



THE REPUBLIC OF KENYA

LAWS OF KENYA

NATIONAL EMPLOYMENT AUTHORITY ACT

NO. 3 OF 2016

Published by the National Council for Law Reporting
with the Authority of the Attorney-General

www.kenyalaw.org

NO. 3 OF 2016

NATIONAL EMPLOYMENT AUTHORITY ACT

ARRANGEMENT OF SECTIONS

PART I — PRELIMINARY

Section

1. Short title.
2. Interpretation.
3. Object of the Act.
4. Application of the Act.
5. Mandatory registration.

PART II — ESTABLISHMENT AND COMPOSITION OF THE AUTHORITY

6. Establishment of the Authority.
7. Headquarters and access to services.
8. Functions of the Authority.
9. Powers of the Authority.
10. The Board of the Authority.
11. Remuneration of Board members.
12. Term of office.
13. Committees of the Board.
14. Delegation by the Board.
15. Conduct of business and affairs of the Board.
16. Powers of the Cabinet Secretary.
17. Director-General.
18. Staff of the Authority.
19. Terms and conditions of service.

PART III — REGISTRATION

20. Registration.
21. Eligibility for registration.
22. Continuous update of data.
23. Factual information to be given.
24. Register.
25. Authorization for use of data.
26. Protection of information.
27. Prohibition from unauthorized use of data.
28. Information on vacancies.
29. Private sector etc vacancies.
30. Applications.
31. Notification of employment.

PART IV — PROVISIONS ON DUE DILIGENCE AND COOPERATION

32. Co-operation with employers.
33. Authority to undertake due diligence.

PART V — PROVISIONS ON TRAINING, COUNSELLING, ETC

34. Facilitation of training.
35. Counselling.

PART VI — INTERNSHIPS

36. Placement for internship.

PART VII – AFFIRMATIVE ACTION

37. Encouragement to employ the youth.

PART VIII — FINANCIAL PROVISIONS

38. Funds of the Authority.
39. Financial year.
40. Annual estimates.
41. Accounts and audit.

PART IX — MISCELLANEOUS PROVISIONS

42. Annual reports.
43. Offences.
44. Regulations.
45. Transitional and savings provisions.

SCHEDULE — PROVISIONS RELATING TO THE CONDUCT
OF BUSINESS AND AFFAIRS OF THE BOARD

NO. 3 OF 2016

NATIONAL EMPLOYMENT AUTHORITY ACT

[Date of assent: 1st April, 2016.]

[Date of commencement: 21st April, 2016.]

AN ACT of Parliament to establish the National Employment Authority; to provide for a comprehensive institutional framework for employment management; to enhance employment promotion interventions; to enhance access to employment for youth, minorities and marginalized groups and for connected purposes

[Act No. 3 of 2016.]

PART I — PRELIMINARY

1. Short title

This Act may be cited as the National Employment Authority Act, 2016.

2. Interpretation

In this Act, unless the context otherwise requires—

“**Authority**” means the National Youth Employment Authority” established by section 6;

“**Board**” means the Board of the Authority constituted pursuant to section 10;

“**Cabinet Secretary**” means the Cabinet Secretary of the ministry for the time being responsible for matters relating to labour;

“**contract of service**” means an agreement, whether oral or in writing, and whether expressed or implied, to employ or to serve as an employee for a period of time, and includes a contract of apprenticeship, internship and indentured learnership;

“**disability**” means a physical, sensory, mental or other impairment, including any visual, hearing, learning or physical incapability, which impacts adversely on a person's social and economic participation;

“**employee**” means a person employed for wages or a salary and includes an apprentice, intern and indentured learner;

“**employer**” means any person, public body, firm, corporation or company who or which has entered into a contract of service to employ any individual and includes the agent, foreman, manager or factor of such person, public body, firm, corporation or company;

“**job seeker**” means a person who is seeking for employment;

“**Kenyan**” means a citizen of Kenya as defined in the Constitution;

“**register**” mean a register maintained by the Authority under section 24; and

“**youth**” has the meaning assigned to it in Article 260 of the Constitution.

