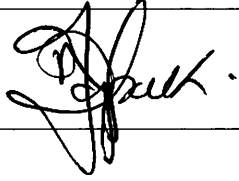
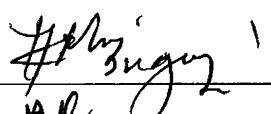
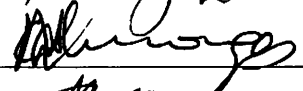
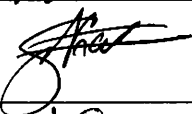

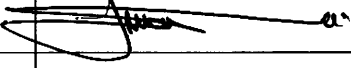
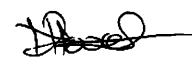

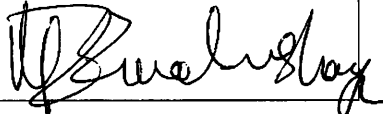
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**REPORT OF THE COMMITTEE ON GENDER, LABOUR & SOCIAL
DEVELOPMENT ON THE EMPLOYMENT AMENDMENT BILL No 2
2022**

Agreed

NO.	NAME	CONSTITUENCY	PARTY	SIGNATURE
1	Hon. Kabahenda Flavia Rwabuhoro C/P	DWR Kyegegwa	NRM	<i>Flavia</i>
2	Hon. Sarah Najjuma D/CP	DWR Nakaseke	NRM	<i>Sarah</i>
3	Hon. Linda Irene	Fort Portal City	NRM	<i>Linda</i>
4	Hon. Bakkabulindi Charles	Workers Repr	NRM	<i>Charles</i>
5	Hon. Acen Dorcas	DWR Alebtong	NRM	
6	Hon. Avako Melsa Maima	DWR Yumbe	NRM	<i>Melsa</i>
7	Hon. Laura Kanushu	PWD National	NRM	
8	Hon. Kaala Kevin Ojinga	DWR Pallisa	NRM	<i>Kaala</i>
9	Hon. Asimwe Florence Akiiki	DWR Masindi	NRM	<i>Asimwe</i>
10	Hon. Ayoo Jeniffer Nalukwago	DWR Kalaki	NRM	<i>Jeniffer</i>
11	Hon. Lochap Peterkhen	Bokora East	NRM	
12	Hon. Isabirye Iddi	Bunya South	NRM	<i>Isabirye</i>
13	Hon. Kamugo Pamela Nasiyo	DWR Budaka	NRM	<i>Pamela</i>

**REPORT OF THE COMMITTEE ON GENDER, LABOUR & SOCIAL
DEVELOPMENT ON THE EMPLOYMENT AMENDMENT BILL NO.2
2022**

14	Hon. Ayoo Tonny	Kwana County	NRM	
15	Hon. Ngompek Linos	Kibanda North	NRM	
16	Hon. Arinaitwe Rwakajara	Workers Representative	NRM	
17	Hon. Waako Peggy Joy	Ops National	NRM	
18	Hon. Musinguzi Yona	Ntungamo Municipality	NRM	
19	Hon. Chemonges William	Kween County	NRM	
20	Hon. Kabuye Frank	Kassanda South	NUP	
21	Hon. Kiyaga Hillary	Mawokota North	NUP	
22	Hon. Mayanja Allan	Nakaseke Central	NUP	
23	Hon. Nantongo Fortunate Rose	DWR Kyotera	NUP DP	
24	Hon. Businge Joab	Masindi Municipality	FDC	
25	Hon. Muhindo Harold	Bukonzo East County	FDC	
26	Hon. Mboizi Arthur Waako	Budaka	INDEP.	
27	Hon. Byakatonda Abdu	Workers	INDEP.	
28	Hon. Mukhaye Miriam	DWR Mbale	INDEP.	
29	Hon. Rwabushaija Margaret Namubiru	Workers	INDEP.	

