

THE DISABLED PERSON (EMPLOYMENT) ACT, 1982

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THE UNITED REPUBLIC OF TANZANIA



No. 2 OF 1982-

I ASSENT,

Julius K. Nyerere

President

28TH JUNE, 1982

An Act to make provision for enabling persons handicapped by disablement to secure employment or work on their own account and for purposes connected with those matters

[.....]

ENACTED by the Parliament of the United Republic of Tanzania.

PART I

PRELIMINARY

1.--(1) This Act may be cited as, the Disabled Persons (Employment) Act, 1982, and shall come into operation on such date as the Minister may, by notice in the *Gazette* appoint.

Short title, commencement and application

(2) The provisions of this Act, other than the penal provisions, shall apply to and be carried into effect by the departments of Government, local authorities and parastatal organizations as if they were employers within the meaning of this Act.

L In this Act, unless the context otherwise requires-, "Council" means the National Advisory Council established by section 3

Interpretation

"committee" means a Committee established by section 5;

"Commissioner, means the Commissioner of Social Welfare;

"disabled person" means a person who, on account of injury, disease or congenital deformity, is substantially handicapped in obtaining employment or in undertaking work on his own account, of a kind which apart from that injury, disease or deformity would be suited to his age, experience and qualifications; and

- (a) the expression "disablement" in relation to any person shall be construed accordingly;
- (b) for the purpose of the definitions contained in this paragraph, the expression "disease" shall be construed as including a physical or mental condition arising from imperfect development of any organ;

"Minister" means the Minister for the time being responsible for social welfare of the disabled persons.

PART II

ADMINISTRATION

National
Advisory
Council

3.-(1) The Minister shall establish for the purpose of this Act a National Advisory Council.

(2) The provisions of the First Schedule to this Act shall have effect with respect to the constitution and proceedings of the Council.

Functions
Of
Advisory
Council

4.-(1) The functions of the Council shall be to advise and assist the Minister in matters relating to the employment, undertaking of work on their own account or training, of disabled persons generally and in particular, the Council may advise the Government on-

- (a) the formulation of programmes which may secure the educational, vocational and social integration of handicapped person;
- (b) all matters relating to the promotion of the welfare of the disabled;
- (c) the co-ordination of policies and programmes and the provision of grants relating to the disabled persons;
- (d) the promotion of the collection and dissemination of information relating to programmes, services, facilities, goods, housing accommodation and employment for disabled persons and the maintenance of inventories thereof for the information and advice of disabled persons;
- (e) the training or facilitation of the training of persons as counselors or administrators who will carry out programmes for the vocational rehabilitation of disabled persons.

(2) The Council may exercise such other functions as may be assigned to it from time to time by the Minister.

Establishment and
Constitution
of
Committees

5.-(1) The Minister shall appoint for every district a district committee and every region, a regional committee.

(2) The provisions of the Second Schedule and the Third Schedule shall apply respectively to the constitution of the district and regional committees and the provisions of the First Schedule to this Act shall, with modifications, have effect, with respect to the meetings and proceedings of the committees.

Functions
Of
Committees

6. The functions of a committee shall be to advise upon and report on any matter submitted to it for that purpose by the Council or by the Minister.

PART III

REGISTRATION OF DISABLED PERSONS

7.-(1) The Commissioner shall establish and maintain a register of disabled persons to be known as the Disabled Persons Register.

Register of disabled persons

(2) The register shall be kept in such form, and entries in it, and alterations and removals of entries in it and from it shall be made in such manner as the Commissioner may determine.

(3) A person whose name is for the time being in the register is in this Act referred to as a person registered as handicapped by disablement".

(4) The Minister may make regulations prescribing the manner in which the fact that a person's name is for the time being in the register may be proved, including, without prejudice to the generality of this power, regulations as to the issue of certificates for that purpose and as to the custody, use and delivery up of those certificates.

