

STATUTORY INSTRUMENTS SUPPLEMENT

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S T A T U T O R Y I N S T R U M E N T S

2005 No. 62.

**THE EMPLOYMENT (RECRUITMENT OF UGANDAN
MIGRANT WORKERS ABROAD) REGULATIONS, 2005**

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STATUTORY INSTRUMENTS

2005 No. 62.

The Employment (Recruitment of Ugandan Migrant Workers Abroad) Regulations, 2005.

(Under section 66 of the Employment Act, Cap 219)

IN EXERCISE of the powers conferred on the Minister responsible for labour by section 66 of the Employment Act, these Regulations are made this 5th day of July, 2005.

PART I—PRELIMINARY

1. These Regulations may be cited as the Employment (Recruitment of Ugandan Migrant Workers Abroad) Regulations, 2005. Title

2. The objectives of these Regulations are— Objectives

(a) to promote full employment and equality of employment opportunities for all and to uphold the dignity and rights of Ugandan migrant workers;

(b) to allow deployment of Ugandans to countries which have existing labour and social laws or are signatories to international agreements protecting the rights of migrants;

(c) to protect every Ugandan desiring to work abroad by securing the best possible terms and conditions of employment;

(d) to provide a mechanism for issuing licenses to recruitment agencies.

3. In these Regulations unless the context otherwise requires— Inter-pretation

“abroad” means outside of Uganda;

- “accreditation” means the grant of authority to a foreign principal to engage Ugandan migrant workers for specific jobs through a recruitment agency for overseas employment;
- “Administration” means the External Employment Unit of the Ministry responsible for employment;
- “allottee” means any person named or designated by the overseas migrant worker as the recipient of his or her remittances to Uganda;
- “authentication” means an attestation made by a duly authorised officer by which he or she certifies that a person appeared before him or her and is known to him or her to have voluntarily executed a document;
- “beneficiary” means a person to whom compensation benefits due under an employment contract are payable by operation of law or those to whom proceeds of an insurance cover are likewise payable;
- “claim” means a valid contractual claim for compensation or benefits arising from employer-employee relationship or for any personal injury, illness or death at levels provided for within the terms and conditions of employment of a Ugandan migrant worker;
- “contract agreement” means a written agreement entered into by and between a foreign principal and a recruitment agency defining their respective rights and obligations;
- “derogatory record” refers to the existence of negative information such as but not limited to illegal recruitment, falsification, swindling or conviction for crimes involving moral turpitude;
- “manpower pooling” means potential migrants databank;

“Ministry” means the Ministry responsible for employment;

“non-licensee” means any partnership or company which has no valid license to engage in recruitment and placement of Ugandan migrant workers, or whose license is suspended;

“Permanent Secretary” means the Permanent Secretary of the Ministry responsible for employment;

“personal injury” means any disease or impairment of a Ugandan migrant worker’s physical or mental condition or death arising out of or in connection with his or her employment;

“foreign principal” means a foreign person, partnership or company engaging and employing a Ugandan migrant worker through a licensed recruitment agency;

“provisional license” means a license issued to a new recruitment agency with a limited period of one year;

“recruitment agency” or **“agency”** means a partnership or company duly licensed by the Administration to recruit and deploy Ugandan migrant workers for employment abroad;

“recruitment and placement” means any act of canvassing, contracting, transporting, utilising, hiring, or procuring workers, and referrals, contract services, promising or advertising for migrants employment, whether for profit or not;

“registration” means the act of recognising and entering in the official records of the Administration the existence of a foreign principal whose documents have been verified and authenticated by the appropriate officials of the government of the foreign principal;

“standard employment contract” means a written government-approved employment contract stipulating a specific period of employment and formulated through tripartite consultation individually adopted and agreed upon by the foreign principal and the Ugandan migrant worker;

“Ugandan migrant worker” means a Ugandan citizen who is to be engaged, or has been engaged in remunerated activity in a state of employment;

“verification” means the act performed by a Ugandan overseas labour officer or any other officer designated by the Permanent Secretary responsible for Labour and employment in the Ugandan Embassy or Consulate, in reviewing and verifying the recruitment documents of a foreign principal including the employment contract.