PROPOSED AMENDMENTS TO EMPLOYMENT (AMENDMENT) (NO.2) BILL, 2022

Clause 1: Amendment of the Employment Act, 2006

Clause 1 is amended—

(a) by substituting in paragraph (b) for the definition of disability the following—

“disability” means a substantial functional limitation of a person’s daily life activities caused by physical, mental or sensory impairment and environmental barriers resulting in limited participation in society on equal basis with others and includes an impairment specified in Schedule 3;”

(b) by inserting the following definitions in their appropriate order—

“domestic work” means work performed in or for a household or households;

“domestic worker” means a person engaged in domestic work within an employment relationship but excludes a person who does domestic work occasionally and not on an occupational basis;

“foreign recruitment agency” means an agency based outside Uganda which is accredited by a Ugandan Mission abroad, to recruit Ugandans to work abroad;

“recruitment agency” means a company licensed by the Ministry to facilitate the placement of a prospective employee with a prospective employer within Uganda or with a foreign recruitment agency for employment abroad;

“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, gallery, freight deck of an air craft, and without exception, a place where a worker is found as a consequence of his or her work;”

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Justification

- To enhance clarity of phrases and words introduced in the Bill and words contained in the Principal Act.
- To align the definition of disability with the definition in the Persons with Disabilities Act, 2020 which gives a more comprehensive definition of disability.
- To harmonize the definition of “termination” with the provisions related to “termination” and “dismissal” as contained in the Bill
- To specifically provide for domestic work, that our society associates with the unpaid care work of a housewife and dependent relatives and often resulting into economic exploitation and vulnerability of the employee.
- To also provide for “domestic workers” who are predominately youth and women and whose workplace is the employer’s household.
- To provide clarity of the definitions related to recruitment for employment within Uganda and for employment abroad.
- To align the definition of “workplace” with the definition in the Occupational Safety and Health Act 2006 which is broad and encompassing.
- The adoption of the definitions of domestic work, domestic worker, recruitment agency and workplace were an incorporation of agreed upon principles from Employment Amendment Bill 2022, a private member’s bill moved by Hon. Kunihira Agnes into Employment (Amendment) (No. 2) Bill as a result of the incorporation process of both bills.

NEW CLAUSE

Insert a new clause immediately after clause 2 as follows—

“Insertion of section 7A in Principal Act

The principal Act is amended by inserting a new section immediately after section 7, to read as follows—

7A. Prohibition of intimidation, harassment and violence against an employee

- (1) An employer or the employer’s agent shall not intimidate, harass or violate an employee at the work place.
- (2) For purposes of subsection (1) —

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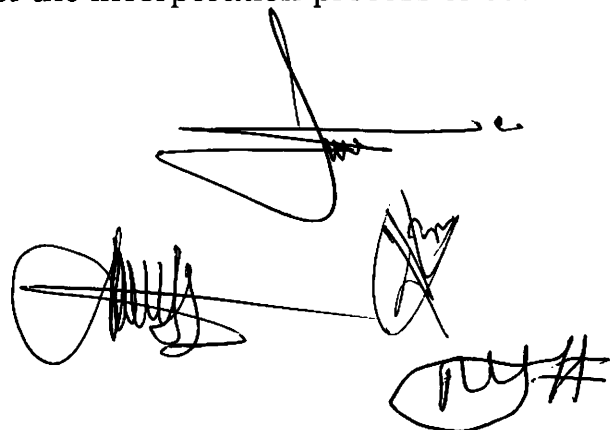
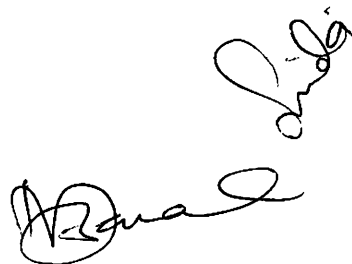

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- (a) harassment and violence means written, verbal or physical abuse or behaviour that interferes with work or creates an intimidating, hostile, or an offensive work environment;
- (b) intimidation means physical or verbal abuse, or behaviour directed at isolating or humiliating an individual or a group of individuals or at preventing an individual or a group of individuals from engaging in work activities and includes—
- (i) degrading public tirades by a supervisor or colleague;
 - (ii) insults related to a person's personal or professional competence;
 - (iii) threatening or insulting comments, whether oral or written including by e-mail;
 - (iv) desecration of religious or national symbols or both;
 - (v) withholding food and other basic necessities which an employee is entitled to under the contract of employment; and
 - (vi) insulting the modesty of an employee.”

Justification

- Uganda recently ratified the ILO Convention on Violence and Harassment (C190) concerning the elimination of violence and harassment in the world of work. The amendment is to therefore align the Employment Act with Convention 190 in accordance with Uganda's obligations as a partner state under the ILO treaty.
- To protect the right of everyone to work in an environment free of violence and harassment.
- The amendment is an incorporation of agreed upon principle that was contained in Employment Amendment Bill 2022 into Employment (Amendment) (No. 2) Bill as a result of the incorporation process of both bills.