8.-(1) A person who desires his name to be entered in the register shall make application to the district committee in that behalf in the prescribed manner, and, on an application in that behalf duly made--

Disable person to make application for registration

- (a) if the district committee is satisfied that the applicant is a disabled person and that his disablement is likely to continue for twelve months or more from the time of entry of his name in the register, that any prescribed condition as to the entry of names in the register applicable to him is satisfied and that he is not subject to any prescribed disqualification in that behalf, it shall forward his name, through the regional committee, to the Commissioner, with a recommendation that his name be entered in the register;
- (b) where a recommendation has been made by a district committee to the Commissioner in respect of a disabled person that his name be entered in the register, the Commissioner shall enter the name of the applicant in the register;

Provided that where he is not satisfied in any matter he may refer the application back to the district committee for their consideration on any issue as to which he is not so satisfied.

9.-(1) The Minister may make regulations prescribing conditions for registration of a person as disabled person.

Entry of names of disabled persons in register

(2) The matter which may be prescribed under this section shall be such as must in the opinion of the Minister be so prescribed in order to secure the fact that a person's name is in the register will afford reasonable assurance of his being a person capable of entering into and keeping in employment, or of undertaking work on his own account, under the conditions under which in accordance with the provisions of this Act employment may be offered to him or such work as may be available for him.

Duration of
registration

10.-(1) Subject to the provisions of the two next succeeding sub-sections, when the name of a person has been entered in the register it shall be retained in that for so long as that person continues to be a disabled person and until that person attains the age at which if he were working under normal conditions he would retire voluntarily.

(2) The Minister may make regulations prescribing, matters which are to constitute conditions of, or disqualifications from, the retention in the register of the names of any persons either generally or in particular circumstances.

(3) If at any time while the name of any person is retained in the Disabled Persons Register the Minister is satisfied, after referring the matter to a district committee for their recommendations, that any, prescribed condition as to the retention of names in the register applicable to that disabled person is not satisfied or that he is subject to any prescribed disqualification in that behalf, his name shall be removed from the register.

(4) Notwithstanding anything in this section contained, a person registered as a disabled person shall be entitled to have his name removed from the register on making a written application to the Commissioner for it to be removed.

PART IV

VOCATIONAL TRAINING AND INDUSTRIAL REHABILITATION COURSES FOR THE DISABLED

Vocation
training
courses

11.-(1) The Minister may provide or make arrangements for the provision by other persons of, facilities (in this Act referred to as "vocational training courses") for the training of disabled persons, not being under the age of fifteen years who are in need of training in order to render them competent to undertake employment, or work on their own account, of a kind suited to their age, experience and general qualifications.

(2) The Minister may make arrangement with any other government department, person or body of persons, for the exercise by that department, person or body of persons, of any of the powers conferred on him by this section.

Industrial
rehabilitation
courses

12.-(1) The Minister may provide or make arrangements for the provision by other person of, or body of persons such facilities as are mentioned in this section (in this Act referred to as "industrial rehabilitation courses") for disabled persons, not being under the age, of fifteen years, who, by reason of unfitness arising from their injury, disease or deformity, are in need of such facilities in order to render them fit for undertaking employment, or work on their own account, of a kind in which they were engaged before they became disabled or of some kind suited to their age, experience and qualifications or for making use of a vocational training course.

(2) The facilities which may be provided under this section, shall consist of facilities where such persons, may under, adequate medical supervision and under circumstances conducive to the restoration of

fitness. obtain physical training exercise and occupation conducive to the restoration of that fitness, and such other incidental, facilities as may appear to the Minister to be requisite for enabling persons attending an industrial rehabilitation course to obtain the full benefit of such a course.

PART V

PROVISIONS ENABLING REGISTERED DISABLED PERSONS TO OBTAIN EMPLOYMENT OR TO UNDERTAKE WORK ON THEIR OWN ACCOUNT

13.-(1) For the purposes of this Part the expression "employer" means, any employer to whom the provisions of this Act apply who for the time being, has, or in accordance with, normal practice and apart from temporary circumstances would have, in his employment persons to the number of not less than fifty or such lesser number as may be specified from time to time either generally or in respect of any particular occupation, trade industry or undertaking, by an order made by the Minister.

Definition
of "employer"

(2) In this Act references taking into employment shall be construed as including references to the engagement by an employer of a person previously in his employment, but not if the new period of employment begins immediately on the ending of an earlier period or after an interval attributable to the employed persons' illness or being on holiday or to other temporary courses.

