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THE LABOUR LAWS (AMENDMENTS) ACT, 2024

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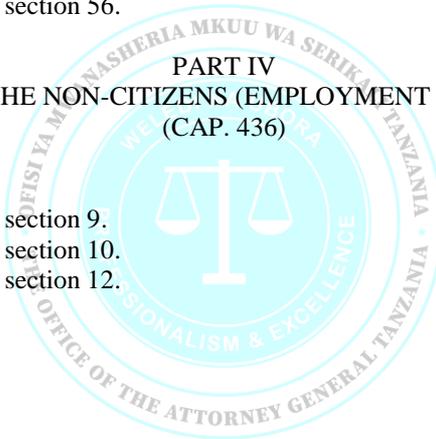
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section 4

(a) in the definition of the term “basic wage” by deleting the word “Sunday” appearing in paragraph (c) and substituting for it the words “rest day”; and

(b) by adding in the appropriate alphabetical order the following new definitions:

“award” includes-

- (a) agreements reached after mediation;
- (b) decision;
- (c) decree; and
- (d) ruling,

that has the effect of finally determining the matter;

“personal representative” means a person appointed by a party to a dispute for the purpose of representation;

“process server” means a person determined as such under any written law to undertake service of court documents;”.

Amendment of
section 9

by-

5. The principal Act is amended in section 9(6)(b),

(a) deleting the word “and” appearing in subparagraph (i);

(b) adding immediately after subparagraph (i) the following:

“(ii) has authority or is authorised to hire, discipline or terminate an employee; and”;

(c) renumbering subparagraph (ii) as subparagraph (iii).

Amendment of
section 14

6. The principal Act is amended in section 14(1) by deleting paragraph (b) and substituting for it the following:

“(b) a contract for a specified period of time for an employee who-

- (i) is employed on account of a temporary increase in the volume of work which is not expected to endure beyond

- twelve months;
- (ii) is a graduate who is employed for the purpose of being trained or gaining work experience in order to be employed, provided such training does not exceed twenty-four months;
 - (iii) is employed to work exclusively on a specific project that has a limited or defined duration;
 - (iv) is a non-citizen who has been granted a work permit for a defined duration;
 - (v) is employed to perform seasonal work;
 - (vi) is employed for the purpose of an official public works scheme or similar public job creation scheme;
 - (vii) is employed in a position which is funded by an external source for a limited period;
 - (viii) has reached retirement age as per the applicable laws; or
 - (ix) is an employee employed by an employer whose business depends on acquiring tenders;”.

Addition of
section 16A

7. The principal Act is amended by adding immediately after section 16 the following:

“Agreement on
state of
emergency

16A.-(1) In the event of an outbreak or potential outbreak of infectious disease or other emergency which is likely to affect the safety of employees or disrupt operations and production at work place, the employer and employees shall agree on the best ways to overcome the situation.

(2) The agreement mentioned in subsection (1) shall

take into account the interests of both parties.”.

Amendment of section 33

8. The principal Act is amended in section 33 by-
(a) adding immediately after subsection (7) the following:

“(8) An employee who gives birth to a premature child is entitled to a paid maternity leave from the date of giving birth up to completion of the thirty-six weeks of pregnancy and to maternity leave period provided under subsection (6) within the leave cycle.”; and

(b) renumbering subsections (8) to (11) as subsections (9) to (12) respectively.

Addition of section 34A

9. The principal Act is amended by adding immediately after section 34 the following:

“Unpaid leave

34A.-(1) An employer may, upon written application and on such conditions as may be specified in the regulations, grant an employee unpaid leave for a period not exceeding thirty days.

(2) The duration of unpaid leave may be extended to a further period upon agreement between employee and employer.”.

Amendment of section 37

10. The principal Act is amended in section 37, by adding immediately after subsection (5) the following:

“(6) An employer shall not commence or continue a disciplinary matter against an employee where such matter has been referred to the Commission or Court for determination.”.

Amendment of section 40

11. The principal Act is amended in section 40(1), by deleting paragraph (c) and substituting for it the following:

“(c) to pay to an employee compensation -

- (i) in case the termination is based on unfair reason or unfair procedure or both, not exceeding twelve months remuneration; and
- (ii) in case the termination is unfair for reasons of discrimination or harassment, not exceeding twenty-four months remuneration.”.

Addition of section 41A

12. The principal Act is amended by adding immediately after section 41 the following:

“Remedies for material breach of contract

41A. An arbitrator or Labour Court may, on determining that there is material breach of a fixed term contract on part of the employer, order the employer to pay compensation to the employee equal to the remuneration for the remaining term of the contract.”.