PART II—LICENSING OF RECRUITMENT AGENCIES

Licensing of
recruitment
agencies

4. A person shall not transact business as a recruitment agency in Uganda without a valid licence.

Recruitment
agencies to
be
partnerships
or
companies

5. (1) A person shall not be granted a licence to operate as a recruitment agency unless it is a partnership registered under the Partnership Act of Uganda or a company incorporated under the Companies Act of Uganda.

(2) If the recruitment agency is a partnership, at least half of the partners must be Ugandan citizens.

(3) The partnership or company must have a minimum capital of fifty million Uganda shillings.

Persons not
eligible to
be licensed
as
recruitment
agencies

6. The following persons are not eligible to be licensed to engage in the business of recruitment and placement of Ugandan migrant workers—

- (a) a travel agency or sales agency of an airline company;
- (b) an officer or member of the board of any company or partner in a partnership engaged in the business of a travel agency;
- (c) a company whose members of the board are engaged in the business of a travel agency;
- (d) a partnership whose partners are engaged in the business of a travel agency; and
- (e) a political, religious or tribal organization.

7. (1) A partnership or a company proposing to transact or carry on business as a recruitment agency shall apply in writing to the Administration for a licence.

Application
for licence

(2) An application for grant of a licence shall contain the following information—

(a) the name and address of—

- (i) the proposed recruitment agency;
 - (ii) the directors and shareholders, if it is a company;
 - (iii) the partners, if it is a partnership;
- (b) the nationality and occupation of the directors, shareholders or partners;
- (c) the proposed location of the recruitment agency offices;
- (d) a copy of the partnership deed or the memorandum and articles of association duly registered with the Uganda Registration Services Bureau;

(e) documentary evidence to show—

- (i) that the partnership or company has a minimum authorized capital of ten million Uganda shillings;
 - (ii) in case of a partnership, verified income tax returns for the past one year and an account showing a maintaining balance of not less than ten million Uganda shillings;
 - (iii) in the case of a newly incorporated company, that the company has an account showing a maintaining balance of not less than ten million Uganda shillings;
 - (iv) for an existing company, a verified financial statement, income tax returns for the preceding two years and an account showing a maintaining balance of not less than ten million Uganda shillings;
- (f) certification from pre-employment services of the Administration on the existence of new markets;
- (g) proof of international connections including websites and emails;
- (h) clearance of all members of the board of directors or partners and employees of the agency from the Criminal Investigation Department, the Administration and other Government agencies.

(3) In addition to the requirements specified in sub regulation (2), an applicant for a licence shall provide a verified undertaking stating that the applicant shall—

- (a) provide to the Ugandan migrant workers orientation on recruitment policies and procedures, terms and conditions of employment and other relevant information;

- (b) ensure that any Ugandan migrant worker recruited or deployed by the agency is qualified and holds the documents necessary for the job concerned;
- (c) ensure that contracts of employment are in accordance with the standard employment contract and other applicable laws, regulations and collective bargaining agreements;
- (d) ensure that Ugandan migrant workers are informed of their rights and duties under their contracts of employment and the articles of agreement prior to or in the process of engagement;
- (e) ensure that proper arrangements are made for a Ugandan migrant worker to examine his or her contract of employment and articles of agreement before and after he or she has signed and for the worker to receive a copy of the contract of employment;
- (f) assume full and complete responsibility for all claims and liabilities which may arise in connection with the use of the license;
- (g) guarantee compliance with the applicable labour legislations of Uganda and applicable regulations of the employment state and international labour bodies such as International Labour Organisation;
- (h) assume full and complete responsibility for all acts of its officials, employees and representatives done in connection with recruitment and placement;
- (i) deploy at least fifty Ugandan migrant workers to its new market within one year from issuance of its license which shall also be a condition to the accreditation of an already existing foreign principal;
- (j) provide individual income tax returns of the proprietor, partners, or board of directors as the case may be, for the past one year;

- (k) provide a list of all its employees involved in the recruitment and placement, together with all their particulars including their appointment, bio-data and two copies of their passport size photographs;
- (l) proof of publication of notice of the application with the names of the proprietor, partners, incorporators and officers;
- (m) provide a certificate of attendance of the representative of the company or partnership in a pre-application seminar conducted by the Administration.