NEW CLAUSE

Insert a new clause immediately clause 3 as follows—

“Amendment of section 34 of the principal Act”

The principal Act is amended in section 34 by inserting immediately after the word, “disabilities” with the following words, “domestic workers”, “casual employees.”

Justification

- To include domestic workers and casual employees as a special category of employees.
- To ensure that domestic workers and casual employees are among the workers for whom the Minister may make regulations providing for their working conditions and special protection.
- The amendment is an incorporation of agreed upon principle that was contained in Employment Amendment Bill 2022 into Employment (Amendment) (No. 2) Bill as a result of the incorporation process of both bills.

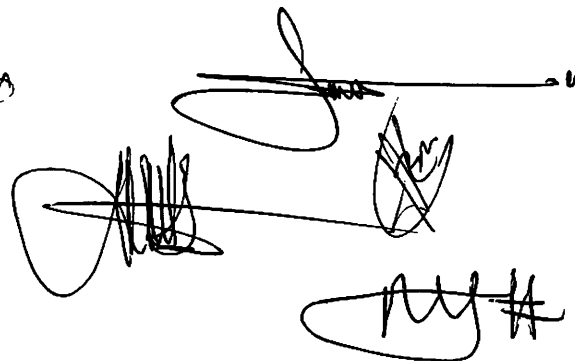
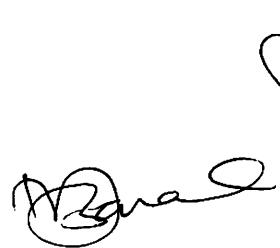
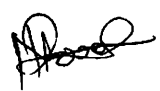
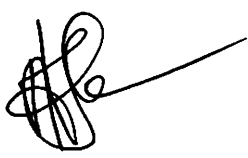
NEW CLAUSE

Insert a new clause immediately before Clause 4 as follows—

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

“34A. Casual Employment

- (1) A person shall not employ another person as a casual employee for a continuous period exceeding six months.
- (2) Where a person employs another person as a casual employee for a period exceeding six months, the person shall, at the expiry of the six months, be deemed to have entered into a contract of service with the casual employee.
- (3) Where an employer lays off a casual employee and the employer rehires the casual employee, the casual employment shall be regarded as continuous.”



34B.Piecework

- (1) An employee may enter into a piece work contract with an employer.
- (2) Piecework under this section means, the amount of work that an employer pays the employee for, upon the completion of the work by the employee.

Justification

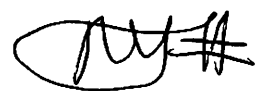
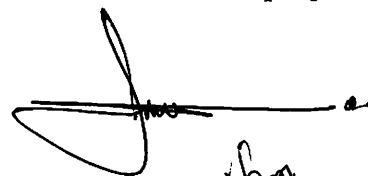
- To ensure that a person employed as a casual employee has security of job tenure in the event of continuous employment exceeding six months.
- To provide for the protection of persons employed as casual employees who often times work on casual basis terms indefinitely.
- To provide for a piecework contract where an employer and employee determine the terms of employment based on the amount of work done contrary to duration of the work.
- The amendment is an incorporation of agreed upon principle that was contained in Employment Amendment Bill 2022 into Employment (Amendment) (No. 2) Bill as a result of the incorporation process of both bills.

Clause 6: Amendment of section 39 of principal Act

Delete Clause 6

Justification

- The deletion seeks to retain the provision in the principal Act on repatriation which stipulates that repatriation shall be to the place of engagement of the employee contrary to the position in the Bill which limits repatriation to the place of recruitment of the employee.
- To ensure decent settlement and better protection of an employee in case of repatriation.
- In the case of G4S Secure Solutions Uganda Ltd vs. 201 former Employees of G4S Security Services Ltd (Labour Dispute Appeal No. 022 of 2017), the Industrial Court clarified that repatriation means transporting the employee from the workplace to his or her home, that is, to enable the employee return home after the termination of his employment.