3. Object of the Act

This object and purpose of this Act is to—

- (a) give effect to Articles 55(c) and 56(c) of the Constitution;
- (b) provide for the maintenance of a database of all Kenyans seeking employment;
- (c) provide a framework to facilitate increased employment of Kenyans in the national government, county government, State organs, and national and county government entities;
- (d) provide for a framework and facilitation of employment of Kenyans in the private sector;
- (e) facilitate and promote equity and diversity, and eliminate discrimination in the employment of Kenyans;
- (f) give effect to the constitutional values and principles in matters of employment.

4. Application of the Act

This Act applies to—

- (a) the national government;
- (b) the private sector; and
- (c) the informal sector.

5. Mandatory registration

In order to facilitate access to employment pursuant to Article 55(c) of the Constitution, a person seeking employment shall register with the Authority in accordance with this Act.

PART II — ESTABLISHMENT AND COMPOSITION OF THE AUTHORITY

6. Establishment of the Authority

(1) There is established a body to be known as the National Employment Authority.

(2) The Authority is a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) borrowing money or making investments;
- (d) entering into contracts; and
- (e) doing or performing all other acts or things for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

7. Headquarters and access to services

(1) The headquarters of the Authority shall be in Nairobi.

(2) The Authority shall ensure reasonable access of its services in all parts of Kenya, so far as it is appropriate to do so having regard to the nature of the service.

(3) Notwithstanding subsections (1) and (2), the Authority shall keep and maintain an up-to-date data system and other service delivery mechanisms that are accessible in all parts of Kenya.

8. Functions of the Authority

The functions of the Authority shall be to—

- (a) advise on formulation of employment policies and strategies for national and county governments;
- (b) advise both the national and county governments on any policy matter concerning employment;
- (c) develop methodologies for employment measurement, management and promotion;
- (d) conduct periodic surveys on labour market skills requirements and advice training institutions and job seekers appropriately to ensure that training and skills match the job market requirements;
- (e) monitor implementation of employment policies and programmes;
- (f) facilitate cooperation with the national government, the private sector, the informal sector and foreign governments and institutions to promote and increase access to employment;
- (g) facilitate, continuous training and other activities of Kenyans to improve of their chances of employment and work skills;
- (h) register persons seeking employment;
- (i) maintain an integrated and up-to-date database of all persons seeking employment;
- (j) facilitate the employment and placement of job seekers in formal and informal or any other form of employment, locally and internationally;
- (k) circulate in a timely manner job vacancies advertised to job seekers throughout Kenya through appropriate means including use of social media, internet, and published materials;
- (l) provide counseling to the unemployed and undertake activities to promote employment;
- (m) facilitate the implementation of national policies on employment;
- (n) take necessary steps to encourage equal opportunity employment practices for the benefit of the unemployed; and
- (o) perform such other function as may be assigned to it by any other written law.

9. Powers of the Authority

The Authority shall have powers for the purpose of carrying out its functions to perform such acts as may be authorized by this Act or any other written law and in particular—

- (a) advise the Cabinet Secretary on any matter deemed by the Authority to be necessary or expedient to be considered by the State in connection with the provisions of this Act or the application thereof and on any other matter relating to employment which has been referred by the Cabinet Secretary to the Authority for the advice and recommendations of the Authority;

- (b) conduct studies on any matter relating to its mandate;
- (c) obtain information relevant to the discharge of its function;
- (d) take the necessary steps to protect the unemployed against any form of abuse or exploitation;
- (e) subject to the provisions of this Act, cause its work to be performed by persons employed or appointed by it in its terms of this Act;
- (f) become a member of an association or organization which seeks to promote any matter in which the Authority has an interest;
- (g) establish relations with or enter into cooperation agreements with bodies or offices offering similar services in other countries;
- (h) vest in or delegate to any officer, any of its committees such functions of the Authority as the Authority may determine; and
- (i) appoint and or employ such officer, any of its committees such functions of the Authority to discharge as required under this Act.