14.-(1) The Minister shall establish and maintain registers of employers to be known as, Employers' Registers and for such purposes may by order establish such registration centres in; and for such places or areas as, he may deem expedient.

Establish-
ment of
employers
Register

(2) The Minister may make regulations prescribing the form of the registers, the manner, in which entries and alterations in those registers and removals from those registers shall be made, the particulars in relation to employers in general or in respect of any particular employer or group of employers which shall be provided for such registration and generally any other particulars which must in the opinion, the Minister be prescribed in order to show the availability and details of employment capable of being offered by employers.

15.-(1) It shall be the duty of every registered employer to give employers to persons who are registered as disabled persons to the number which may, from time to time be fixed by regulations made in that behalf by the Minister and, where he is not already doing so at times when vacancies occur, to allocate for that purpose:

Obligation
to give
employment
to disabled

Provided that this subsection shall, not apply where an employer can prove to the satisfaction of the Minister-

- (a) that even after reasonable effort he has failed to get any, disabled person;
- (b) that taking into consideration the nature of the employment, he cannot get a disabled person with the necessary skill or experience, required for the employment; or

- (c) that taking into consideration the nature of the work or the circumstance of the place of work it may not be possible to employ a disabled person; or
- (d) that taking into consideration the condition of the disabled person he is not or would not be able to perform adequately the work genuinely and reasonably required for the employment.

(2) Subject to the provisions of tile two next succeeding subsections. a person to whom this section applies shah not at any tune take, or offer to take, into his employment any person other than a person registered as a disabled person. if immediately after the taking in or that person the number of persons so registered in the employment of tile person to whom this section applies would be less than ins quota as fixed by the Minister under regulations made under this section.

(3) Subsection (2) of this section shall not apply to a person's taking, or offering to take. into his employment at any time a person Whom apart from that subsection it would have been his duty to take into his employment at that time either-

- (a) by virtue of any law whether passed before or after the passing of this Act; or
- (b) by virtue of an agreement to reinstate him in his employment entered into before the date appointed for the coming into operation of subsection (2) of this section.

(4) Subsection (2) of this section shall not apply to a person's taking, or offering to take into his employment any person in accordance with a permit. issued by the Minister under the subsequent provisions of this Act in that behalf.

16. A person to whom this section applies who for the time being has in his employment a person registered as a disabled person shall not, unless he has reasonable cause for doing so, discontinue the employment of that person. if immediately after the discontinuance the number of person so registered in the employment Of the person to whom this section applies would be less than his quota as fixed by the Minister under regulations made under section 15:

Provided that this subsection shall not have effect if immediately after the discontinuance the employer would no longer be a person to whom this section applies.

17.-(1) Any person who contravenes subsection (2) of section 15 and section 16 shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding ten thousand shillings or to imprisonment for a term lot exceeding six months or to both such fine and imprisonment.

(2) A prosecution for contravenes of sections 15 (2) and 16 shall not be instituted against any person without the consent of the Director of Public Prosecutions-

Employer not to discontinue employment of a person registered as handicapped

Offence not to offer employment or discontinue employment of a person registered as handicapped by disablement

18.-(1) On an application in that behalf being made in the prescribed manner by any person to whom section 15 of this Act applies, the Minister may grant a permit for the purposes of subsection (4) of that section if it appears to him to be expedient so to do having regard to the nature of the work for which the applicant desires to take a person or persons into his employment and the qualifications and the suitability for the work of any person or persons registered as disabled persons who may be available thereof, or if he is satisfied that there is no such person or an insufficient number of such persons available thereof.

Premits for employment of person not registered where quota condition not satisfied

(2) A permit may be granted either unconditionally or subject to any conditions relating to the employment of the person or persons to whom the permit relates. and may be granted as respects the employment either of one or more Persons specified or described therein or of a specified number of persons.

(3) If an application is made as aforesaid the Minister is not satisfied that the case is one in which any permit or such a permit as is applied for, ought to be granted, or is of opinion that conditions to which the applicant objects ought to be attached to a grant. then if the applicant so requests, the Minister shall refer the application to a district committee for their recommendations and shall determine what conditions (if any) ought to be granted and subject to what conditions (if any), only after considering the recommendations of the committee.