Clause 7: Insertion of new Part IVA

Clause 7 is substituted for the following—

“Part IVA—RECRUITMENT AGENCIES

39A. Illicit or concealed movement of persons

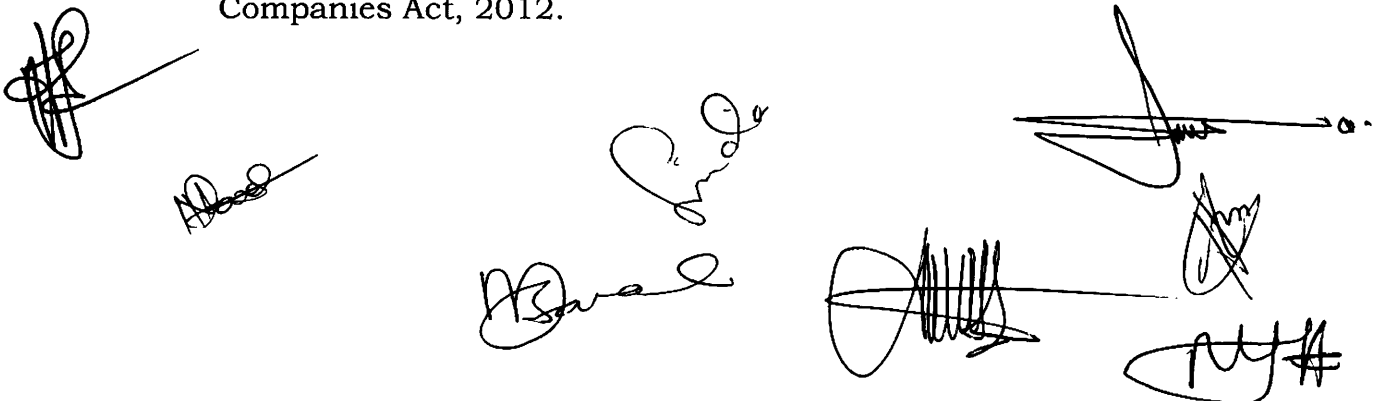
- (1) A person shall not facilitate the illicit or concealed movement of persons for employment abroad by organising the departure, transit or arrival of the persons in Uganda or give assistance to any organisation for that purpose.
- (2) A recruitment agency shall not recruit a person whom the recruitment agency 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 Minister.
- (2) A licence referred to in subsection (1) may be issued subject to conditions as the Minister may determine.
- (3) A licence issued under subsection (1) shall be valid for a period of two years from the date of issue.
- (4) A recruitment agency may apply to the Minister for renewal of a licence issued under subsection (1).
- (5) The Minister may, in writing, revoke a license issued under subsection (1).

39C. Recruitment agency to be company

- (1) The Minister 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.

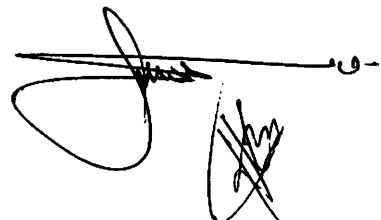
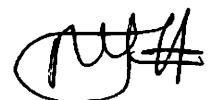
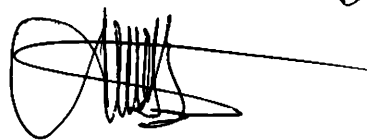
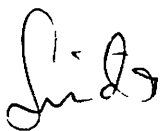
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- (2) A recruitment agency granted a licence under this Act shall submit a report of its operations to the Commissioner at the end of every calendar year.
- (3) The Minister may, by regulations provide for—
- (a) the procedure for obtaining a licence;
 - (b) the procedure for renewing a license;
 - (c) the conditions for issuance of a licence;
 - (d) the grounds for revocation of a licence;”
 - (e) the governance and general operations of recruitment agencies; and
 - (f) 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 shareholders or 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;
- (f) a company whose directors have been convicted of an offence relating to illegal recruitment of workers or trafficking of persons; or
- (g) a company whose shareholders or directors are directly or indirectly engaged in the regulation of recruitment of persons for employment.”



