

THE UNITED REPUBLIC OF TANZANIA



No. 1 OF 1975

I ASSENT,

Julius K. Nyerere
President

3rd APRIL, 1975

An Act to amend certain Labour Laws

[4TH APRIL, 1975]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Labour Laws (Miscellaneous Amendments) Act, 1975. short title

PART I

AMENDMENT OF THE EMPLOYMENT ORDINANCE

2. This Part shall be read as one with the Employment Ordinance.

Construction
Cap. 366

3. Section 2 of the Employment Ordinance is amended in the definition "casual employee" by deleting the semi-colon at the end and substituting therefor ", but does not include an employee who is deemed by section 33 to be employed on monthly contract"

Section 2
of Cap. 366
amended

4. The Employment Ordinance is amended by deleting sections 25A and 25B and substituting therefor the following sections:

Section 25A
and 25B of
Cap. 366
repealed
and replace

"Annual
leave
and public
holidays

25A.-(1) Subject to the provisions of this section-

- (a) every employee shall, once in every calendar year, be entitled to a holiday with full pay at the expense of his employer at the rate of seven days in respect of each period of full four months' service, to be taken at such time during such calendar year as may be agreed between the parties; and

- (b) an employee shall, in addition to the annual leave provided for in paragraph (a), be entitled to a day's holiday with full pay at the expense of the employer on every public holiday during his employment or, where he works for his employer on a public holiday, to a day's holiday with full pay at the expense of the employer on some other day that would otherwise be a day of work:

Provided that where an employer pays to an employee who works on a public holiday pay in respect of work on such holiday at double the rate payable for work on a day that is not a public holiday, such employee shall not be entitled to a day's holiday with full pay in lieu of the public holiday.

(2) Nothing in this section shall be construed as precluding an employee and his employer from entering into an agreement providing for annual leave with full pay or holidays with full pay more favourable to the employee.

(3) The provisions of subsection (1) shall not apply to a casual employee.

Maternity
leave

25B-(1) A female employee in respect of whom a medical officer has given a certificate that she is expected to deliver a child will be entitled to-

- (a) pre-natal maternity leave of forty-two days which may be taken at any time-
 - (i) after the completion of the seventh month of pregnancy and before delivery; or
 - (ii) before the completion of the seventh month of pregnancy if a medical officer recommends that such leave is necessary or desirable in the interest of the employee's health; and
- (b) post natal maternity leave of forty-two days commencing from the day on which such female employee delivers herself of a child:

Provided that-

- (a) a female employee shall not be entitled to any maternity leave under this section if she did, at any time within the three years immediately preceding the date on which the application for maternity leave is made and while in the continuous employment by the same employer, take any maternity leave under this section;
- (b) an employee shall, in relation to any pregnancy, be deemed to have taken the whole of her maternity leave to which she is entitled under this section if she does, in relation to that pregnancy, take the whole or any part of the pre-natal or post-natal maternity leave;

- (c) where in any calendar year a female employee has taken maternity leave under this section she shall forfeit-
 - (i) her annual leave which she would have but for this paragraph been entitled to take in that calendar year; or
 - (ii) if she has already taken her annual leave in such calendar year, the annual leave which she would but for this paragraph be entitled to take in the next succeeding calendar year.

(2) Maternity leave under subsection (1) shall be with full pay and at the expense of the employer.

(3) For the purposes of-

- (a) subsection (1), it shall be immaterial whether or not the female employee who applies for maternity leave is lawfully married;
- (b) of paragraph (a) of the proviso to subsection (1), where during any period a female employee has been employed by two or more employers in any of the circumstances specified or are deemed by any written law to have been specified in subsection (1) of section 8A of the Severance Allowance Act, 1962 she shall be deemed to have been in the continuous employment of the same employer during such period;
- (c) paragraph (c) of the proviso to subsection (1), where a female employee commences her maternity leave in any calendar year and completes it in the Succeeding calendar year she shall be deemed to have taken the maternity leave in the calendar year in which such leave expires.

