

TANGANYIKA



No. 82 OF 1962

I ASSENT,

Rh Tumbo

.....
Governor-General

27TH NOVEMBER, 1962

An Act to amend the Employment Ordinance

[.....]

ENACTED by the Parliament of Tanganyika.

1. This Act may be cited as the Employment Ordinance (Amendment) Act, 1962, shall be read as one with the Employment Ordinance, and shall come into operation upon such date as the Minister, by notice published in the *Gazette*, shall appoint. Short title, construction and commencement cap. 366
2. Section 2 of the Employment Ordinance is hereby amended as follows:- Section 2 of cap 366 amended
- (a) in the definition "contract of service", by deleting the words ' or ' to fulfil any ticket contract"; and
- (b) by deleting the definitions "ticket" and "ticket contract".
3. Section 16 of the Employment Ordinance is hereby amended by deleting the words, figures and comma "Subject to the provisions of section 33 in the case of ticket contracts, every" in the first and second lines, and by substituting therefor the word "Every" Section 16 of cap. 336 amended
4. Section 20 of the Employment Ordinance is hereby repealed and replaced by the following new section:- Section 20 of cap. 366 repealed and replaced
- "Rights of removal 20. Where, in the case of removal by an employer from employee on his residence or place of trade or business for a distance of more than four miles or from Tanganyika, an employee is not bound to accompany his employer or to continue his service and is not willing so to do, the contract of service, if not already terminated, shall be deemed to have terminated from the date of such removal, but the employer shall pay to the employee wages and other remuneration specified in the contract of service-
- (a) if the minimum notice to terminate the employment as prescribed by the contract or section 31, whichever is appropriate, is given prior to such removal, and the period of such notice has not expired, as if the employee had worked for such employer up to the date on which such period expires; or

- (b) if no notice to terminate the employment is given prior to the removal, as if the employer had terminated the contract on the date of such removal by payment in lieu of notice."

Section 25A
repealed and
replaced

5. Section 25A of the Employment Ordinance is hereby repealed and replaced by the following new sections: -

"Holidays
with pay

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

- (a) an employee, who has worked for an employer on not less than two hundred and eighty-eight days within the preceding twelve months, shall be entitled to a holiday with full pay at the expense of that employer at the rate of one day in respect of each period of two months' service, to be taken at such time as shall be agreed between the parties; and, in addition
- (b) an employee shall 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 pay in lieu of the public holiday.

(2) Nothing in paragraph (a) or (b) of subsection (1) shall entitle any employee who is entitled, by agreement or custom, to an annual holiday or public holiday with pay at the expense of the employer not less favourable to the employee than the holidays -prescribed therein, to any additional annual or public holiday, as the case may be.

(3) Nothing in this section shall apply to an employee employed on a contract to execute piece work or to perform a journey, or to a casual employee.

(4) In this section, the expression "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
&Y

25B.(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."

6. Sections 29 to 32 (inclusive) of the Employment Ordinance are hereby repealed and replaced by the following new sections:-

Replacement of sections 29 to 32 of cap. 366

"Presumptions as to periods of oral contract

29. In the absence of any agreement to the contrary, an contract shall be deemed to be a contract for the period by reference to which wages are calculated:

Provided that-

- (a) nothing in this section shall apply to any contract to which section 34 refers;
- (b) where wages are calculated by reference to any period of less than a day, then in the absence of any agreement to the contrary, any such oral contract shall be deemed to be a daily contract.

Presumptions as to new contract

30. Each party to an oral contract for a period not exceeding one month shall, on the termination of such contract, be conclusively presumed to have entered into a new oral contract for a further period of the same duration and subject to the same terms and conditions as those of the contract then terminated unless-

- (a) notice to terminate the employment has been given by either party and the period of notice has expired; or
- (b) the contract has been terminated by payment in lieu of notice; or
- (c) the contract has been summarily terminated by either party for lawful cause; or
- (d) the contract has been otherwise lawfully terminated under the provisions of this Ordinance:

Provided that nothing in this section shall apply to-

- (i) contracts expressed to be terminable without notice or to be contracts to which this section does not apply;
- (ii) contracts specifically expressed to be for one period of fixed duration and not to be renewable;
- (iii) daily contracts where the wages are paid daily;
- (iv) contracts to which section 34 refers.

Termination by notice

31.(1) Either party to an oral contract (other than a contract to which the proviso to section 30 applies) may terminate the employment on the expiration of notice given to the other party of his intention to do so, and where the notice expires during the currency of a contract period, the contract shall be thereupon terminated.

(2) In the absence of any agreement providing for a period of notice of longer duration, the length of such notice shall be-

- (a) subject to the provisions of paragraph (b), twenty-four hours where the contract is for a period of less than a week:

(b) fourteen days where the contract is a daily contract under which, by agreement or custom, wages are payable not at the end of the day, but at intervals not exceeding one month;

(c) thirty days where the contract is for a period of one week or more.

(3) Notice to terminate employment may be either verbal or written and may be given at any time, and the day on which the notice is given shall be included in the period of notice.

(4) Where notice is given, there shall be paid to the employee on the expiration of the notice, all wages and benefits due to him.

Termination by payment

32. Either party to an oral contract of service may terminate the same--

(a) in the case of a contract which may be terminated without notice, by payment to the other party of a sum equal to all wages and other benefits that would have been due to the employee if he had continued to work until the end of the contract period, or, in the case of contracts to which section 34 refers, until the completion of the contract;

(b) in any other case, by payment to the other party of a sum equal to all wages and other benefits that would have been, due to the employee at the termination of the employment had notice to terminate the same been given on the date of payment."

