

CHAPTER 436

THE NON-CITIZENS (EMPLOYMENT REGULATION) ACT

[PRINCIPAL LEGISLATION]

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CHAPTER 436

THE NON-CITIZENS (EMPLOYMENT REGULATION) ACT

An Act to regulate and realign the legal regime for employment and engagement in other occupations by non-citizens in Mainland Tanzania and to provide for related matters.

[15th September, 2015]

[GN. No. 406 of 2015]

Acts Nos.
1 of 2015
3 of 2021
6 of 2021

PART I PRELIMINARY PROVISIONS

Short title **1.** This Act may be cited as the Non-Citizens (Employment Regulation) Act.

Application **2.**—(1) This Act shall apply to Mainland Tanzania.
 (2) Without prejudice to subsection (1), the provisions of this Act shall not apply to—
 (a) an envoy or other representative of the government of a foreign states accredited to Tanzania, family members of the official staff and domestic staff of envoy or representative;
 (b) a consular officer or consular employee of the Government of a foreign States appointed to Tanzania and recognised by the Government of Tanzania; and
 (c) any other person exempted by the Minister pursuant to the provisions of this Act.

Interpretation
Act No.
6 of 2021 s. 39 **3.** In this Act, unless the context otherwise requires—
“authorised officer” means a labour officer, immigration officer or any other public officer designated by the Minister pursuant to this Act;

- Cap. 366 “employee” has the same meaning as ascribed to it under the Employment and Labour Relations Act;
- Cap. 366 “employer” has the same meaning as ascribed under the Employment and Labour Relations Act;
- “foreign investors” means:
- (a) in case of a natural person, a person who is not a citizen of the United Republic;
 - (b) in case of a company, a company incorporated under the laws of a foreign state or in which more than fifty percent of its shares are held by persons who are not citizen of the United Republic; and
 - (c) in case of partnership, a partnership in which the controlling interest is owned by a person who is not a citizen of the United Republic;
- Cap. 300 “labour officer” means a labour officer appointed in terms of section 43(4) of the Labour Institutions Act;
- Cap. 300 “Labour Commissioner” means the Labour Commissioner appointed in terms of section 43(1) of the Labour Institutions Act;
- “Minister” means the Minister responsible for labour and employment matters;
- Cap. 357 “non-citizen” means a person who is not a Tanzanian pursuant to the Citizenship Act;
- “prescribed profession” includes medical and health care professionals, experts in oil and gas and teachers and university lecturers in science and mathematics;
- “Register” means the Work Permit Register established under section 8;
- “self-employed person” means a person who is engaged in an economic activity not under any contract of employment or under supervision and who earns a living through the activity;
- “work permit” means a permit issued by the Labour Commissioner pursuant to this Act.

PART II

ADMINISTRATIVE PROVISIONS

Roles and powers
of Minister
Act No.
6 of 2021 s. 40

4.-(1) The Minister shall, subject to the provisions of this Act, be the authority in matters relating to employment and engagement of non-citizens.

(2) For the purpose of subsection (1), and subject to the provisions of this Act, the Minister may give directives of a general or specific nature to the Labour Commissioner or any authorised officer as to the exercise of any power or the performance of any function conferred or imposed on him by this Act.

(3) A person to whom directions have been given by the Minister under subsection (1) shall comply with the directions.

(4) The Minister may, subject to the prescribed regulations, exempt any person or class of persons from the application of the provisions of this Act.

(5) The regulations made under subsection (4) shall prescribe the procedure and grounds for granting exemptions.

(6) A person exempted pursuant to subsection (4) shall be issued with a certificate of exemption in a form set out in the Third Schedule.

(7) The Minister shall, by notice published in the *Gazette*, declare the type and classification of employment or other occupation in which a non-citizen may be employed or engaged.

(8) A work permit or certificate of exemption shall not be issued for employment or engagement in any occupation other than in the employment and occupation declared under subsection (7).