Cap. 487

(4) Nothing in this section shall be construed as precluding a female employee and her employer from entering into an agreement providing for maternity leave with full pay not less favourable to the employee than maternity leave provided for in this section.

Construo-
tion of
"full pay"

25C. For the purposes of section 25A and section 25B "full pay" means the normal remuneration together with remuneration in kind, or the cash equivalent thereof, and any cost of living allowance which may be payable from time to time, but does not include payment in respect of bonus.

Weekly
rest day

25D. -(1) An employee shall not be required to work for his employer for more than six consecutive days without a day's rest, which shall be taken on such day as shall be agreed between the parties.

(2) Where an employee is employed on a contract under which wages are calculated by reference to a period of one week or more, no deduction shall be made from his wages on account of his not working, or attending at his place of work, on the weekly rest day."

5. Section 33 of the Employment Ordinance is amended by adding immediately below subsection (1), the following new subsection:

Section 33
of Cap. 366
amended

"(1A) Notwithstanding the provisions of section 29, or of any agreement or custom to the contrary, where any employee has been employed on daily contract by the same employer for not less than two hundred and eighty days during any period of twelve consecutive months, the employee shall be deemed to have been employed during such period of twelve months on monthly contract at a monthly wage equal to the daily wage payable to him on the last of such days during which he was so employed multiplied by twenty-six."

PART II

AMENDMENT OF THE SEVERANCE ALLOWANCE ACT, 1962

Construction
Cap. 487

6.-(1) This Part shall be read as one with the Severance Allowance Act, 1962.

(2) In this Part "the principal Act" means the Severance Allowance Act, 1962.

Section 4
of Cap. 487
amended

7. Section 4 of the principal Act is amended in subsection (1) by deleting paragraph (a) and substituting therefor the following paragraphs:

""(a) for a period of not less than nine months immediately preceding the cessation of his employment or, where he had been employed by the employer for less than nine months, for the whole period of his employment, was in receipt of wages at a rate exceeding eight thousand four hundred shillings per annum, or equivalent rate for lesser periods than a year; or

(aa) immediately before the cessation of this employment was a casual employee; or"

Section 5
of Cap. 487
amended

8. Section 5 of the principal Act is amended-

(a) by deleting subsection (2) and substituting therefor the following subsection:

"(2) Subject to the provisions of subsections (3) and (4) the severance allowance payable to an employee by the employer shall be an amount equal to five per centum of the amount arrived at by multiplying the annual rate of wages to which the employee was entitled immediately before the cessation of his employment by the total number of full years during which he was in the continuous employment of the employer."

(b) by deleting subsection (5) and substituting therefor the following:

"(5) For the purposes of subsection (2)-

(a) where an employee was employed by the employer for less than a year he shall be deemed to, have been employed for one full year;

- (b) where the period of continuous employment exceeds a full year, or a number of full years-
 - (i) by less than six months, such number of months shall be ignored;
 - (ii) by more than six months, such number of months shall count as one full year;
- (c) the annual rate of wages to which an employee was entitled immediately before the cessation of his employment shall be ascertained-
 - (i) where the employee was paid monthly, by multiplying the monthly wage to which he was entitled immediately before the cessation of his employment by twelve;
 - (ii) where the employee was paid daily, by multiplying the daily wage to which he was entitled immediately before the cessation of his employment by three hundred and sixty;
 - (iii) in any other case by first ascertaining the daily wage by dividing the amount of the wages to which the employee was entitled immediately before the cessation of his employment by the number of days in the period to which the wages were referable, and multiplying such daily wage by three hundred and sixty."

PART III

AMENDMENT OF THE SECURITY OF EMPLOYMENT ACT, 1964

9.-(1) This Part shall be read as one with the Security of Employment Act, 1964.

Construction
Cap. 574

(2) In this Part, unless the context otherwise requires, "the principal Act" means the Security of Employment Act, 1964.