10. The Board of the Authority

(1) The Authority shall be governed by a Board consisting of the following members—

- (a) a chairperson appointed by the Cabinet Secretary;
- (b) the Principal Secretary of the Ministry for the time being responsible for matters relating to finance or his representative;
- (c) the Principal Secretary of the Ministry for the time being responsible for matters relating to labour or his representative;
- (d) the Principal Secretary of the Ministry for the time being responsible for foreign affairs or his representative;
- (e) the Secretary of the Public Service Commission;
- (f) the Secretary of the Commission on University Education;
- (g) the Secretary to the Kenya Association of Technical Training Institutions;
- (h) a person appointed by the Cabinet Secretary from the largest representative association of employers;
- (i) the Director-General, who shall be the secretary; and
- (j) two youths, one man and one woman, nominated by the National Youth Council and appointed by the Cabinet Secretary.

(2) A person shall be qualified for appointment as the chairperson of the Board if that person—

- (a) is a citizen of Kenya;
- (b) meets the requirements of Chapter Six of the Constitution; and
- (c) has at least seven years' experience in human resource management or its equivalent.

11. Remuneration of Board members

Members of the Board shall be paid such remuneration and allowances as the Salaries and Remuneration Commission shall determine.

12. Term of office

Members of the Board, other than the *ex-officio* members, shall hold office for a term of three years and shall be eligible for reappointment for one further and final term of three years.

13. Committees of the Board

(1) The Board may establish such committees as may be necessary for the proper discharge of its functions under this Act or any other written law.

(2) The Board may co-opt into the membership of the committees established under subsection (1) any person whose knowledge and expertise may be required.

14. Delegation by the Board

(1) The Authority may, by resolution generally of the Board or in any particular case, delegate in writing, to a committee or any officer, member of staff or agent of the Authority, the exercise of any of the powers or the performance of any of the functions or duties of the Authority under this Act.

(2) A delegation under subsection (1) shall not prevent the Authority from exercising the power in question.

(3) A delegation under this section—

- (a) shall be subject to such conditions as the Board may impose;
- (b) shall not divest the Authority of the responsibility concerning the exercise of the powers or the performance of the duty delegated; and
- (c) may be withdrawn, and any decision made by the person to whom the delegation is made may be withdrawn or varied by the Authority.

15. Conduct of business and affairs of the Board

(1) The conduct of business and affairs of the Board shall be as set out in the Schedule.

(2) Except as provided in the Schedule, the Board may regulate its own procedure.

16. Powers of the Cabinet Secretary

(1) The Authority shall operate under the supervision of the Cabinet Secretary.

(2) Where the Authority fails to maintain any prescribed standard in the fulfilment of its functions under this Act, the Cabinet Secretary may give general or special directions to the Authority describing the extent of the failure and stating the steps required to remedy the situation.

17. Director-General

(1) There shall be a Director-General of the Authority who shall be appointed competitively by the Board.

(2) A person shall be qualified to be appointed as a Director-General if that person—

- (a) holds a degree from a university recognized in Kenya;
- (b) meets the requirements of Chapter Six of the Constitution;
- (c) has at least five years experience, two of which shall be in a management level; and
- (d) has not attained the age of thirty-five years at the time of appointment.

(3) The Director-General shall hold office for a period of three years, on such terms and conditions of employment as the Board may determine, and shall be eligible for re-appointment.

(4) The Director-General may be removed from office by the Board in accordance with the terms and conditions of service for—

- (a) serious violation of the Constitution or any other law, including a contravention of Chapter Six;
- (b) gross misconduct, whether in the performance of the member's or office holder's functions or otherwise;
- (c) physical or mental incapacity to perform the functions of office;
- (d) incompetence; or
- (e) bankruptcy.

(5) Prior to removal under subsection (4), the Director-General shall be given—

- (a) sufficient notice of the allegations made against him or her; and
- (b) an opportunity to present a defence against the allegations.