19.(I) The Minister may, after consultations with organizations representing employers and workers respectively or both employers and workers as he thinks fit, by order designate classes of employment as classes to which this section is to apply, being such classes of employment as appear to him to afford specially suitable opportunities for the employment of disabled persons.

Appropriation of vacancies in certain employments to registered persons only

(2) Subject to subsection (3) no person shall take, or offer to take, into his employment in an employment of a class to which this section applies any person other than a person registered as handicapped by disablement, or cause or permit a person in his employment other than a person registered as handicapped by disablement to take up with him employment of a class to which this section applies.

(3) The provisions as to taking a person into his employment in pursuance of a statutory or contractual obligation, and as to permits of subsections (3) (4) of section 15 and of section 18 respectively of this Act, shall have effect in relation to the last preceding subsection as they have effect in relation to subsection (2) of section 16 of this Act.

(4) Any person who contravenes subsection (2) of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment.

20.-(1) The Commissioner or any person authorized by him may at all reasonable times enter any premises of an employer for the purpose of inspection and for ensuring compliance with the provisions of this Act.

Power of entry

	<p>(2) Any person -who obstructs the Commissioner or any person authorized by him m carrying out his duties under this section shall be guilty of an offence and shall -be liable on conviction to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or, to both such fine and imprisonment.</p>
General Penalty	<p>21. Any person who contravenes any provision of this Act where no penalty has been provided shall be guilty of an offence and shall on conviction be liable to a fine. not exceeding ten thousand shillings or to imprisonment not exceeding twelve months or to both such fine and imprisonment.</p>
Delegation by the Commissioner	<p>22. In relation to any particular matters or -class of matters or to any particular place, area, -district or region the Commissioner may by writing under his hand delegate any of his powers under the provisions of this Act so that the delegated powers may be exercised by the delegate with respect to the matters or class of matters specified in the place, area, district or region specified in the instrument of delegation.</p>
Transitional provisions	<p>23. The Minister may within six months from the date of commencement of this Act, by order published in the Gazette, make such transitional provisions which he may deem necessary to give effect or to enable effect to be given to the purposes of these provisions.</p>
<p>SCHEDULE Section 4(2)</p>	
Composition of the Council	<p>1. The Council shall consist of:-</p> <ul style="list-style-type: none"> (a) a Chairman, who shall be appointed by the Minister; (b) the Commissioner for Social Welfare, who shall be the Secretary; (c) four members appointed by the Minister representing one each of the following:- <ul style="list-style-type: none"> (i) The Ministry of Health; (ii) The Ministry of Industries; (iii) The Ministry of Education; (iv) The Office of the Prime Minister; (v) The Ministry of Manpower Development; (vi) The Association of Tanzania Employers; (vii) The Ministry of Justice; (viii) The Association of the Disabled; (ix) The National Council of Social and Welfare Services; (x) The Jumuiya ya Wafanyakazi Tanzania.
Vice Chairman	<p>(d) five other persons appointed by the Minister.</p> <p>2. The members shall elect one of their number to be the Vice-Chairman of the Council, and any member elected as Vice-Chairman shall, subject to his continuing to be a member, hold office for a term of one year from the date of election, and shall, be eligible for re-election.</p> <p>3. if a member of the Council who is a member by virtue of his holding some. other office is unable for any reason to attend any meeting, he may nominate in writing the person from his organization to attend that meeting in his place.</p> <p>4. Where any member ceases to be a member for any reason before the expiration of his term of office, the appointing authority may appoint another in his place and the person so appointed shall hold office for the remainder of the term of office of his predecessor.</p>