10. Section 4 of the principal Act is amended in subsection (1) by adding the following definition in its appropriate alphabetical position:

Section 4 of
Cap. 574
amended

""field branch" means a branch of the Union established in accordance with the provisions of section 7A;"

11. The principal Act is amended by adding immediately below section 7 the following new section:

New section
7A added

"Union to
establish
field
branches

7A.-(1) The Union shall, not later than 31st December, 1976, establish in every business in which ten or more Union members (being employees within the meaning of this Act) are employed, a branch of the Union (hereinafter referred to as a "field branch") for that business:

Provided that-

- (a) where the General Secretary of the Union so directs, there shall be established two or more field branches for one business or one field branch for two or more business of the same employer;
- (b) where there is already in existence a branch of the Union in any business, the General Secretary of the Union may, by writing under his hand, designate such branch to be the field branch for that business established pursuant to this section.

(2) The constitution and proceedings of a field branch shall be regulated by rules which the Union may, from time to time, make in that behalf.

(3) Upon an application made in that behalf by the General Secretary of the Union and upon being satisfied that a field branch has been established for any business, the Minister shall, by order in writing, dissolve the Committee established under section 5 for that business, and upon such order being made, and with effect from the date upon which it is expressed to come into operation-

- (a) the Committee shall stand dissolved;
- (b) all the functions of the Committee under this Act shall vest in such field branch;
- (c) the provisions of this Act shall take effect and apply *mutatis mutandis*, as if references therein to a Committee established under section 5 were references to such field branch:

Provided that the provisions of section 5, subsection (2) of section 6, subsection (1) of section 7, the proviso to subsection (1) of section 9 and the First Schedule to this Act shall not apply to or in relation to any field branch."

Section 20
of Cap. 574
amended

12. Section 20 of the principal Act is amended in subsection (1) by deleting paragraph (b) and substituting therefor the following paragraph:

"(b) impose a fine of an amount not exceeding one day's pay of the employee and recover such fine by deduction from the wages of the employee:

Provided that the fine imposed by the employer may exceed the employee's one day's pay in any case in which the Second Schedule provides for a fine of such greater amount;".

Section 21
of Cap. 574
amended 64

13. Section 21 of the principal Act is amended in subsection (3), in paragraph (i) of the proviso to paragraph (b), by deleting the word "seven" which occurs in the fifth line, and substituting therefor the word "fourteen".

- 14.** Section 22 of the principal Act is amended in subsection (3), in sub-paragraph (i) of paragraph (b), by deleting the word "seven" which occurs in the second line and substituting therefor the word "fourteen". Section 22 of Cap. 574 amended
- 15.** Section 23 of the principal Act is amended in subsection (2) by deleting the word "seven" where it first occurs in the second line and where it again occurs in the last line and substituting therefor in each case the word "fourteen" Section 23 of Cap. 574 amended
- 16.** Section 26 of the principal Act is amended in subsection (i) by deleting paragraph (a) and substituting therefor the following: Section 26 of Cap. 574 amended
- "(a) the summary dismissal or proposed summary dismissal is confirmed by the Board; or,
- (ii) by deleting the word "fourteen" which occurs in the last but one line and substituting therefor the words "twenty-eight".
- 17.** Section 29 of the principal Act is amended by deleting subsection (3) and substituting therefor the following: Section 29 of Cap. 574 amended
- (3) Notwithstanding the foregoing provisions of this section, an employer may suspend on half pay any employee charged with any criminal offence which is also a breach of the Disciplinary Code, or a conviction for which is a breach of the Disciplinary Code, but the suspension of an employee on half pay pursuant to the provisions of this section shall not extend later than the acquittal of the employee on such charge unless another such charge is pending. No employee shall be entitled to be so suspended or shall be suspended on less than half pay."
- 18.** The principal Act is amended by adding the following section immediately below section 40: New section 40A added
- 40A.-(1) Notwithstanding any other provision of this Act or of any other written law, where an employer terminates the employment of any employee or summarily dismisses any employee and the employee is aggrieved by such termination or dismissal, the employee may at any time before the expiration of fourteen days from the date on which such termination or dismissal takes effect, refer such termination or dismissal to the Board and the Board may, if it is satisfied-
- (a) that the termination was manifestly unreasonable and unconscionable; and
- (b) that the circumstances in and on account of which the employment of the employee was terminated by the employer are not circumstances of the kind specified in subsection (2) of section 39; and