Section 33 of cap. 366 repealed and replaced

7. Section 33 of the Employment Ordinance is hereby repealed and replaced by the following new section: -

" Certain contracts to take effect as monthly contracts Acts 1962 No. 82

33.(1) Notwithstanding the provisions of section 29, or of any agreement or custom to the contrary, where after the date upon which the Employment Ordinance (Amendment) Act, 1962, comes into operation, any person enters into a contract of service to work for an employer for a stated number of days out of a greater number of days and, under the terms of the contract, the employer is liable to pay wages only in respect of the days on which such employee has in fact worked, the contract shall be deemed to be a monthly contract at a monthly wage equal to the daily wage multiplied by twenty-six.

(2) For the avoidance of doubts, it is hereby declared that nothing in this section shall apply to an oral contract entered into for a period of a day (whether or not the wages are payable, by custom or agreement, at intervals not exceeding a month) or for any greater period, where the wages are calculated by reference to the whole contract period."

Section 35 of Cap. 366 amended

8. Section, 35 of the Employment Ordinance is hereby amended by deleting the words "other than a ticket contract" in the fifth line of subsection (1).

9. Section 36 of the Employment Ordinance is hereby amended by deleting paragraph (a).

Section 36
cap 366
amended

10. Section 42 of the Employment Ordinance is hereby amended by Substituting for the comma at the end of paragraph (c) of subsection (1) a semi-colon and the word "or" and by adding, immediately below the said paragraph (c) the following , new paragraph: -

Section 42 of
cap. 366
amended

"(d) is made between a recruiter, whether on his own behalf or on behalf of some other Person, and an employee who is recruited,"

11. The Employment Ordinance is hereby amended by adding, immediately below section 48, the following new section:-

New section
48A added to
cap. 366

"Operation
of contracts
for a number
of tickets
Acts 1962
No. 82

48A.-(1) Where, in any contract made after the date Upon which the Employment Ordinance (Amendment) Act, 1962, comes into operation, an employee is engaged to complete a ticket or number of tickets in the service of an employer, the contract shall be construed as if the employee is engaged for a specific period equal to the sum of the number of days to be worked on all the tickets, at a monthly wage payable at the end of each month and equal to the daily wage multiplied by twenty-six.

(2) For the purposes of this section, a person is engaged to complete a ticket if the contract provides that he shall work a stated number of days Out of a greater number of days and that the employer shall be liable to pay wages only if respect of the days on which such employee has actually worked."

12. The Employment Ordinance is hereby amended by adding, immediately below section 91, the following new section:-

New section
91A added to
cap. 366

"Shipmasters
to keep
registers

91A.-(1) The master or other person in charge of every ship on which any person under the age- of sixteen years is employed shall keep a register of all such Persons or shall identify them with a distinguishing mark in the ship's articles and shall include in the register or articles the ages or apparent ages of such persons, the dates On which they commenced employment and such other matters as may be prescribed.

(2) A master or other person in charge of a ship in which any person under the age Of sixteen is employed who fails to comply with the provisions of this section shall commit an offence against this Part of this Ordinance."

13. Section 103 of the Employment Ordinance is hereby amended by deleting the words "or three tickets," in the third line of the proviso to subsection (1).

Section 103 of
cap 366
amended

14. Section 121 of the Employment Ordinance is hereby amended by deleting the full stop at the end thereof, substituting therefor a semi-colon and by adding the following new paragraph:-

Section 121 of
cap 366
amended

- "(e) any work to be performed by a person allotted or occupying land in accordance with customary law, or cultivating land so occupied, in order to comply with any lawful requirement of a local authority as to the cultivation of such land or any part thereof:

Provided that the crops accruing from such cultivation shall be the property of the cultivator."

Section 158 of
Cap. 366
amended

15. Section 158 of the Employment Ordinance is hereby amended by deleting paragraph (viii) of subsection (1).

Saving and
transitional

16.-(1) Nothing in this Act shall apply to:-

- (a) an oral contract of service, notice to terminate which is given before this Act comes into operation;
- (b) an oral ticket contract made before this Act comes into operation; or
- (c) an oral contract made, before this Act comes into operation, between a recruiter and a recruited employee, being a contract which was not, at the time when it was made, required to, be in writing,

but the rights and liabilities of the parties to such contracts shall be determined as if this Act had not been enacted.

(2) Notwithstanding the provisions of section 25A or 25B of the Employment Ordinance as contained in this Act, no employee shall be entitled under those sections to any holiday with pay in respect of a public holiday which is celebrated prior to the date on which this Act comes into operation, or to count any days worked prior to the date on which this Act comes into operation for the purposes of section 25B.

(3) Every written contract under which an employee is engaged to complete a number of tickets in the service of the employer, which was made before and not completed by the date on which this Act comes into operation, shall have effect-

- (a) until the completion of the ticket current on that day, as if this Act had not been enacted; and
- (b) after the completion of such ticket, as if it were a written contract for a specific period equal to the sum of the number of days to be worked on all the tickets not then completed at a monthly wage payable at the end of each month and equal to the daily wage multiplied by twenty-six.

Passed in the National Assembly on the twenty-second day of November, 1962.


Clerk of the National Assembly