Amendment of section 71

13. The principal Act is amended in section 71(2), by-

- (a) deleting a full stop appearing at the end of that subsection and substituting for it a colon; and
- (b) adding the following proviso:

“Provided that, for public institutions, the collective agreement shall be binding upon approval by the Permanent Secretary of the Ministry responsible for establishments.”.

Amendment of section 73

14. The principal Act is amended in section 73(1), by deleting the words “A recognised” and substituting for them the words “One or more”.

Amendment of section 86

15. The principal Act is amended in section 86-

- (a) in subsection (6), by-
 - (i) adding immediately after the word “dispute” appearing in the opening phrase the words “shall be present and”; and
 - (ii) adding the words “in the case of an

employee,” at the beginning of paragraph (c); and

- (b) in subsection (7)(b), by adding the words “within thirty days from the date of failure of mediation” immediately after the word “arbitration” appearing in subparagraph (i).

Amendment of
section 87

16. The principal Act is amended in section 87-

- (a) in subsection (3), by deleting the words “decide the complaint” appearing in paragraph (b) and substituting for them the words “mark the dispute failed”;
- (b) by deleting subsection (4);
- (c) in subsection (5), by deleting the words “reverse a decision made under this section” appearing in the opening phrase and substituting for them the words “restore a matter dismissed under subsection (3)(a)”;
- (d) by renumbering subsection (5) as subsection (4).

Amendment of
section 88

17. The principal Act is amended in section 88-

- (a) by adding immediately after subsection (7) the following:

“(8) Where a party to a dispute admits the claims or part of the claims, an arbitrator shall issue an award in respect of admitted claim.”;

- (b) in subsection (8), by deleting the words “as provided for under rule 28 of the Labour Institutions (Mediation and Arbitration Guidelines) Rules” appearing in paragraph (a) and substituting for them the words “or dismissed”;
- (c) by adding immediately after subsection (8) the following:

“(9) Where a matter has been heard *ex-parte* or dismissed pursuant to subsection (9)(a), an aggrieved party may, within fourteen days from the date of the decision, make an application for setting aside the *ex-parte* order or restoration of the matter.”;

(d) by adding immediately after subsection (11) the following:

“(12) Where an arbitrator fails to issue an award within thirty days as provided under subsection (13), the arbitrator shall notify the parties, state the reasons for delay and fix the date for delivering the award or order.”; and

(e) by renumbering subsections (8) to (12) as subsections (9) to (14) respectively.

Amendment of section 94

18. The principal Act is amended in section 94 by adding immediately after subsection (3) the following:

“(4) An application for revision shall not lie or be made in respect of any preliminary or interlocutory decision unless such decision or order has the effect of finally determining the matter.”.

Amendment of section 97

19. The principal Act is amended in section 97, by-
(a) adding immediately after subsection (1) the following:

“(2) A document required to be served under this Act may be served by a process server.”; and

(b) renumbering subsection (2) as subsection (3).

PART III
AMENDMENT OF THE LABOUR INSTITUTIONS ACT,
(CAP. 300)

Construction Cap. 300

20. This Part shall be read as one with the Labour Institutions Act, hereinafter referred to as the “principal Act”.

Amendment of section 2

21. The principal Act is amended in section 2-

(a) in the definition of the term “Labour Commissioner”, by deleting the words “and in the absence of the Labour Commissioner, the Deputy Labour Commissioner”; and

(b) in the definition of the term “labour officer”, by

deleting the words “section 43(3) and include the Labour Commissioner or the Deputy Labour Commissioner” and substituting for them the words “section 43(4) and include the Labour Commissioner”.

Amendment of section 9

22. The principal Act is amended in section 9(1) by deleting the word “Calendar” appearing in paragraph (a) and substituting for it the word “Financial”.

Amendment of section 15

23. The principal Act is amended in section 15(1) by adding immediately after paragraph (b), the following proviso:

“Provided that, a mediator shall not arbitrate the dispute which he was involved in its mediation;”.

Amendment of section 16

24. The principal Act is amended in section 16 by adding immediately after subsection (4) the following:

“(5) The Chairperson shall preside over all meetings of the Commission.

(6) Where the Chairperson is absent, members present shall elect one of the members to preside over the meeting.”.

Amendment of section 19

25. The principal Act is amended in section 19 by deleting subsection (7) and substituting for it the following:

Cap. 366 “(7) This Act or the Employment and Labour Relations Act shall not preclude a person from being appointed as both a mediator and an arbitrator under this section.”.

Amendment of section 20

26. The principal Act is amended in section 20(1), by adding the words “or recall” immediately after the word “summon” appearing in paragraph (a).