Functions and
powers of Labour
Commissioner

5.-(1) The Labour Commissioner shall be responsible for the implementation of the provisions of this Act; and for that purpose, the functions of the Labour Commissioner shall be to-

- (a) advise the Minister on matters relating to employment of non-citizens;

- (b) receive, process applications for and issue work permits pursuant to the provisions of this Act;
 - (c) receive and process applications for exemptions and advise the Minister accordingly;
 - (d) keep and maintain a Register of records for work permits and exemptions established under section 8; and
 - (e) perform any other function as may be assigned to him by the Minister subject to the provisions of this Act.
- (2) For the effective discharge of his functions under this Act, the Labour Commissioner shall have powers to-
- (a) issue, vary, renew or cancel any work permit issued under this Act;
 - (b) subject to the provisions of this Act, reject any application for work permit; and
 - (c) perform any act for the better carrying out of his functions under this Act.
- (3) Notwithstanding the provisions of any written law, the Labour Commissioner shall be the authority responsible for issuing of work permits in Mainland Tanzania.
- (4) The Labour Commissioner may delegate any of his functions or powers to a public institution or person, and the public institution or person shall perform the functions or exercise the powers as if they were performed or exercised by the Labour Commissioner.
- (5) Notwithstanding the delegation of functions or powers under subsection (4), the Labour Commissioner may, where he deems necessary, perform or exercise any of the functions or powers, as the case may be and the performance shall not be construed as illegal.

Authorised
officers
Act No.
6 of 2021 s. 41

6.-(1) For the purpose of this Act, labour officers and immigration officers are hereby designated as authorised officers and shall exercise powers and discharge duties conferred to the authorised officer under this Act.

(2) Notwithstanding subsection (1), the Minister may, in consultation with the Labour Commissioner, designate any public officer to be authorised officer for the purposes of this Act.

(3) An authorised officer may require the holder of a work permit or certificate of exemption or a person claiming to be the holder of the permit or certificate to-

- (a) produce it for examination by the authorised officer at the time and place as the officer making the requirement shall specify; or
- (b) present himself to an authorised officer for examination at the time and place as the officer making the requirement shall specify.

(4) A person who has been required under subsection (3) to submit a work permit or certificate of exemption or present himself to an authorised officer for examination shall answer truthfully and to the best of his knowledge a question put to him by the authorised officer.

(5) A person who, without reasonable cause, fails to comply with a requirement under subsections (3) and (4) commits an offence and on conviction, shall be liable to a fine not less than five million shillings or to imprisonment for a term not less than six months or to both.

Succession plan

7.-(1) A person who intends to employ or engage a non-citizen in an employment or any other occupation, as the case may be, shall prepare a succession plan which, among other things, shall set out-

- (a) a well-articulated plan for succession of the non-citizen's knowledge or expertise to the citizens during his tenure of employment; and
- (b) other information as may be directed by the Labour Commissioner.

(2) A person who employs or engages in an employment or any other occupation of a non-citizen shall be required to establish effective training programme to produce local employees to undertake duties of the non-citizen expert.

Work Permit
Register

8.—(1) There shall be a register to be known as the Work Permit Register kept and maintained by the Labour Commissioner into which shall be recorded information relating to work permit, certificate of exemptions and other information as the Labour Commissioner may deem necessary.

(2) A person may, upon payment of prescribed fee, and within specified time, peruse the register and make copies from the register.

PART III REGULATION OF EMPLOYMENT OF NON-CITIZENS

Employment, and
engagement of
non-citizens

9.—(1) A non-citizen shall not engage in any occupation for reward, profit or non-profit unless he-

- (a) has a valid work permit that allows that person to engage in the occupation specified in the valid work permit; or
- (b) is the holder of a valid certificate of exemption issued to him under this Act.

(2) A person shall not employ, engage or cause to be employed or engaged in any occupation a non-citizen unless-

- (a) the non-citizen has a valid work permit that allows that person to be employed in the occupation specified in the valid work permit; or
- (b) the non-citizen has a valid certificate of exemption issued to him under this Act.

(3) A person who contravenes the provisions of this section commits an offence and on conviction, shall be liable to a fine of not less than ten million shillings or to imprisonment for a term of not less than two years or to both.

Application for
work permit
Act No.
6 of 2021 s. 42

10.—(1) A person who wishes to employ or engage a non-citizen in any occupation shall apply for a work permit to the Labour Commissioner prior to entry by that non-citizen.

(2) An application under subsection (1) shall, subject to subsection (4), be made in a form set out in the First Schedule, and accompanied by-

- (a) a fee prescribed in the Fifth Schedule; and
- (b) relevant documents specified in the Second Schedule.

(3) A non-citizen employed or engaged in any occupation shall possess qualifications, knowledge and skills requisite for the performance of the job for which the work permit is issued.

(4) For purposes of facilitating application of permits under this section, the Labour Commissioner shall, subject to the prescribed regulations and after consultation with other relevant authorities, establish an electronic system for application and issuance of work permits.