39E. Recruitment only on issuance of job order

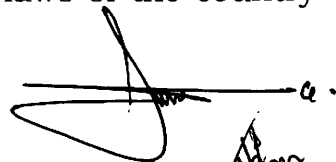
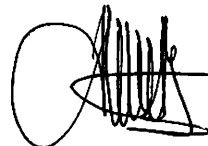
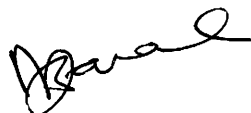
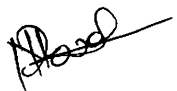
- (1) A recruitment agency shall not recruit a person without—
 - (a) a job order; and
 - (b) approval of the job order by the Commissioner.
- (2) A recruitment agency which contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding one thousand currency points.
- (3) Where the act or omission constituting an offence under subsection (1) is committed by a person who has—
 - (a) the power to represent the recruitment agency;
 - (b) the authority to take decisions on behalf of the recruitment agency; or
 - (c) the authority to exercise control over the affairs of the recruitment agency,the person is liable, on conviction, to a fine not exceeding five hundred currency points or a term of imprisonment not exceeding three years, or both.

39F. Due diligence on employer

A recruitment agency shall, in consultation with the Minister, 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. Obligations of recruitment agencies

- (1) A recruitment agency shall—
 - (a) before a person who intends to work in Uganda or 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;
 - (b) ensure that the contract of employment signed by the person being recruited for work is witnessed by a next of kin;
 - (c) ensure that the person who intends to be employed abroad is skilled for the job as specified in the job order;
 - (d) ensure that the contract of employment is not prohibited under the laws of Uganda or is in accordance with the laws of the country where the person is to be employed;

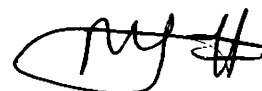
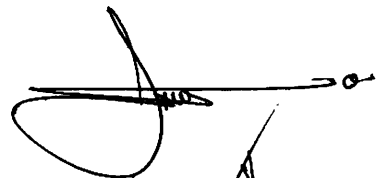
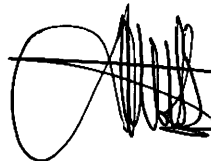
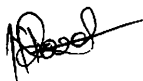


- (e) assume full responsibility for all claims which may arise in connection with the use of the licence of the agency;
 - (f) keep and maintain a record of all persons recruited through the recruitment agency, including names and addresses, contracts of employment, biodata and passport photographs;
 - (g) keep, monitor and update a record of the next of kin of persons recruited through the recruitment agency; and
 - (h) ensure that a person who intends to be employed abroad is trained by a pre-departure training institution, accredited by the Ministry.”
- (2) For the purposes of this section, “pre-departure training institution” means an institution accredited by the Ministry to orient and induct an employee recruited for employment abroad for purposes of preparing the employee for employment abroad.
- (3) The Minister may make regulations to prescribe for—
- (a) accreditation procedures for the pre-departure training institutions;
 - (b) the duration of pre-departure training;
 - (c) the fees payable;
 - (d) procedures for suspension and revocation of accreditation of pre-departure training institution;
 - (e) general operations of pre-departure training institutions; and
 - (f) any other information as may be required by the Minister.

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;
- (c) upon the termination of the contract of employment by agreement between the parties;
- (d) upon the termination of the contract of employment by a competent court; or
- (e) upon the death of the employee.”

Justification

- To broaden the proposed new Part IVA by providing for the regulation of recruitment agencies for employment for both within and outside Uganda.
- To offer protection for persons recruited for employment both outside and within Uganda by stipulating the obligations of the recruitment agencies.
- To ensure that there is a repatriation clause for persons recruited for employment abroad when the employment relationship between the employer and employee ends.
- To ensure that a person who intends to seek employment through a recruitment agency is securely recruited through a job order approved by the Ministry.
- To ensure that all the necessary procedures and due diligence in securing employment for Ugandans abroad is undertaken by both the recruitment agencies and the Ministry through the labour attaches based in the countries where the employment has been sought.
- To provide for the regulation of pre departure training institutions.
- To ensure that persons seeking for employment abroad are duly oriented for employment abroad through the pre departure training institutions.
- The amendment is as a result of the harmonization of some principles in Employment Amendment Bill 2022 into Employment (Amendment) (No. 2) Bill.

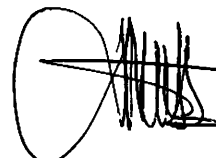
Clause 8: Amendment of Section 55 of the principal Act

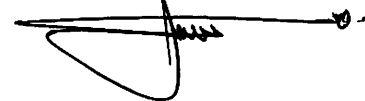
Clause 8 is substituted for the following—

“Section 55 of the principal Act is amended in subsection (1)







(a) paragraph (a), by substituting for the words “first month’s”, the words, “two months”;

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

“(aa) if, at the expiry of the second month, the sickness of the employee continues, the employer is entitled to pay the employee half pay of employee’s monthly wages for a subsequent four months;”

(c) by substituting for paragraph (b) the following—

“(b) if at the expiration of the sixth month, the sickness of the employee continues, the employer is entitled to terminate the contract of service on complying with all the terms of the contract of service up to the time of termination of employment.”