Amendment of section 27

27. The principal Act is amended in section 27(1) by adding the word “not” immediately after the word “shall”.

Amendment of
section 43

- 28.** The principal Act is amended in section 43-
- (a) in subsection (1), by deleting the words “and a Deputy labour Commissioner”; and
 - (b) in subsection (4), by adding the words “and workers education officers” immediately after the word “officers”.

Amendment of
section 44

- 29.** The principal Act is amended in section 44 by deleting subsection (1) and substituting for it the following:
- “(1) The Labour Commissioner may, in writing delegate to the Assistant Labour Commissioners, any labour officer or workers education officer, any of the Commissioner’s powers, functions and duties.”.

Amendment of
section 45

- 30.** The principal Act is amended in section 45-
- (a) by deleting the marginal note and substituting for it the following:
“Powers and functions of labour officers and workers education officers”;
 - (b) in subsection (1), by-
 - (i) deleting the words “educate, advise and” appearing at the beginning of paragraph (j);
 - (ii) deleting the semicolon and the word “and” appearing at the end of paragraph (k) and substituting for them a full stop; and
 - (iii) deleting paragraph (l);
 - (c) by adding immediately after subsection (1) the following:
“(2) For purposes of the administration of labour laws, workers education officer may-
 - (a) plan and conduct training programs to employees, employers, registered trade unions, employers organisations and federations on implementation of labour laws;

- (b) upon request, provide employees, employers, registered trade unions, employers organisations and federations advice and training in skills for avoidance, prevention and settlement of disputes;
- (c) advice employers and employees in matters relating to the forum for workers participation in a workplace;
- (d) facilitates establishment of workers council at workplaces; and
- (e) scrutinise and process registration of employment policies and collective agreements.”; and

(d) by renumbering subsections (2) to (6) as subsections (3) to (7) respectively.

Amendment of section 45A

31. The principal Act is amended in section 45A(1) by deleting paragraph (b) and substituting for it the following:

“(b) the money charged under this section shall, unless otherwise directed by the Minister responsible for finance, be paid into the Consolidated Fund.”.

Amendment of section 55

32. The principal Act is amended in section 55, by-

- (a) deleting the words “of Labour Court” appearing in the marginal note; and
- (b) deleting subsection (1) and substituting for it the following:

“(1) The Chief Justice may, in consultation with the Minister, make rules-

- (a) to govern the practice and procedures of the Labour Court; and
- (b) regulating the conduct of personal representatives

representing parties in the Labour Court and Commission.”.

Amendment of section 56

33. The principal Act is amended in section 56 by adding the words “in the case of an employee,” at the beginning of paragraph (b).

**PART IV
AMENDMENT OF THE NON-CITIZENS (EMPLOYMENT
REGULATION) ACT,
(CAP. 436)**

Construction Cap. 436

34. This Part shall be read as one with the Non-Citizens (Employment Regulation) Act, hereinafter referred to as the “principal Act”.

Amendment of section 9

35. The principal Act is amended in section 9, by-
(a) adding immediately after subsection (2) the following:

“(3) A holder of a work permit class A who intends to engage with another company to which he is a shareholder shall obtain a written authorisation from the Labour Commissioner.”; and

(b) renumbering subsection (3) as subsection (4).

Amendment of section 10

36. The principal Act is amended in section 10(2) by adding the word “non-refundable” immediately before the word “fee” appearing in paragraph (a).

Amendment of section 12

37. The principal Act is amended in section 12, by-
(a) adding immediately after subsection (5) the following:

“(6) Notwithstanding subsection (4) and (5), a work permit issued to a refugee shall remain valid for the period which the refugee maintains the refugee status in accordance with the relevant laws.

(7) Application for renewal of work permit shall be submitted to the Labour Commissioner at least sixty days before

- expiry.”; and
(b) renumbering subsections (6) and (7) as subsections (8) and (9) respectively.

OBJECTS AND REASONS

This Bill proposes to amend three laws, namely, the Employment and Labour Relations Act, Chapter 366, the Labour Institutions Act, Chapter 300 and the Non-Citizens (Employment Regulation) Act, Chapter 436. The proposed amendments aim to address challenges observed during implementation of various provisions in the relevant laws.

The Bill is divided into Four Parts. Part I deals with preliminary provisions which include the title of the Bill and the manner in which the laws proposed to be amended are amended in their respective Parts.

Part II of the Bill proposes to amend the Employment and Labour Relations Act, Cap. 366. This Act was enacted in 2004 with the view to make provisions for basic labour rights, basic employment standards, framework for collective bargaining, prevention and settlement of disputes. Since its enactment, this Act has been amended ten times.