Consideration of application

11.-(1) The Labour Commissioner shall, on receipt of the application for work permit, consider it and may, where satisfied that-

- (a) the application complies with the provisions of this Act, issue a work permit; or
- (b) the application does not comply with the provisions of this Act, refuse to issue a work permit,

and shall immediately, in any case, inform the applicant in writing of his decision and reasons to that effect.

(2) The Labour Commissioner shall, before approving an application for a work permit, satisfy himself that, possible efforts have been explored to obtain a local expert.

(3) The Labour Commissioner may, summon the person who lodged the application for examination, at a time and place as he may specify.

(4) A person who is summoned for examination shall for the best of his knowledge answer any question put to him.

(5) The Labour Commissioner shall, when considering application for a work permit take into account of the regional and bilateral agreements which the United Republic is a signatory.

Work permit
Act No.
6 of 2021 s. 43

12.-(1) A work permit issued under section 11 shall be in a form and manner prescribed in the regulations and may be accompanied with conditions.

(2) Breach of any conditions attached to a work permit shall have the same effect as the contravention of any of the provisions of this Act.

(3) A work permit issued under this Act shall not be transferable and shall be valid for the purpose for which it was issued.

(4) Unless earlier cancelled, a work permit shall be valid for a period of twenty-four months from the date of issue and may, subject to the provisions of this Act, be renewed provided that the total period of validity of the first grant and its renewals shall not, in any case, exceed eight years.

(5) Notwithstanding the provisions of subsection (4), the total period of validity of a work permit of an investor whose contribution to the economy or the wellbeing of Tanzanians through investment is of great value, may exceed ten years.

(6) The provisions of sections 9 and 10 shall apply *mutatis mutandis* in relation to the renewal of work permit.

(7) In the exercise of powers under subsection (1), the Labour Commissioner may attach any condition regarding the finality of the permit where-

- (a) the employer has requested the work permit for a limited duration;
- (b) the non-citizen is about to complete his time of working in the country pursuant to section 12(4); or
- (c) he considers it necessary for proper implementation of the provisions of this Act.

Categories of
work permit

13.-(1) There shall be five categories of work permits as follows:

- (a) Class A which shall be issued to a foreign investor who is self-employed;
- (b) Class B which shall be issued to a non-citizen who is in possession of a prescribed profession;

- (c) Class C which shall be issued to a non-citizen who is in possession of other profession;
 - (d) Class D which shall be issued to a non-citizen employed or engaged in a registered religious and charitable activities; and
 - (e) Class E which shall be issued to refugees.
- (2) Prescription of a work permit fee shall take into consideration the class of a work permit applied for.
- (3) Where a person issued with a permit of one class of work permit is subsequently granted a permit of another class, he shall surrender the former permit to the Labour Commissioner for cancellation.

Cancellation of work permit

14.—(1) The Labour Commissioner may cancel a work permit where-

- (a) the holder fails without reasonable cause, to comply with conditions prescribed in the work permit;
- (b) the holder ceases to engage in the employment or occupation for which the permit was issued for;
- (c) it has come to the knowledge of the Labour Commissioner that, there was a misrepresentation of information in the application by the permit holder; or
- (d) in the opinion of the Labour Commissioner, the presence of the work permit holder in the United Republic jeopardises public interest.

(2) The Labour Commissioner shall, after cancelling a work permit in accordance with sub-section (1), notify the Commissioner General of Immigration of the cancellation.

Lost and stolen work permit, certificate of exemption

15.—(1) Where a work permit or certificate of exemption is lost, stolen or severely damaged, the permit or certificate holder shall apply for replacement to the Labour Commissioner.

(2) The application under subsection (1), shall be accompanied by-

- (a) a prescribed fee;

- (b) sworn declaration as to the circumstances surrounding the loss, theft or damage of the permit or certificate; and
- (c) certification from the authority to whom the loss, theft or damage was reported.

Returns
Acts Nos.
3 of 2021 s. 35
6 of 2021 s. 44

16.—(1) A person who employs or engages a non-citizen in any occupation shall, on every 30th June and 31st December of every year, submit to the Labour Commissioner returns on employment of non-citizens employed or engaged in a form prescribed in the Fourth Schedule.

(2) Notwithstanding subsection (1), in event the term of employment of a non-citizen ceases earlier than the six months of returns, the employer shall immediately report the cessation to the Labour Commissioner.

(3) A person who fails to submit a return to the Labour Commissioner on or before the prescribed period under subsection (1), commits an offence and on conviction shall be liable to a penalty of five hundred thousand shillings for each month or part of a month during which the delay continues.

Surrender of
work permit

17.—(1) The work permit or certificate of exemption, as the case may be, issued under this Act shall be in the name of the United Republic and remain the property of the Government of the United Republic.