Justification

- To protect an employee who falls sick for a period exceeding six months by ensuring that the employer continues to pay the employee a wage.
- To strike a balance between the obligation of an employer to pay the wages of an employee who has been sick for a period exceeding six months, and therefore is unavailable to work with the employer’s need to continue operating gainfully by lessening the employee’s wages to half after two months of continuous sickness.
- To provide for the ground to terminate a contract of service in a case where the sickness of an employee continues beyond six months.

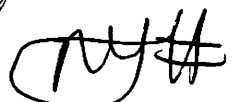
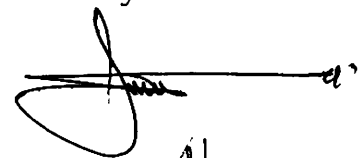
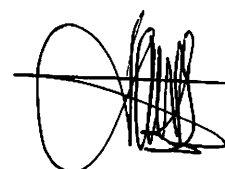
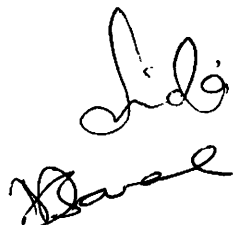
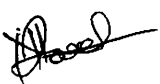
NEW CLAUSES

Insert two new clauses immediately after clause 8 to read as follows—

“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.”



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

- The amendment of section 56 of the principal Act is intended to give a woman who gives birth to more than one child at the same time to fully recover since a multiple pregnancy is considered to be of a high risk nature to the health and body of the woman.
- 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.
- The amendment of section 57 of the principal Act seeks to give more time for a male employee time to support his spouse or partner after child delivery. The process of child delivery is stressful and demanding on both the females and the males who are expected to be supportive of each other.

Clause 9: Insertion of new section 57A in principal Act

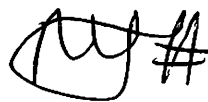
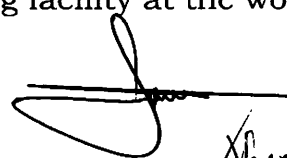
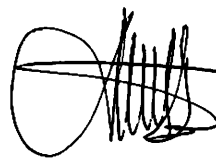
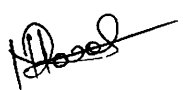
Clause 9 is amended in the proposed section 57A—

- (a) by deleting the words “and child care” wherever the words appear;
- (b) by deleting subsection (2); and
- (c) by inserting immediately after subsection (3), the following—

“For purposes of this section, “breastfeeding facility” means an exclusive and properly equipped area where an employee can breastfeed a child, express milk or store the milk for the child.”

Justification

- To provide for protection of the right to work for breastfeeding employees.
- To support working mothers to breastfeed exclusively for the first six months of life in compliance with the WHO and UNICEF recommendations.
- To provide a secure and private breastfeeding facility at the workplace.




- The amendment is as a result of the harmonization of some principles in Employment Amendment Bill 2022 into Employment (Amendment) (No. 2) Bill.

NEW CLAUSE

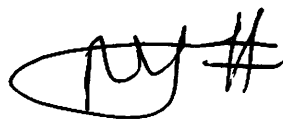
Insert a new clause immediately after Clause 9 as follows—

“Amendment of section 65 of principal Act”

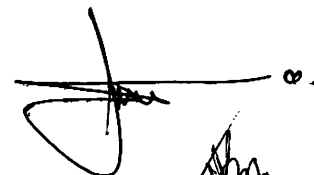
- (a) in the headnote, by substituting for the word “Termination” the words, “Termination of employment”;
- (b) Section 65 of the principal Act is amended in subsection (1)—
 - (a) by inserting immediately after paragraph (d), the following—
 - “(e) in the case of redundancy of the employee;
 - (f) in the case of sickness of the employee which lasts more than six months and renders the employee unable to perform his or her duties under the contract of service;
 - (g) where the continuous employment of the employee may lead to breach of a statutory obligation;
 - (b) by inserting immediately after subsection (2), the following—
 - “(3) An employer may terminate the contract of service of an employee on the ground of redundancy under subsection (1) upon proof that-
 - (a) the employer has ceased business operations;
 - (b) due to reorganization of work, introduction of labour saving devices or change in work pattern, the employer requires fewer employees for the existing work;
- (4) An employer shall, before terminating the contract of service of an employee on the ground of sickness under subsection (1) (f), seek the opinion of the medical doctor of the employee relating to the medical condition of the employee.”