Section 4 is proposed to be amended in order to improve and introduce definitions of various terms used in the Act. The objective of these amendment is to enhance clarity in the usage of the terms in the Act. Section 9 is proposed to be amended in order to broaden the definition of the term “senior management employee”. The objective of these amendments is to expand the scope of the definition of a senior management employee's position in the exercise of the right to join trade unions.

Section 14 is proposed to be amended in order to specify the types of fixed-term contracts. The objective of these amendments is to widen the scope of circumstances under which a person may be employed under a fixed term contract, including contracts for temporary increase in the volume of work, opportunities for recent graduates to build capacity, and contracts for seasonal work. Section 16A is proposed to be added in order to specify the circumstances under which an employer and employee may

enter into agreements on the best ways to operate during an emergency that is likely to affect production at the workplace. The objective of these amendments is to ensure job security and safety of worker at the workplace, maintain productivity, and mitigate the impact on employers during epidemics or emergencies.

Section 33 is proposed to be amended in order to increase the period of maternity leave for an employee who gives birth to a premature child by including in the maternity leave the remaining time up to completion of thirty-six weeks of pregnancy. The objective of these amendments is to protect the well-being and health of prematurely born children by ensuring sufficient time for maternal care. Section 34A is proposed to be added in order to enable an employer to grant an employee unpaid leave not exceeding thirty days. The objective of these amendments is to provide a conducive environment for employees to take unpaid leave in case of disasters or emergencies. Section 37 is proposed to be amended in order to prevent an employer from initiating or continuing disciplinary proceedings against an employee where a dispute is before the Commission or Labour Court. The objective of these amendments is to prevent interference with the handling of disputes presented to the Commission or Labour Court.

Furthermore, section 40 is proposed to be amended in order to specify compensation based on the type of dispute and to set a maximum limit on the compensation awarded to an employee unfairly terminated. The objective of these amendments is to guide compensation awards and control excessive compensation in cases of unfair termination. Section 41A is proposed to be added in order to provide guidance for compensation in cases of breach of fixed-term contracts. The objective of these amendments is to provide guidance on compensation for employees where there is a material breach of contract on the part employer leading to employee resignation.

Section 71 is proposed to be amended in order to establish the procedure for the enforcement of collective agreements entered into by heads of public institutions. The objective of these amendments is to align the provisions of this Act with the applicable procedures under laws governing public service. Section 73 is proposed to be amended in order to allow trade unions to jointly enter into collective agreements with employers or employer organisations to establish employee participation forum at the workplace. The objective of these amendments is to increase employee

participation in matters concerning their interests and improve relations at the workplace.

Section 86 is proposed to be amended in order to require the presence of both parties during mediation and to prevent the employer from being represented by a personal representative. The objective of these amendments is to facilitate dispute resolution at the mediation stage. Additionally, this section is proposed to be amended to set a time limit for submitting a dispute to arbitration after mediation has failed. The objective of these amendments is to ensure that labour disputes are timely resolved. Section 87 is proposed to be amended in order to prevent the mediator from deciding the dispute during mediation and instead to state that mediation has failed. The objective of these amendments is to adhere to the procedures applicable in mediation and eliminate contradiction between mediation and arbitration. This section is further proposed to be amended to grant the Commission the authority to restore and hear a matter where the applicant provides reasonable grounds for non-appearance. The objective of these amendments is to ensure that the right to be heard is protected for all parties.

Section 88 is proposed to be amended in order to establish the procedure for issuance of an award if one party admits the claims or part of the claims, the procedure for applying to set aside an order or decision made *ex parte*, and the obligation of the arbitrator to notify the parties to a dispute in the event of failure to issue an award within thirty days. The objective of these amendments is to improve the procedure for hearing and deciding disputes before the Commission.

Section 94 is proposed to be amended in order to prevent parties to a dispute from filing applications for revision of preliminary or interlocutory decisions or orders by the Commission unless the decisions have the effect of finally determining the matter. The objective of these amendments is to allow the Commission to hear and decide disputes in a timely manner. Section 97 is proposed to be amended in order to establish a procedure that enables the Commission's documents to be served by a process server. The objective of these amendments is to ensure that documents are delivered on time and through a reliable and accountable procedure.

Part III of the Bill proposes to amend the Labour Institutions Act, Cap. 300. This Act was enacted by Parliament in 2004 in order to establish labour institutions and outline their functions, powers and responsibilities.

These institutions include the Labour Court, the Labour Commissioner, and the Commission for Mediation and Arbitration. Since its enactment, the Act has been amended five times.

Section 2 is proposed to be amended in order to improve definitions of various terms used in the Act. The objective of these amendments is to enhance clarity in the usage of the terms in the Act. Section 9 is proposed to be amended in order to change the meeting schedule of the Council from a calendar year to a financial year. The objective of these amendments is to align Council meetings with the Government's calendar.