(6) The Director-General shall—

- (a) subject to the direction of the Board, be responsible for the day to day management of the Authority;
- (b) in consultation with the Board, be responsible for the direction of the affairs and transactions of the Authority, the exercise, discharge and performance of its objectives, functions and duties, and the general administration of the Authority;
- (c) be the secretary of the Board.

18. Staff of the Authority

(1) The Board shall competitively appoint suitably qualified staff as may be necessary for the efficient performance of the functions of the Authority.

(2) In the appointment of staff of the Authority, the Board shall comply with the values and principles set out in the Constitution and in particular—

- (a) afford adequate and equal opportunities for appointment and advancement at all levels, of youth, men and women, members of all ethnic groups, gender and persons with disabilities;
- (b) exercise transparency in the recruitment process;
- (c) ensure competitive recruitment and selection on the basis of personal integrity, competence and suitability.

19. Terms and conditions of service

(1) The staff of the Authority shall serve the Authority on such conditions of service as the Board may, in consultation with the Public Service Commission and the Salaries and Remuneration Commission, determine.

PART III - REGISTRATION

20. Registration

(1) A person seeking employment may register with the Authority.

(2) The Authority shall not charge a fee or any form of charges to a Kenyan for registration under this Act.

21. Eligibility for registration

A person shall be eligible for registration under this Act if the person is a citizen of Kenya or a person who is ordinarily resident in Kenya.

22. Continuous update of data

It shall be the responsibility of the applicant to continuously update or communicate to the Authority any changes on their bio-data as and when they arise.

23. Factual information to be given

(1) An applicant shall at all times ensure that all information given to the Authority is factual.

(2) The Authority shall not be responsible for false or inaccurate information submitted by an applicant.

(3) An applicant who offers false or inaccurate information to the Authority commits an offence and shall be liable, on conviction, to a fine not exceeding fifty thousand shillings, or to imprisonment for a term not exceeding three months, or both.

24. Register

(1) The Authority shall keep and maintain an up-to-date register of all job seekers seeking employment.

(2) The register referred to under subsection (1) shall contain—

- (a) particulars of the job seekers seeking employment;
- (b) academic qualifications of the job seekers;
- (c) work experience, if any, of the job seekers;
- (d) contact details of the job seekers;
- (e) the county from which the job seekers comes from;
- (f) ethnicity and tribe of the job seekers, if known;
- (g) details of whether the job seeker is living with any form of disability or challenge;
- (h) gender;
- (i) area of specialization, interest or qualifications
- (j) such other detail as the Authority may consider necessary.

25. Authorization for use of data

(1) The Authority shall seek authorization from each particular job seeker seeking employment to share with prospective employers all or any particular details of the job seeker seeking employment contained in the register.

(2) The consent and authorization obtained under subsection (1) shall be given to the Authority at the registration of the job seeker under section 20.

- (3) The Authority shall use the data obtained under this Act for—
- (a) securing employment and internship opportunities for the job seeker; and
 - (b) informing the national government, county governments and the private sector on policies on matters affecting employment.

(4) Where the Authority wishes to use the data for any other purpose other than the purposes authorized under this Act, the Authority shall seek individual consent from the respective or affected job seeker.

26. Protection of information

(1) The Authority shall, at all times, take measures to ensure protection of data in its possession against abuse or any other adverse consequences.

(2) The right to privacy and other constitutional and statutory rights of the persons seeking employment shall not be compromised.

27. Prohibition from unauthorized use of data

(1) The Authority shall not use the data obtained under this Act for any other purpose other than the purpose authorized under this Act.

(2) A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine not exceeding one million shillings or imprisonment for a term not exceeding three years, or both.

28. Information on vacancies

(1) Whenever a vacancy arises in a public or State office at the national government level, the concerned State office, public office or national entity shall convey details of the vacancy to the Authority.

(2) Whenever a vacancy occurs, the appointing office shall give priority to the job seekers registered by the Authority who possess the qualifications or skills sought.

(3) Where the qualifications or skills sought are not available in the Authority's database, the appointing office shall invite applications from qualified applicants through advertisements.