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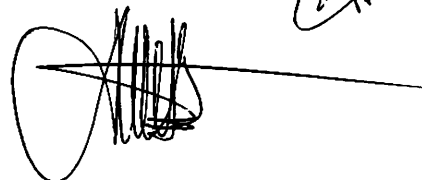
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Justification

- This is a consequential amendment to move some of the proposed grounds for dismissal from employment under Clause 10 to form other grounds for termination of employment under Section 65 of the principal Act because they are not as a result of misconduct.
- To realign and distinguish the grounds of dismissal from employment and termination from employment.
- To ensure clarity

Clause 10: Insertion of new section 65A in principal Act

Clause 10 is amended in the proposed section 65A—

(a) by deleting subsections (a),(b), (d) and (g);

(b) by substituting for the words, “abandonment of” the words, “abscondment from” wherever the words appear; and

(c) by deleting subsections (2) and (3).

Justification

- The deletion of sub sections (a), (b), (c) 65A (2) and (3) is a consequential amendment so that the proposed grounds for dismissal from employment are those grounds that contain an element an of misconduct on the part of the employee.
- To enable an employer to discharge an employee in cases of misconduct of the employee.
- To ensure clarity

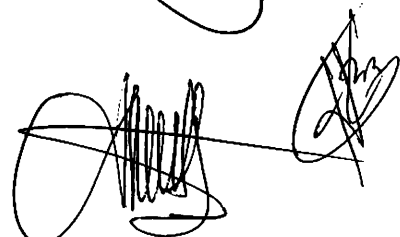
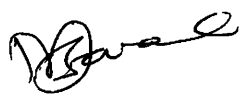
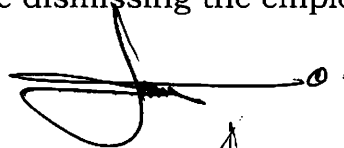
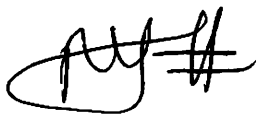
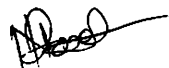
Clause 12: Insertion of new sections 66A and 66B in principal Act

Clause 12 is amended by—

(a) substituting for the proposed section 66B (1) the following—

“(1) Dismissal shall be wrongful where the employer—

(a) has not fulfilled the employer’s statutory or contractual obligations under the contract of service while dismissing the employee; or



(b) has not acted in a just and equitable manner while dismissing the employee.”

(b) deleting subsection (2).

Justification

- To avoid ambiguity

NEW CLAUSE

Insert a new clause immediately after Clause 12 as follows—

“Amendment of section 67 of principal Act”

Section 67 of the principal Act is amended—

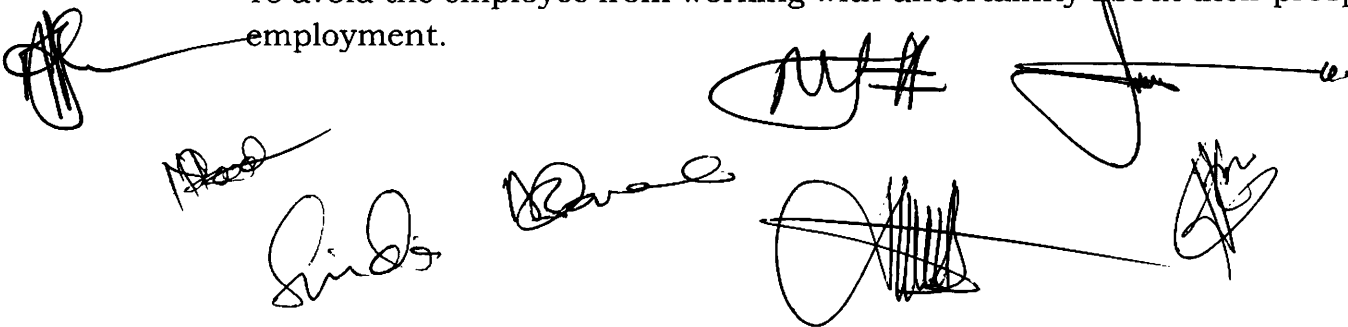
(a) by inserting a new subsection immediately after section 67 (2) as follows-

“(2a) Where an employer does not extend the probationary period of an employee under subsection (2) or terminate the probationary contract under subsection (3), the employee shall, at the lapse of the probationary period, be deemed to have been confirmed in employment.