Section 15 is proposed to be amended in order to establish conditions prohibiting a mediator involved in mediation at the mediation stage from deciding the dispute at the arbitration stage. The objective of these amendments is to avoid conflicts of interest in arbitration and ensure adherence to principles of natural justice. Section 16 is proposed to be amended in order to provide for the Chairperson to preside over the meetings of the Commission, and in his absence, the members present shall appoint one member to preside over the meeting. The objective of these amendments is to enhance the efficiency of the Commission.

Section 19 is proposed to be amended in order to prohibit a mediator involved in the mediation of a dispute from hearing the dispute at the arbitration stage. The objective of these amendments is to avoid conflicts of interest in arbitration and ensure adherence to principles of natural justice. Section 20 is proposed to be amended in order to allow the Commission to recall a witness who has already testified to give additional testimony. The objective of these amendments is to ensure the Commission's effectiveness in resolving disputes.

Section 27 is proposed to be amended in order to correct typographical errors. Sections 43 and 44 are proposed to be amended in order to remove the position of Deputy Labour Commissioner and recognise workers education officers working under the Labour Commissioner. Section 45 is proposed to be amended in order to improve the functions of labour officers and provide for functions of workers education officers. The objective of these amendments is to enhance the implementation of the Act and align it with the organisational structure of the Labour Commissioner's office.

Additionally, section 45A is proposed to be amended in order to improve provisions relating to compounding of offences, so as to require money obtained during compounding to be deposited into the Consolidated Fund. The objective of these amendments is to ensure transparency and accountability in Government funds and to prevent the loss of Government revenue. Section 55 is proposed to be amended in order to empower the Chief Justice, in consultation with the Minister, to make rules regulating conduct of personal representatives. The objective of these amendments is to provide an effective framework for regulating the conduct of personal representatives appearing before the Labour Court and Commission. Section 56 is proposed to be amended in order to prevent the employer from being represented by a personal representative.

Part IV of the Bill proposes to amend the Non-Citizens (Employment Regulation) Act, Cap. 436. This Act was enacted by the Parliament in 2015 in order to establish a legal framework for the employment of non-citizens in Tanzania. Since its enactment, the Act has been amended twice.

Section 9 is proposed to be amended in order to require a holder of work permit class A who intends to engage with another company in which he holds shares to obtain a written authorization from the Labour Commissioner. The objective of these amendments is to remove administrative burdens and create a conducive environment for foreign investors, whereby, once he obtains a work permit for one company, he will not be required to obtain additional permits for other companies where he holds shares.

Section 10 is proposed to be amended in order to prohibit the refund of work permit application fees. The aim of these amendments is to provide clarification to work permit applicants regarding the fees paid during the application process. Section 12 is proposed to be amended in order to allow refugees who maintain refugee status to continue working without being restricted by the time limit of the work permit. This section is further amended to provide for the applications for renewal of the work permit to be submitted to the Labour Commissioner at least two months before the expiration of the permit. The objective of these amendments is to facilitate the better implementation of the provisions of this Act.

MADHUMUNI NA SABABU

Muswada huu unapendekeza kufanya marekebisho katika Sheria Tatu ambazo ni Sheria ya Ajira na Uhusiano Kazini, Sura ya 366, Sheria ya Taasisi za Kazi, Sura ya 300 na Sheria ya Usimamizi wa Ajira za Wageni, Sura ya 436. Mapendekezo ya marekebisho haya yanalenga kuondoa mapungufu ambayo yamejitokeza wakati wa utekelezaji wa baadhi ya masharti katika Sheria husika.

Muswada huu umegawanyika katika Sehemu Nne. Sehemu ya Kwanza inahusu masharti ya utangulizi ambayo yanajumuisha jina la Muswada na namna ambavyo masharti ya Sheria mbalimbali yanapendekezwa kurekebishwa.

Sehemu ya Pili ya Muswada inapendekeza marekebisho kwenye Sheria ya Ajira na Uhusiano Kazini, Sura ya 366. Sheria hii ilitungwa mwaka 2004, kwa lengo la kuweka masharti ya haki za msingi za kazi, viwango vya msingi vya ajira, mfumo wa majadiliano ya pamoja na taratibu za utatuzi wa migogoro. Tangu kutungwa kwake, Sheria hii imerekebishwa mara kumi.