(4) An application under this regulation shall be accompanied by a non-refundable fee of one hundred thousand shillings.

(5) Where the application does not provide all the required information or if clarification is necessary, the applicant may be called upon to provide the information or clarification to complete the application.

(6) Only applications with complete supporting documents shall be processed.

8. The Administration shall, in considering an application for a license, require to be satisfied as to—

- (a) the financial status and history of the applicant;
- (b) the competence and integrity of the proposed management;
- (c) the adequacy of the applicant's capital structure;
- (d) whether the directors, shareholders or employees have a criminal record; and
- (e) any other matter, which the Administration may regard as relevant to the application.

Factors to
be
considered
for grant of
license

9. The Administration shall, within thirty days after receipt of an application or of additional information or clarification, evaluate the pertinent documents, inspect the office premises of the applicant and prepare a detailed report of each application.

10. (1) The Administration may—

(a) if it is satisfied that the applicant complies with the requirements of these Regulations, grant a license to the applicant, on payment of a fee of five hundred thousand Uganda shillings and upon presentation of a bank guarantee of fifty million Uganda shillings;

(b) refuse to grant the license for reasons that shall be stated in the letter of refusal.

(2) The bank guarantee required in sub regulation (1) shall answer for all valid and legal claims arising from violations of the conditions for the grant and use of the license and to ensure compliance with the provisions of these Regulations or any other conditions that the Administration may lawfully impose.

(3) The license shall clearly indicate—

(a) the name and address of the recruitment agency; and

(b) any conditions attached to the license.

(4) An agency shall not engage in any other business other than the business specified in its license.

(5) The license shall be valid for two years from the date of issue unless earlier revoked or suspended.

(6) A person shall not transfer the license to any person, partnership or company.

(7) Any person aggrieved by a decision of the Administration under this regulation may, within thirty days after being notified of the decision, apply to the Minister for review of the decision.

Refusal of
grant of
license

11. The Administration shall not grant a licence—

- (a) to a partnership or company that has been blacklisted by the Internal Security Organisation or the Administration as having a derogatory record;
- (b) to a partnership whose partners or employees are suspected of or have been found guilty of carrying out illegal recruitment;
- (c) to a company whose shareholders, directors or employees are suspected of or have been found guilty of carrying out illegal recruitment; and
- (d) to a recruitment agency whose licence has been previously revoked by the Administration for contravention of these Regulations.

Effect of
change of
ownership

12. (1) A transfer or change of ownership in a recruitment agency may lead to revocation of the license, where the new owners have not been cleared by the Administration and the Criminal Investigation Department.

(2) A change in relationship of the partners in a partnership of a recruitment agency, which materially interrupts the course of the business, or results in the actual dissolution of the partnership, may lead to revocation of the license.

(3) Every appointment of agents or representatives of a licensed agency shall be subject to prior approval or authority of the Administration.

(4) The acknowledgement or approval shall be issued upon submission of or compliance with the following—

- (a) proposed appointment or power of attorney;
- (b) clearances of the representative or agent from the Criminal Investigation Department and Anti-illegal Recruitment Branch of the Administration; and
- (c) sworn or verified statement by the designating or appointing agency assuming full responsibility for all acts of the agent or representative done in connection with the recruitment and placement of Ugandan migrant workers.

(5) Every change in the composition of the board of directors of a company, appointment or termination of officers and personnel shall be registered with the Administration within thirty days from the date of such change.

(6) The agency shall be required to submit the minutes of proceedings duly certified by the Registrar of Companies in case of election of new members of the Board of Directors with their particulars and clearance by criminal investigation department.

(7) The Administration may deny the appointment of officers, employees or representatives who are directly involved in recruitment irregularities.

13. (1) An agency shall submit an application for renewal of its license on or before the expiration of the license.

Renewal of
license

(2) The application shall be supported by the following documents—

- (a) renewed bank guarantee of fifty million Uganda shillings with a commercial bank to primarily answer for the valid and legal claims of recruited Ugandan migrant workers as a result of recruitment violations or money claims;