

**SPECIAL ISSUE**

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REPUBLIC OF KENYA

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***KENYA GAZETTE SUPPLEMENT***

**SENATE BILLS, 2023**

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**NAIROBI, 19th October, 2023**

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**THE NATIONAL EMPLOYMENT AUTHORITY  
(AMENDMENT) BILL, 2023**

**A Bill for**

**AN ACT of Parliament to amend the National Employment Authority Act; and for connected purposes.**

**ENACTED** by the Parliament of Kenya, as follows —

**1.** This Act may be cited as the National Employment Authority (Amendment) Act, 2023.

Short title.

**2.** The National Employment Authority Act, hereinafter the principal Act, is amended by inserting the following new Part immediately after section 37—

Insertion of new part.

**PART IX—OVERSEAS AND  
MIGRANT WORKERS**

Deployment of workers.

**37A.** (1) The Authority shall, in as far as possible, facilitate the deployment, overseas, of Kenyan workers only to countries where the rights of Kenyan migrant workers are protected.

(2) For purposes of subsection (1) a country may be considered capable of protecting Kenyan migrant workers where that country—

- (a) has existing labor and social laws protecting the rights of migrant workers;
- (b) is a signatory to multilateral conventions, declaration or resolutions relating to the protection of migrant workers to which Kenya is a party; and
- (c) has concluded a bilateral agreement or arrangement with the Government of Kenya protecting the rights of overseas Kenyan workers; and

(d) It is taking positive, concrete measures to protect the rights of migrant workers.

Recruitment of overseas workers.

**37B.** (1) A person shall not carry out the business of recruiting unless such person has applied for, and obtained a permit in accordance with this Part—

(2) A person who intends to recruit a person to work overseas shall make an application to the Authority in the prescribed form.

(3) An application under subsection (1) shall be made in writing and shall include information on—

- (a) the nature of business carried out by the applicant;
- (b) the place of business;
- (c) the countries to which the recruiter intends to facilitate the movement of Kenyan migrant workers to; and
- (d) an indemnity cover for Kenyan overseas workers.

(4) Upon receipt of an application under subsection (1), the Authority shall—

- (a) inform the relevant department in the Ministry of Labour; and
- (b) request a report on any complaints received by the Ministry against the applicant with respect to an overseas Kenyan worker.

(5) The Authority shall consider the application together with the report received under subsection (3) and may—

- (a) grant the application;
- (b) grant conditional approval of the application; or

(c) reject the application.

(5) The Authority shall—

(a) keep and maintain a register of all recruiters granted a full or conditional license under this section

(b) publish in the *Kenya Gazette* and publicize a list of all recruiters granted a license under this section.

Reports.

**37C.** A recruiter shall submit a report, in the prescribed form, to the Authority specifying information on—

(a) persons employed through the recruiter;

(b) the status of employment;

(c) placement vacancies;

(d) separations from jobs;

(e) departures; and

(f) any other information required by the Authority.

Travel advisories.

**37D.** (1) The Authority shall, in consultation with the Cabinet Secretary responsible for matters relating to foreign affairs, issue travel advisories—

(a) on labor and employment conditions, migration realities and other relevant information relating to overseas workers;

(b) adherence of particular countries to international standards on human and workers' rights which will adequately prepare individuals into making informed and intelligent decisions about overseas employment.

(2) The Authority shall, every four months, publish the advisory under

subsection (1) in at least two newspapers of nationwide circulation

Recruiters levy.

**37E.** (1) A recruiter licensed under this part shall pay a prescribed fee to the Authority as a levy.

(2) The levy under subsection (1) shall be used for the emergency repatriation of an overseas worker or the remains of an overseas worker recruited by a recruiter licensed under this part.

Integrated information system.

**37F.** The Authority shall maintain an integrated information system on all overseas Kenyan workers.

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## **MEMORANDUM OF OBJECTS AND REASONS**

### **Statement of the Objects and Reasons for the Bill**

This Bill seeks to amend the National Employment Authority Act to introduce provisions that seek to protect the rights, welfare and well-being of Kenyans working overseas. The country has steadily been inundated by reports of the inhumane treatment of Kenyans working overseas necessitating policies and laws that seek to protect the lives of these Kenyans. Kenyans working overseas contribute greatly to the economy of the country through remittances which are now estimated to be over 4 billion dollars. It is therefore paramount that the laws of the country protect the welfare of these Kenyans not only to ensure their continued contribution to the economy but perhaps more importantly to ensure that the constitutional protections of workers are not jeopardized once a Kenyan ventures to work abroad.

### **Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms**

The Bill does not delegate legislative powers nor does it limit fundamental rights and freedoms.

### **Statement of how the Bill concerns County Governments**

The Bill concerns county governments in terms of Article 110 (1) (a) of the Constitution as it contains provisions that affect the functions and powers of the County Governments. Remittances from Kenyans working abroad contribute both directly and indirectly to the revenue collected both at the National and County level of Government.

### **Statement that the Bill is not a money Bill within the meaning of Article 114 of the Constitution**

This Bill is not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 22nd June, 2023.

CRYSTAL ASIGE,  
*Senator.*