(4) The Authority shall, immediately upon receipt of the notification under subsection (1), circulate the vacancy information to all job seekers who have subscribed to and registered themselves with the Authority.

29. Private sector etc vacancies

(1) The Authority shall, on its own motion or through other means, establish the vacancies available in the private sector, informal sector or any other sector.

- (2) Where the Authority establishes the existence of such vacancies, it shall—
- (a) upload such information to its website; and
 - (b) convey such information to the job seekers with qualifications that fit the specifications and qualifications required by the prospective employers.

30. Applications

(1) A youth registered under this Act may apply directly to a prospective employer.

(2) The Authority may forward applications or details of any qualified candidates to any prospective employer for their consideration and employment of the Kenyans registered under this Act.

(3) A State entity, public office or State office may request for data of qualified youth from the Authority for purposes of considering them for employment.

(4) It shall be the responsibility of the applicant to make and tender their application upon receipt of the notification of a vacancy under this Act.

31. Notification of employment

(1) Upon successful interview and securing of employment by a person registered under this Act, the successful applicant shall communicate the same to the Authority in the prescribed manner.

(2) The Authority shall maintain a record of all successful applicants who have secured employment through the Authority.

(3) The Authority shall update its records accordingly and remove an applicant who obtains employment from the register kept under section 24.

PART IV — PROVISIONS ON DUE DILIGENCE AND COOPERATION

32. Co-operation with employers

(1) The Authority shall take all steps necessary to foster and maintain a good working relationship and cooperation with all prospective employers including those in the private and informal sectors.

(2) The Authority shall take measures necessary to ensure that demands of the sectors referred to in subsection (1) are addressed to the greatest extent possible.

33. Authority to undertake due diligence

(1) The Authority shall, on its own motion, or using other state machineries, undertake due diligence on private companies seeking its services under this Act.

(2) The Authority shall not partner with any prospective employer where the Authority or any national security organ has, upon due diligence, established possible employment malpractices or violation of laws of Kenya.

(3) Notwithstanding subsection (1) and (2), the Authority shall take necessary measures to ensure that the youth are not denied access to employment unreasonably.

PART V — PROVISIONS ON TRAINING, COUNSELLING, ETC

34. Facilitation of training

The Authority shall, through community initiative and similar fora, facilitate training on any matter relating to employment to Kenyans seeking employment.

35. Counselling

(1) The Authority shall provide counselling services to Kenyans seeking employment on general matters relating to employment, including career progression, choice of careers, among others.

(2) The Authority may offer such counselling in its offices, at institutions of higher learning, schools and other fora, to educate and disseminate information with regard to trends of employment and other factors that influence the labour market.

PART VI — INTERNSHIPS

36. Placement for internship

(1) The Authority shall facilitate placement of students at tertiary institutions in positions of internship or attachment during and after completion of their study.

(2) The Authority shall, during or after successful completion of a person's undergraduate, diploma or certificate studies, make efforts to find paid internship for that person in a Government institution or any other sector, as the person seeks employment individually or through the Authority.

(3) A student at a tertiary institution or institution of higher learning who wishes to be placed on internship or attachment by the Authority shall furnish the Authority, in a manner provided by the Authority, with personal and academic details to facilitate such placement.

(4) The Authority shall maintain a record of—

- (a) all students seeking internship or attachment; and
- (b) all students who successfully attain positions of internship or attachment.

(5) The Authority shall monitor all placements to ensure that persons on attachment or internship are not exploited or their rights violated by any employer or institution in which they are undertaking an internship or attachment.

(6) The Cabinet Secretary may, in consultation with the Authority, make regulations generally to give further effect to this section.

PART VII — AFFIRMATIVE ACTION

37. Encouragement to employ Kenyans

(1) The State shall, through the Authority, encourage private and public institutions to employ Kenyans in all positions, including positions of leadership and management.

(2) The State shall come up with incentives to reward any private institution that employs Kenyans within six months of completion of their certificate or undergraduate studies, and who do not possess more than five years work experience.