(2) A work permit or certificate of exemption, as the case may be, shall be kept by the person to whom it is issued and on demand shall be produced.

(3) Where the holder of a work permit or certificate of exemption is about to leave the United Republic, he shall within fourteen days before the day of his departure, surrender the permit or certificate to the Labour Commissioner who shall dispose of the same in a manner prescribed in the regulations.

(4) A person who, without reasonable cause, contravenes provisions of this section commits an offence and, on conviction, shall be liable to a fine not less than ten million shillings or to imprisonment for a term not less than twelve months or to both.

PART IV

GENERAL PROVISIONS

Appeals

18.—(1) A person aggrieved by the decision of the Labour Commissioner to refuse to grant or cancel a work permit may, within thirty days from the date of decision, appeal to the Minister.

(2) Subject to the provisions of subsection (1), the Minister after considering the appeal may confirm or vary the decision of the Labour Commissioner.

Incentives to
investors
Act No.
6 of 2021 s. 45

19.—(1) An applicant registered with the Tanzania Investment Centre and Export Processing Zone Authority may, save for the requirement of payment prescribed fee, employ up to ten non-citizens without being subjected to the conditions prescribed under this Act.

(2) The provision of immigrant quota shall not preclude an applicant from employing other non-citizens provided that, the employment complies to the employment ratio of one non-citizen to ten local employees and the applicant has satisfied the Labour Commissioner that, the nature of his business demands that number of non-citizens.

(3) An applicant who is not registered with the Tanzania Investment Centre and Export Processing Zones Authority shall, unless where the nature of business of the applicant does not permit employment of local employees as per the required ratio be subjected to the requirement of creating employment opportunities at a ratio of one non-citizen to ten local employees.

Offences and
penalties

20. A person who-

- (a) furnishes false information for the purpose of procuring a work permit or certificate of exemption knowing that, the information is false;

- (b) obtains or attempts to obtain any document by means of fraud, false pretence or by presenting or submitting a false or forged document;
- (c) obstructs or hinders a labour officer or any other authorised officer in the execution of his duty under this Act; and
- (d) contravenes any condition attached to the work permit, commits an offence and on conviction, shall be liable to a fine not less than ten million shillings or imprisonment for a term not less than twelve months or to both.

Powers to inspect **21.** It shall be lawful for the labour officer to enter and inspect any place of employment, call for, examine and record documents relating to employment for the purposes of ensuring compliance with the provisions of this Act.

Powers to make regulations
Act No.
6 of 2021 s. 46

22.-(1) The Minister may make regulations for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of the foregoing provisions, the Minister may make regulations prescribing for -

- (a) the form and modality of maintenance of the Register;
- (b) the procedure and grounds for issuance of exemption from the application of the provisions of this Act;
- (c) the procedure for returns with regard to any person to whom or in respect of whom a permit has been issued contents of the returns;
- (d) the information to be given by an employer or prospective employer in relation to-
 - (i) the arrival or expected arrival of a non-citizen in Tanzania;
 - (ii) the taking up or failure to take up employment by;
 - (iii) the dismissal from the employment of; and

- (iv) the expiration of termination of contract of employment concerning any person other than a citizen of Tanzania employed or to be employed by the employer and anything which may be prescribed under the provisions of this Act;
- (e) the manner and procedure for issuing work permit; and
- (f) the manner of granting incentives to investors pursuant to section 19.

Powers to amend Schedules

23. The Minister may, by order published in the *Gazette*, amend the Schedules.

Conflict of laws

24. In case of conflict between this Act and any other written law providing for issuance of work permit, the provisions of this Act shall prevail to the extent of the inconsistency.

PART V CONSEQUENTIAL AMENDMENTS

Omitted

25.-31. [Omitted.]

FIRST SCHEDULE

(Made under section 10(2))

THE UNITED REPUBLIC OF TANZANIA

APPLICATION FOR WORK PERMIT

Affix
passport
size
photo

PART I - PARTICULARS OF APPLICANT

I HEREBY APPLY FOR FIRST GRANT/RENEWAL OF WORK PERMIT CLASS.....

1. Full name: Mr./Mrs./Miss First Name..... Middle

Names.....Surname.....