"Board
may
order
re-instate-
ment

- (c) that the employee did not consent to the termination or that the termination was not at the instance of the employee; and -
- (d) that- the employee has not accepted any statutory compensation to which he may be entitled under this Act; and
- (e) that the employee has not taken up any other employment and
- (f) that it will not be unreasonable or unjust to order the employee's re-instatement or re-engagement by the same employer,

order the employer to re-instate or re-engage the employee.

(2) Notwithstanding the provisions of subsection (1) where a reference is made to a Board under that subsection against a summary dismissal, the Board may proceed to determine the reference 'as if it were a reference made under section 23.

(3) if either the employer or the employee is aggrieved by the decision of a Board on a reference under subsection (1) he may, within twenty-eight days of such decision, refer the same to the Minister and upon any such reference the Minister shall, as soon as practicable, give a decision thereon and in the performance of his functions under this subsection, the Minister may exercise the powers conferred upon the Board by subsection (1) or subsection (2) of this section.

(4) Where in the exercise of its or his powers under this section a Board or the Minister orders-

- (a) re-instatement of an employee, the employer shall re-instate the employee in his former employment, and such re-instatement shall have effect for the purposes of the payment of wages, entitlement to severance allowance and other retiring benefits, and otherwise in relation to any benefits of employment, from the date of the termination of the employee's employment or his summary dismissal, as the case may be, but the employer may deduct from any wages due on or after the re-instatement, the wages in respect of the number of days during which the employee remained absent from work during (and including) the day on which the termination or dismissal took effect and the day on which the re-instatement is ordered by the Board or, in the case of a further reference to the Minister, the day on which re-instatement is confirmed or ordered by the Minister;
- (b) re-engagement of the employee, the employer shall, subject to any direction of the Board or, as the case may be, of the Minister in that behalf, re-engage the employee on statutory terms with effect from the date on which such re-engagement is ordered.

(5) Where a re-instatement or re-engagement has been ordered under this section and the employer refuses or fails to comply with the order-

(a) in the case of an order made by a Board against which no reference has been made to the Minister, within twenty-eight days of the order being made; or

(b) in the case of an order made by the Minister on a further reference to him, within fourteen days of the order being made by the Minister,

the employer shall be liable to pay the employee compensation of an amount equal to the aggregate of-

(i) the statutory compensation computed in accordance with section 35; and

(ii) a sum equal to twelve months' wages at the rate of wages to which the employee was entitled immediately before the termination of his employment or, as the case may be, his dismissal,

and such compensation shall be recoverable in the same manner as statutory compensation the payment of which has been ordered under section 39."

19. Section 41 of the Principal Act is amended by adding, immediately after the words "section 40" in the first and second lines, the words "or section 40A"

Section 41
of Cap. 574
amended

20. Section 42 of the principal Act is amended by adding immediately below subsection (1) the following new subsection.

Section 42
of Cap. 574
amended

"(1A) No order of statutory compensation or re-instatement or re-engagement made under this Part shall be subject to review by any court."

21. The Second Schedule to the principal Act is amended in item (c) (which relates to absence from work without reasonable cause) by deleting the penalties prescribed for 1st breach and 2nd breach and substituting therefor in each case the words "fine of an amount not exceeding the employee's pay for the number of days during which he has remained absent from work without reasonable cause."

Second
Schedule
of Cap. 574
amended

Passed in the National Assembly on the nineteenth day of March, 1975.



maina

Ag. Clerk of the National Assembly