(3) The Government shall take affirmative action measures and actions designed to promote the employment of Kenyans in management and other levels of employment regardless of their years of experience.

PART VIII — FINANCIAL PROVISIONS

38. Funds of the Authority

The funds of the Authority shall comprise—

- (a) such funds as may be appropriated by the National Assembly for purposes of the Authority;
- (b) such moneys or assets as may accrue to or vest in the Authority in the course of the exercise of its powers or the performance of its functions under this Act of any other written law; and

(c) all moneys from any other source provided for, donated or lent to the Authority.

(2) Notwithstanding subsection (1)(c), the Authority shall not accept funds, gifts or other donations from any person it regulates.

(3) Any moneys donated to the Authority shall be declared at the end of each financial year.

(4) There shall be paid out of the funds of the Authority all sums required to defray the expenditure incurred by the Authority in the exercise of its powers and the performance of its functions under this Act.

39. Financial year

The financial year of the Authority shall be the period of twelve months ending on the thirtieth day of June in each year.

40. Annual estimates

(1) At least three months before the commencement of each financial year, the Authority shall cause to be prepared estimates of revenue and expenditure of the Authority for that year.

(2) The annual estimates shall make provision for the estimated expenditure of the Authority for the financial year, and in particular, the estimates shall provide for—

- (a) the payment of salaries, allowances, pensions, gratuities and other charges in respect of the staff of the Authority;
- (b) the proper maintenance of the buildings and grounds of the Authority;
- (c) the maintenance, repair and replacement of the equipment and other property of the Authority;
- (d) the creation of such reserve funds as the Authority may consider appropriate to meet the recurrent expenditure and contingent liabilities of the Authority.

(3) The annual estimates shall be approved by the Authority before the commencement of the financial year to which they relate and shall be submitted to the Cabinet Secretary for approval with the concurrence of the Treasury, and thereafter the Authority shall not increase the annual estimates without the consent of the Cabinet Secretary.

41. Accounts and audit

(1) The Authority shall cause to be kept all proper books and other records of accounts of the income, expenditure, assets and liabilities of the Authority.

(2) The accounts of the Authority shall be audited and reported upon in accordance with the provisions of the Public Audit Act, (No. 12 of 2003).

PART IX — MISCELLANEOUS PROVISIONS

42. Annual reports

(1) At the end of each financial year or upon request by the Cabinet Secretary, the Authority shall submit an annual report on the discharge of its functions under this Act or any other written law.

- (2) The report referred to under subsection (1) shall include—
- (a) number of youth registered in the period under review;

- (b) number of youth who have secured employment during the period under review;
- (c) any impediment encountered in the discharge of the functions of the Authority;
- (d) any policy matters that the Authority may require to be addressed by the Cabinet Secretary, national or county governments;
- (e) any other matter pertinent to the discharge of its functions under this Act.

(3) An annual report referred to under this section shall be published and publicized.

43. Offences

A person who contravenes any provision of this Act to which no penalty has been prescribed commits an offence and shall be liable, on conviction, to a fine not exceeding five hundred thousand shillings in the case of a natural person, and two million shillings in the case of a firm or body corporate, or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

44. Regulations

(1) The Cabinet Secretary may, in consultation with the Authority, make regulations for the better carrying into effect the provisions of this Act

(2) For the purposes of Article 94(6) of the Constitution—

- (a) the authority of the Cabinet Secretary to make regulations under this Act shall be limited to bringing into effect the provisions of this Act and for the fulfillment of the objectives of this Act;
- (b) the principles and standards applicable to the regulations made under this section are those set out in the Interpretation and General Provisions Act (Cap. 2) and the Statutory Instruments Act (No. 23 of 2013).

45. Transitional and savings provisions

(1) Upon the commencement of this Act, the functions that were immediately before the commencement of this Act being undertaken by the National Employment Bureau within the Ministry responsible for labour shall be transferred to the Authority.

(2) All property, assets, rights, powers, liabilities and duties, whether arising under any written law or otherwise, which immediately before the commencement of this Act were vested in, imposed on or enforced against the Government in respect of the National Employment Bureau shall, on the commencement of this Act, be transferred to, vested in, imposed on or be enforceable against the Authority.