SCHEDULE *-(contd.)*

<p>5.-(1) The Chairman shall preside all meetings of the Council.</p> <p>(2) Where at any meeting of the Council the Chairman is absent, the Vice-Chairman shall preside.</p> <p>(3) In the absence of both the Chairman and the Vice-Chairman at any meeting of the Council, the members present may, from amongst their number elect a temporary Chairman who shall preside at the meeting.</p> <p>(4) The Chairman, Vice-Chairman or a temporary Chairman presiding at the meeting of the Council, shall have a vote and, in the event of an equality of votes, shall have a casting vote in addition to his deliberative vote.</p> <p>6.-(1) The Council shall ordinarily meet for the transactions of its business not less than twice during every year and at such additional times as may be fixed by the Chairman or, if he is absent from the United Republic or unable for any reason to act, the Vice-Chairman.</p> <p>(2) The Chairman or, in his absence from the United Republic, the Vice-Chairman may, and upon application in writing by at least five members, shall convene a special meeting of the Council at any time.</p> <p>(3) The Secretary of the Council shall give to each member adequate notice of the time and place of each meeting.</p> <p>(4) The Council may invite any person who is not a member to participate in the deliberation at any meeting of the Council, but any person so invited shall not be entitled to vote.</p> <p>7. At any meeting of the Council not less than one half of the members in office for the time being shall constitute a quorum.</p> <p>8.-(1) Subject to the provisions relating to a casting vote, all questions at a meeting of the Council shall be determined by a majority of the votes of the members present.</p> <p>(2) Notwithstanding sub-paragraph (1), a decision may be made by the Council without a meeting by circulation of the relevant papers among the members, and the expression in writing of the views of the majority of the members.</p> <p>9.-(1) The Council shall cause to be recorded and kept minutes of all business conducted or transacted at its meetings, and the minutes of each meeting of the Council shall be read and confirmed, or amended and confirmed, at the next meeting of the Council and signed by the person presiding at the meeting.</p> <p>(2) Any minutes purporting to be signed by the person presiding at a meeting of the Council shall, in the absence of proof of error, be deemed to be a correct record of the meeting whose minutes they purport to be.</p> <p>10. The validity of any act or proceeding of the Council shall not be affected by any vacancy among its members or by defect in the appointment of any of them.</p> <p>11. Subject to the provisions of this Schedule, the Council may regulate its own proceeding.</p>	<p>Power of chairman and Vice-chairman</p> <p>Meeting and procedure of the council</p> <p>Quorum</p> <p>Decisions of the council</p> <p>Minutes of meetings</p> <p>Vacancies, etc, not to invalidate proceedings Council may regulate its own proceedings</p>
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THE SECOND SCHEDULE

Under Section 6(2)

COMPOSITION OF THE DISTRICT COMMITTEE

Every district committee shall consist of-

1. (a) a Chairman, who shall be appointed by the Minister;
- (b) the District Social Welfare Officer, or the District Manpower Development Officer;

THE SECOND SCHEDULE *-(contd.)*

- (c) the District Medical Officer;
 - (d) the District Education Officer;
 - (e) the District Labour Officer;
 - (f) the District Secretary of Jumuiya ya Wafanyakazi Tanzania (JUWATA);
 - (g) representatives, one each from the recognized associations of disabled persons;
 - (h) Officer in-charge or small Industries Development Organization;
 - (i) the constituency member of parliament;
 - (j) a representative of the voluntary organizations concerned with the care and maintenance of the disabled.
2. Five other persons appointed by the Minister.

THE THIRD SCHEDULE

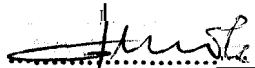
Under section 6(2)

COMPOSITION OF THE REGIONAL COMMITTEE

Every regional committee shall consist of-

- 1. (a) a Chairman who shall be appointed by the Minister;
 - (b) the Regional Social Welfare Officer, who shall be the Secretary;
 - (c) the Regional Medical Officer;
 - (d) the Regional Education Officer;
 - (e) the Regional Labour Officer;
 - (f) the Regional Secretary Jumuiya ya Wafanyakazi Tanzania (JUWATA),
 - (g) the Regional Social Welfare Development Officer-
 - (h) representatives, one each from the recognized associations of disabled person. ;
 - (i) Officer in-charge of Small Industries Development Organization in the region;
 - (j) the National Member of Parliament;
 - (k) a representative of the voluntary organizations concerned;
 - (l) a representative of voluntary organizations concerned with the care and maintenance of the disabled.
2. Five other persons appointed by the Minister.

Passed in the National Assembly on the twenty-sixth day of January, 1982.


Clerk of the National Assembly