2. Marital Status.....

3. Home Address.....
4. Date of Birth
5. Place of Birth
6. Nationality
7. Passport Number Date of issue
- Place of issue..... Expiry.....
8. Address while in Tanzania.....
9. Academic qualifications held.
10. Experience/Skills
11. Job title
12. Job Description (Give a brief descriptions of duties in relation to this post).....
.....
.....
13. For self-employed applicants (state specifically the type of business to be carried on).....
14. Place of Work in Tanzania: Region
District Street Plot No. House No.
15. Criminal record if any.....
16. Particulars of any previous application for work permit in Tanzania whether granted/ refused

DECLARATION

I.....the applicant, hereby declare that the information stated herein above is correct to the best of my knowledge.

Date Signature of Applicant

PART II-PARTICULARS OF EMPLOYER

17. Name of Employer.....
18. Physical address Region..... District Street
- Plot No House No.
19. Nature of Industry.....
20. Total number of employees.
- (a) Citizens..... Male Female
- (b) Non-Citizens..... Male Female.....
- Date Signature and Official Stamp of
Employer

PART IV-(FOR OFFICIAL USE ONLY):

21. Decision of the Labour Commissioner.....
.....
.....
22. Date Signature of the Labour Commissioner.....

SECOND SCHEDULE*(Made under section 10(2)(b))***DOCUMENTS ACCOMPANYING AN
APPLICATION FOR WORK PERMIT**

1. Contract of employment duly signed by employer and employee.
2. Job description.
3. Curriculum Vitae of the employee.
4. Two recent passport size photos of the applicant.
5. Certification from respective professional bodies that regulate the post for which a work permit is sought (Such professions include but not limited to accountants & auditors, engineers, surveyors,

- medical doctors, nurses, pilots, teachers, gaming, procurement, hunting, insurance and banking).
6. Academic/professional certificates.
 7. Certified translation in authorised Kiswahili or English certificates /documents if they are in other languages than English / Swahili.
 8. Photo copy of passport.
 9. Previous work permit (for renewal application).
 10. Business license.
 11. Tax Identification Number (TIN).
 12. Value Added Tax (VAT).
 13. Memorandum & Articles of Association.
 14. Succession plan, in the case of employment;
 15. Other information as may be required by the Labour Commissioner.

NB. All copies for attachments must be certified.

Act No.
6 of 2021 s. 47

THIRD SCHEDULE

(Made under section 4(6))

THE UNITED REPUBLIC OF TANZANIA CERTIFICATE OF EXEMPTION

Photo

Pursuant to the powers conferred upon me under section 4(5) of this Act, I hereby exempt Mr. / Mrs./ Miss.....of M/s..... from the application of section of the Non-Citizens (Employment Regulation) Act.

Date

.....
Minister of State, Prime Minister's
Office Labour, Youth, Employment
and Persons with Disability

Act No.
6 of 2021 s. 47

FOURTH SCHEDULE

(Made under section 16)

**THE UNITED REPUBLIC OF TANZANIA
PRIME MINISTER'S OFFICE LABOUR, YOUTH,
EMPLOYMENT AND PERSONS WITH DISABILITY
RETURN ON EMPLOYMENT OF NON-CITIZENS**

NOTE: This form is to be duly completed in duplicate and submitted to – The Labour Commissioner, P. O. Box 2890, DODOMA between 30th June and 31st December of every year.

Report for the period ending 30th June, 20..... 31st December, 20.....
(Delete as appropriate)

PART I

PARTICULARS OF THE EMPLOYER

1. Name of Employer
2. Physical address Region District street
Plot No House No.
3. Nature of Industry.....
4. Total number of employees.
(a) Citizens.....MaleFemale
- (b) Non-Citizens..... MaleFemale.....

PART II

PARTICULARS OF NON-CITIZENS EMPLOYED BY COMPANY

Ref.	Employee's name	Sex	Nationality	Job Title	Date of issue of the permit	Expiry Date of the permit

PART III**PARTICULARS OF NON-CITIZENS LEAVING THE
COMPANY AND SUCCEEDING LOCAL EMPLOYEES**

Ref.	Name	Sex	Nationality	Job Title	Date of Issue of the permit	Expiry date of the permit	Local Employee succeeding Non-Citizen

DateSignature and Official Stamp of Employer.....

Act No.
6 of 2021 s. 47

FIFTH SCHEDULE

(Made under section 10(2)(a))

WORK PERMIT AND REGISTER INSPECTION FEE

CLASS	ITEM	FEE (USD)
A	Investors and Self employed	1,000
B	Non-citizen in possession of prescribed professions	500
C	Non-citizen in possession of other professions	1,000
D	Non-citizen employed or engaged in approved religious and charitable activities	500
E	Refugees	gratis

(a) Work Permit Register Inspection Fee: USD 50