(3) The lawful directions, orders, rules, authorizations and other things published, made, given or done by the National Employment Bureau relating to its functions subsisting at the commencement of this Act shall be deemed to have been published, given, made or done by the Authority.

(4) Any legal act or thing done or purported to be done, or any act or thing omitted to be done on behalf of, or in the name of the National Employment Bureau that relates to its functions before the commencement of this Act, by any person acting in good faith and with due or apparent authority in that behalf, shall be deemed to be an act or thing made or done or omitted to be done by the Authority.

(5) The Cabinet Secretary for Finance may, in consultation with the Cabinet Secretary, by Order in the Gazette, direct that any assets and liabilities which immediately before the Commencement of this act, were vested in the Government for the use of the National Employment Bureau shall, on such commencement, vest in the Authority.

(6) Every person who, immediately before the commencement of this Act, was an employee of the National Employment Bureau shall, upon the commencement of this Act, be employed or appointed as a member of staff of the Authority for the unexpired period, if any, of the term.

(7) The employees of the Government who were, immediately before the commencement of this Act, serving in the National Employment Bureau at the Ministry responsible for labour shall, upon the commencement of this Act, be given an option to serve in the Authority, and if not appointed by the Authority, be redeployed in the public service.

SCHEDULE

PROVISIONS RELATING TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD

1. Tenure of office

The chairperson and members of the Board, other than *ex-officio* members, shall hold office for a term of three years and shall be eligible for re-appointment for one further and final term of three years.

2. Appointment

Members of the Board, other than *ex officio* members, shall be appointed in such a manner that the respective expiry dates of their terms of office fall at different times.

3. Vacation of office

A member of the Board, other than an *ex officio* member, may—

- (a) at any time resign from office by notice in writing, in the case of the chairperson, to the President, and in the case of any other member, to the Cabinet Secretary;
- (b) be removed from office by the President or the Cabinet Secretary, as the case may be, if the member—
 - (i) has been absent from three consecutive meetings of the Board without the permission of the Board;
 - (ii) is adjudged bankrupt or enters into a composition scheme or arrangement with his or her creditors;
 - (iii) is convicted of an offence involving dishonesty or fraud;

- (iv) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings;
- (v) is incapacitated by prolonged physical or mental illness;
- (vi) is found to have acted in a manner inconsistent with the aim and objectives of this Act;
- (vii) fails to comply with the provisions of this Act relating to disclosure; or
- (viii) is otherwise unable or unfit to discharge his or her functions as member of the Board.

4. Vice-chairperson

At the first meeting of the Board, the members shall elect a vice-chairperson, from among the members appointed under this Act.

5. Meetings

(1) The Board shall meet at least four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

(2) Notwithstanding the provisions of subparagraph (1), the chairperson may, and upon requisition in writing by at least five members shall, convene a special meeting of the Board at any time for the transaction of the business of the Board.

6. Notice of meeting

Other than in the case of a special meeting or unless three quarters of members agree, every member of the Board shall be given at least fourteen days written notice of every meeting of the Board.

7. Quorum

The quorum for the conduct of business of the Board shall be half of the members, and unless a unanimous decision is reached, decisions shall be by a majority vote of the members present, and in the case of an equality of votes, the chairperson or the person presiding shall have a casting vote.

8. Chairperson to preside

The chairperson shall preside over all meetings of the Board in which he or she is present, but in his or her absence, the vice-chairperson shall preside and in the absence of the vice-chairperson, the members present shall elect one of their members who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson

9. Disclosure of interest

(1) If a member is directly or indirectly interested in any matter before the Board, and is present at the meeting of the Board at which the matter is the subject of consideration, he or she shall, at the meeting and as soon as practicable after the commencement, disclose that fact and shall be excluded at the meeting at which the matter is being considered.

(2) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

10. Board may regulate own procedure

Subject to the provisions of this Schedule, the Board may regulate its own procedure.