Kifungu cha 4 kinapendekezwa kurekebishwa ili kuboresha na kuongeza tafsiri ya baadhi ya misamiati iliyotumika katika Sheria. Lengo la marekebisho haya ni kutoa ufafanuzi wa matumizi ya misamiati hiyo ambayo imetumika katika Sheria. Kifungu cha 9 kinapendekezwa kurekebishwa kwa kuongeza wigo wa tafsiri ya msamiati “senior management employee”. Lengo la marekebisho haya ni kuongeza wigo wa ufafanuzi wa nafasi ya mfanyakazi mwandamizi katika menejimenti kwenye utekelezaji wa haki ya kujiunga katika vyama vya wafanyakazi.

Kifungu cha 14 kinapendekezwa kurekebishwa ili kubainisha aina ya mikataba ya muda maalum. Lengo la marekebisho haya ni kuongeza wigo wa mazingira ambayo mtu anaweza kuajiriwa kwa mkataba wa kipindi maalum, ikiwemo mikataba ambayo mwajiriwa anaajiriwa kwa muda ili kuendana na ongezeko la wingi wa kazi, kutoa fursa kwa wahitimu wa vyuo ili kuwajengea uwezo na kufanya kazi nyingine za misimu. Kifungu cha 16A kinapendekezwa kuongezwa ili kubainisha mazingira ambayo mwajiri na mwajiriwa wanaweza kuingia katika makubaliano ya namna

watakavyofanya kazi katika hali ya dharura inayoweza kuathiri uzalishaji mahali pa kazi. Lengo la marekebisho haya ni kuhakikisha ulinzi wa ajira na usalama wa mfanyakazi mahali pa kazi, kuwezesha uzalishaji na kupunguza athari kwa waajiri wakati wa magonjwa ya milipuko na matukio ya dharura.

Kifungu cha 33 kinapendekezwa kurekebisha ili kuongeza muda wa likizo ya uzazi kwa mwajiriwa ambaye amejifungua mtoto njiti kwa kujumuisha katika likizo yake ya uzazi muda uliobaki kufikia wiki thelathini na sita za ujauzito. Lengo la marekebisho haya ni kulinda ustawi na afya za watoto wanaozaliwa kabla ya wakati na kuhitaji muda wa kutosha wa uangalizi wa mama. Kifungu cha 34A kinapendekezwa kuongezwa ili kumwezesha mwajiri kumpatia mwajiriwa likizo bila malipo isiyozidi siku thelathini. Lengo la marekebisho haya ni kuweka mazingira mazuri yatakayomwezesha mwajiriwa kupata likizo bila malipo kutokana na majanga au dharura zinazoweza kujitokeza. Kifungu cha 37 kinapendekezwa kurekebisha kwa kuweka masharti yanayozuia mwajiri kutoanzisha au kuendelea na shauri la nidhamu dhidi ya mwajiriwa pale ambapo mgogoro huo upo mbele ya Tume au Mahakama ya Kazi. Lengo la marekebisho haya ni kuzuia uingiliaji wa mchakato wa ushughulikiaji wa migogoro iliyowasilishwa kwenye Tume au Mahakama ya Kazi.

Aidha, kifungu cha 40 kinapendekezwa kurekebisha ili kuainisha fidia kulingana na aina ya mgogoro na kuweka ukomo wa juu wa fidia inayotolewa kwa mwajiriwa aliyeachishwa kazi isivyo halali. Lengo la marekebisho haya ni kuweka mwongozo wa utoaji fidia na kudhibiti utoaji wa fidia kwa kiwango kisicho na uhalisia pale inapothibitika kuwa mwajiriwa aliachishwa kazi isivyo halali. Kifungu cha 41A kinapendekezwa kuongezwa ili kuweka masharti kuhusu afua kwa uvunjaji wa mkataba wa ajira ya muda maalumu. Lengo la marekebisho haya ni kutoa mwongozo wa utoaji wa fidia kwa mwajiriwa pale ambapo mwajiri atakiuka vipengele muhimu vya mkataba vinavyoweza kupelekea mwajiriwa kuacha kazi.

Kifungu cha 71 kinapendekezwa kurekebisha ili kuweka masharti ya utaratibu wa kuanza kutumika kwa mikataba ya hali bora inayoingwiwa na wakuu wa taasisi za umma. Lengo la marekebisho haya ni kuwianisha masharti ya Sheria hii na utaratibu uliowekwa kwenye sheria zinazosimamia utumishi wa umma. Kifungu cha 73 kinapendekezwa kurekebisha ili kuwezesha vyama vya wafanyakazi kwa pamoja kuingia mikataba ya hali bora na mwajiri au vyama vya waajiri ya kuanzisha

majukwaa ya ushiriki wa waajiriwa mahali pa kazi. Lengo la marekebisho haya ni kuongeza ushiriki wa waajiriwa katika masuala yanayohusu maslahi yao na kuboresha mahusiano eneo la kazi.