(b) in subsection (4) by substituting) for the words “seven days” the words, “a month”

Justification

- The amendment is to reconcile the principle in the case of Dr. Paul Kagwa vs. Plan International Labour Dispute Claim No. 175 of 2014 where court stated that the whole process of assessment and evaluation must be completed within the probationary period and the employee should be informed within the same period otherwise the employee will be deemed to have been confirmed.
- To deter an employer from delaying the confirmation of an employee to his detriment. In the same case, court further stated that probation is meant for the employer to observe and assess the employee as to the latter’s suitability and so delaying confirmation of an employee without a reason would be to his detriment and is not acceptable.
- To avoid the employee from working with uncertainty about their prospects for employment.

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Clause 13: Replacement of section 68 of principal Act

Clause 13 is amended in the proposed section 68 (1) by substituting for the word "unfair" the word, "wrongful."

Justification

- To enhance clarity.

Clause 20: Replacement of section 78 of Principal Act

Clause 20 is amended in the proposed section 78—

- a) by substituting for the word "termination" with the words, "unfair dismissal" wherever it appears;
- b) by inserting immediately after subsection (2) the following-

(2aa) "The maximum amount of additional compensation which may be awarded under subsection (2) shall be three months' wages of the dismissed employee, and the minimum shall be one month's wages."

- c) by substituting in the proposed subsection (3) for the word "may" the word, "shall"

Justification

- To reinstate Section 78 (3) from the Principal Act.
- To ensure protection of a successful litigant through awarding of a fair compensation.

Clause 21: Amendment of Section 81 of the Principal Act

Clause 21 is substituted for the following—

Clause 21 is amended—

- (a) in section 81(1) substituting the words "contemplates terminations of not less than ten employees" with the following—

"Where an employer intends to terminate not less than ten employees"

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(b) in section 81(1)(b) by inserting immediately before the word “notify” the words, “thirty days before the termination”

“intends to terminate not less than ten employees”

Justification

- To avoid ambiguity in the sentence

Clause 25: Replacement of section 96 of principal Act

Clause 25 is amended in the proposed section 96 as follows—

- a) in subsection (2) by inserting the word “hundred” immediately after the word “seven”
- b) in subsection (3) by substituting for the word “may” the word, “shall”
- c) in subsection (4) by substituting for the word “five” the word, “seven”

Justification

- To enhance clarity

NEW CLAUSES

Insert two new clauses immediately after Clause 25 as follows—

“Amendment of section 97 of principal Act

Section 97 of the principal Act is amended in subsection (2) (f) by inserting immediately after the word “disabilities” the words, “domestic workers, casual employees.”

Insertion of new schedule in principal Act

The principal Act is amended by inserting immediately after Schedule 2, the following-

SCHEDULE 3

Section 2

CATEGORIES OF DISABILITIES

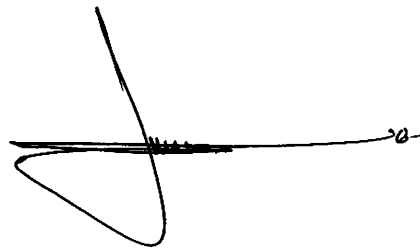
1. Physical disability caused by cerebral palsy, amputation of a limb, paralysis or deformity.
2. Hearing disability including deafness and hard of hearing disability.

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3. Visual disability including blindness and low vision disability.
4. Deaf and blind disability.
5. Mental disability including psychiatric disability and learning disability.
6. Little people.
7. Albinism.

Justification

- The amendment of section 97 of the principal Act is a consequential amendment having incorporated domestic workers and casual employees as special categories of workers under the amendment to section 34.
- The insertion of the schedule is a consequential amendment having amended the definition of disability to harmonize it with the Persons with Disabilities Act 2020.
- The amendment is as a result of the harmonization of some principles in Employment Amendment Bill 2022 into Employment (Amendment) (No. 2) Bill.



Siddi