Kifungu cha 86 kinapendekezwa kurekebishwa ili kuweka takwa la pande zote katika shauri kuwepo wakati wa usuluhishi na kuzuia mwajiri kuwakilishwa na mwakilishi binafsi. Lengo la marekebisho haya ni kufanikisha migogoro kumalizika katika hatua ya usuluhishi. Vilevile, kifungu hiki kinapendekezwa kurekebishwa ili kuweka ukomo wa muda wa kuwasilisha mgogoro kwa hatua ya uamuzi baada ya usuluhishi kushindikana. Lengo la marekebisho haya ni kuhakikisha migogoro ya kazi inashughulikiwa kwa wakati. Kifungu cha 87 kinapendekezwa kurekebishwa ili kuzuia msuluhishi kuamua mgogoro uliopo katika hatua ya usuluhishi na badala yake kubainisha kwamba usuluhishi umeshindikana. Lengo la marekebisho haya ni kuzingatia utaratibu unaohusika katika usuluhishi na kuondoa ukinzano kati ya usuluhishi na uamuzi. Vilevile, kifungu kinapendekezwa kurekebishwa ili kuipa mamlaka Tume kurejesha shauri na kulisikiliza pale ambapo mwombaji ametoa sababu za msingi za kutohudhuria awali katika usikilizwaji wa mgogoro. Lengo la marekebisho haya ni kuhakikisha haki ya kusikilizwa inalindwa kwa pande zote.

Kifungu cha 88 kinapendekezwa kurekebishwa ili kuweka masharti kuhusu utaratibu wa utoaji wa tuzo ikiwa upande mmoja utakubali madai au sehemu ya madai, utaratibu wa kufanya maombi ya kutengua amri au uamuzi uliofanywa kwa kusikilizwa upande mmoja na wajibu wa mwamuzi kuwataarifu wahusika wa mgogoro endapo atashindwa kutoa tuzo ndani ya siku thelathini. Lengo la marekebisho haya ni kuboresha utaratibu wa usikilizaji na uamuzi wa mgogoro katika Tume.

Kifungu cha 94 kinapendekezwa kurekebishwa ili kuweka masharti ya kuzuia wahusika wa mgogoro kuwasilisha maombi ya mapitio kwa maamuzi madogo ya Tume isipokuwa kama maamuzi hayo yana athari ya kumaliza mgogoro. Lengo la marekebisho haya ni kuwezesha Tume kusikiliza na kuamua migogoro kwa wakati. Kifungu cha 97 kinapendekezwa kurekebishwa ili kuweka utaratibu utakaowezesha nyaraka za Tume kusambazwa na msambazaji nyaraka wa mahakama. Lengo la marekebisho haya ni kuhakikisha kuwa nyaraka zinapelekwa kwa wakati na kwa kutumia utaratibu unaoaminika na wenye uwajibikaji.

Sehemu ya Tatu ya Muswada inapendekeza marekebisho katika Sheria ya Taasisi za Kazi, Sura ya 300. Sheria hii ilitungwa na Bunge mwaka 2004 ili kuanzisha taasisi za kazi, na kuainisha majukumu, mamlaka na wajibu wa taasisi hizo. Taasisi hizo ni pamoja na Mahakama ya Kazi, Kamishna wa Kazi na Tume ya Usuluhishi na Uamuzi. Tangu kutungwa kwake Sheria hii imerekebishwa mara tano.

Kifungu cha 2 kinapendekezwa kurekebishwa ili kuboresha tafsiri za baadhi ya misamiati iliyotumika katika Sheria. Lengo la marekebisho haya ni kutoa ufafanuzi wa matumizi ya misamiati hiyo ambayo imetumika katika Sheria. Kifungu cha 9 kinapendekezwa kurekebishwa ili kubadili utaratibu wa vikao vya Baraza kutoka katika utaratibu wa mwaka wa kalenda na badala yake kutumia utaratibu wa mwaka wa fedha. Lengo la marekebisho haya ni kuhakikisha vikao vya Baraza vinaendana na kalenda ya Serikali.

Kifungu cha 15 kinapendekezwa kurekebishwa ili kuweka masharti ya kumzuia msuluhishi aliyehusika katika usuluhishi wa mgogoro katika ngazi ya usuluhishi kuamua katika ngazi ya uamuzi. Lengo la marekebisho haya ni kuepuka mgongano wa maslahi katika uamuzi na kuhakikisha uzingatiaji wa misingi ya haki asili. Kifungu cha 16 kinapendekezwa kurekebishwa ili kuweka masharti kwa Mwenyekiti kuongoza vikao vya Tume na kama hatakuwepo, wajumbe waliopo watateua mjumbe mmoja kuongoza kikao. Lengo la marekebisho haya ni kuongeza ufanisi wa utendaji wa Tume.

Kifungu cha 19 kinapendekezwa kurekebishwa ili kuondoa masharti yanayoruhusu msuluhishi aliyehusika katika usuluhishi wa mgogoro kusikiliza mgogoro huo katika ngazi ya uamuzi. Lengo la marekebisho haya ni kuepuka mgongano wa maslahi katika uamuzi na kuhakikisha uzingatiaji wa misingi ya haki asili. Kifungu cha 20 kinapendekezwa kurekebishwa ili kuwezesha Tume kumwita tena shahidi ambaye ameshatoa ushahidi ili kumdadisi na kumtaka kutoa ushahidi zaidi. Lengo la marekebisho haya ni kuhakikisha ufanisi kwa Tume katika kuamua mashauri.

Kifungu cha 27 kinapendekezwa kurekebishwa ili kurekebisha makosa ya kiuandishi. Vifungu vya 43 na 44 vinapendekezwa kurekebishwa kwa kuondoa cheo cha Naibu Kamishna wa Kazi na kutambua maafisa elimu kazi waliopo chini ya Kamishna wa Kazi. Kifungu cha 45 kinapendekezwa kurekebishwa kwa kuboresha majukumu ya maafisa kazi na kuongeza

majukumu ya maafisa elimu kazi. Lengo la marekebisho haya ni kuwezesha utekelezaji bora wa masharti ya sheria hii na kuendana na muundo unaotumika katika ofisi ya Kamishna wa Kazi.

Aidha, kifungu cha 45A kinapendekezwa kurekebisha ili kuboresha masharti kuhusu ufililishaji wa makosa kwa kuweka matakwa ya fedha zinazolipwa katika ufililishaji kuwekwa katika Mfuko Mkuu wa Hazina ya Serikali. Lengo ni kuhakikisha uwazi na uwajibikaji wa fedha za Serikali na kudhibiti upotevu wa mapato ya Serikali. Kifungu cha 55 kinapendekezwa kurekebisha ili kumpa mamlaka Jaji Mkuu kwa kushauriana na Waziri kutengeneza kanuni za kusimamia mienendo ya wawakilishi binafsi. Lengo la marekebisho haya ni kuweka utaratibu bora wa kusimamia utendaji wa wawakilishi binafsi katika Mahakama ya Kazi na Tume. Kifungu cha 56 kinapendekezwa kurekebisha ili kuzuia mwajiri kuwakilishwa na mwakilishi binafsi.

Sehemu ya Nne ya Muswada inapendekeza kufanya marekebisho katika Sheria ya Usimamizi wa Ajira za Wageni, Sura ya 436. Sheria hii ilitungwa na Bunge mwaka 2015 kwa lengo la kuweka utaratibu wa kisheria wa kuajiriwa kwa watu wasiokuwa raia wa Tanzania. Tangu kutungwa kwake Sheria hii imefanyiwa marekebisho mara mbili.

Kifungu cha 9 kinapendekezwa kurekebisha ili kuweka masharti ya kumtaka raia wa kigeni mwenye kibali cha kazi daraja A anayekusudia kujihusisha na kampuni nyingine anayomiliki hisa kupata idhini ya Kamishna wa Kazi. Lengo la marekebisho haya ni kuondoa usumbufu na kuweka mazingira bora ya uwekezaji kwa mwekezaji ambaye ni raia wa kigeni ambapo mara baada ya kupata kibali cha kazi kwa kampuni moja hatahitajika kupata kibali kingine kwa kampuni nyingine atakayomiliki hisa.

Kifungu cha 10 kinapendekezwa kurekebisha kwa kuweka masharti ya kuzuia urejeshwaji wa ada ya maombi ya kibali cha kazi. Lengo la marekebisho haya ni kutoa ufafanuzi kwa waombaji wa vibali vya kazi kuhusiana na ada zinazolipwa wakati wa maombi. Kifungu cha 12 kinapendekezwa kurekebisha ili kuwawezesha wakimbizi wenye hadhi stahiki kuendelea kufanya kazi bila kubanwa na sharti la ukomo wa muda wa kibali cha kazi. Vilevile, kifungu hiki kinarekebisha ili maombi ya

kuhuisha kibali cha kazi kuwasilishwa kwa Kamishna wa Kazi angalau miezi miwili kabla ya kuisha kwa muda wa kibali. Lengo la marekebisho haya ni kuwezesha utekelezaji bora wa masharti ya Sheria hii.

Dodoma,
12th October, 2024

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