

**SPECIAL ISSUE**

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LEGAL NOTICE NO. 110

**THE LABOUR INSTITUTIONS ACT**

*(No. 12 of 2007)*

IN EXERCISE of the powers conferred by section 60(1) of the Labour Institutions Act, 2007, the Cabinet Secretary for Labour and East African Affairs makes the following Regulations:—

**THE LABOUR INSTITUTIONS (PRIVATE EMPLOYMENT AGENCIES) REGULATIONS, 2016**

**PART I—PRELIMINARY**

1. These Regulations may be cited as the Labour Institutions (Private Employment Agencies) Regulations, 2016.

Citation.

2. In these Regulations, unless the context otherwise requires—

Interpretation

“Director” means the Director of Employment appointed under section 30 of the Labour Institutions Act, 2007;

“employment office” means an office established under the Ministry for the time being responsible for matters relating to employment;

“foreign employment” means employment of Kenyan workers outside Kenya under a valid contract of employment;

“manager” means a person who heads, supervises or controls the operations of a private employment agency or branch thereof;

“principal” means an employer hiring Kenyans for employment through a registered employment agency;

“registration” means the grant of authority in writing to a private employment agency to recruit Kenyans to work locally or abroad.

**PART II—REGISTRATION OF PRIVATE EMPLOYMENT AGENCIES**

3. An Agency may be registered by the Director to carry out the business of a private employment agency if—

Eligibility for registration.

- (a) it is duly registered as a limited liability company under the Companies Act and in which at least one Kenyan citizen owns shares;
- (b) the directors have attained at least O-level certificate or its equivalent;
- (c) the manager is in possession of at least a degree in a business related field from a university recognized in Kenya and relevant experience of at least three years;

- (d) it has a minimum share capital of five million shillings;
- (e) it is licensed to carry out business within the country of intended operation;
- (f) it has a registered fully equipped physical office covering not less than 225 square feet;
- (g) it has a tax compliance certificate from the Kenya Revenue Authority;
- (h) it has completed form ML/NEB/FE/SB/1 set out in the First Schedule and executed a guarantee of one million five hundred thousand shillings with a reputable bank or insurance agency in Kenya, to be used for the purpose of repatriation, paying wages and other entitlements in the event of default by the agent or the employer;
- (i) all Directors have valid Police Clearance Certificates from the Directorate of Criminal Investigations which must be renewed after every twelve months from the date of issuance;
- (j) is a member of an association of private employment agencies recognized by the Director; and
- (k) it makes a commitment to observe the provisions of the existing code of conduct for recruitment agencies.

4. An application for registration to operate a private employment agency shall be submitted in writing to the Director together with—

Procedure for application for registration.

- (a) the duly completed prescribed form;
- (b) a certified copy of a certificate of incorporation;
- (c) a certified copy of academic and professional certificates of the managers and directors;
- (d) a copy of operating licence from the relevant county authority;
- (e) a duly signed valid lease or tenancy agreement authenticated by a Commissioner for Oaths;
- (f) copies of identity cards or passports for all directors ;
- (g) two recent passport size photographs of the directors ; and
- (h) valid Police Clearance Certificates from the Directorate of Criminal Investigations for the applicant and all directors.

5. (1) If the Director is satisfied that an applicant qualifies to be registered, the Director shall issue the certificate of registration upon the payment of the fees specified in the Second Schedule.

Registration certificate.

(2) A registration certificate issued under these Regulations shall be valid for a period of one year.

(3) Notwithstanding the provisions of paragraph (2), a certificate of registration shall expire on the anniversary date of issuance.

6. (1) An application for the renewal of a certificate of registration shall be submitted at least one month before its expiry to the Director accompanied by—

Renewal or replacement of registration certificate.

- (a) proof that the agency has been submitting returns to the Director in the prescribed form;
- (b) proof that the agency has renewed the guarantee specified in regulation 3(h);
- (c) audited financial statements and accounts; and
- (d) a copy of a valid lease agreement in case of change of office location.

(2) If the Director is satisfied that the applicant qualifies for renewal of the registration certificate, the Director shall issue the renewal certificate upon payment of the prescribed fee set out in the Second Schedule.

(3) An application for the replacement of a certificate of registration shall be submitted to the Director accompanied by the documents set out in subparagraphs (1)(a) to (d).

7. Agencies shall charge their principals a service fee for the recruitment, documentation and placement of workers.

Fees and commissions.

8. A foreign contract of employment shall specify the party responsible for the payment of the—

Cost to be met by agents or employer.

- (a) visa fee;
- (b) airfare; and
- (c) medical examination:

Provided that reasonable administrative costs may be charged by the agent in respect of trade test, occupational test and the administrative fees shall not exceed the job seeker's proposed one month's salary.

9. (1) All job opportunities and visas for employment shall be notified to the Director.

Notification and advertisement for jobs.

(2) Registered agencies shall advertise job vacancies either within their premises, public offices or through the media provided that such advertisement is notified to the Director.

(3) An advertisement made under paragraph (1) shall specify—

- (a) the name and address of the agency, including its physical address;
- (b) the place where the vacancy is available;
- (c) the terms and conditions of employment;
- (d) the job specification and description;
- (e) the number of positions available; and
- (f) the reference number of the registration certificate of the agency, registration certificates for the company and the county trading licence.

FIRST SCHEDULE

(r 3(h))

FORM ML/NEB/FE/SB/1

REPUBLIC OF KENYA  
THE LABOUR INSTITUTIONS ACT  
(No. 12 of 2007)  
SECURITY BOND

KNOW ALL MEN BY THESE PRESENTS THAT WE (1)\* .....

Of.....

(hereinafter referred to as the obligor)and(2)\*\* .....

of.....

and (3)\*\*\* .....

of.....

(hereinafter referred to as the sureties) are jointly and severally held and firmly bound unto the Government of Kenya in the sum of.....

Of good and lawful money of Kenya to be paid to the said Government, for which payment well and truly to be made we bind ourselves and each and every one of us jointly and severally for and in the whole, our heirs, executors, and administrators and every one of them firmly by these presents.

Dated this .....day..... of.....

NOW AND ABOVE WRITTEN OBLIGATION is conditioned to be void if the said sureties or any of them shall on demand pay forthwith to the said Government any expenses which may, within.....from the date hereof, be incurred by the said Government in connection with the unpaid salaries, maintenance Repatriation from the country of engagement .....

SIGNED by the above bounded obligor in the presence of:.....  
(Obligor)

(Witness) .....

(Address of Witness).....

SIGNED by the above bounded first surety in the presence of:.....

(First Surety)

(Witness) .....

(Address of Witness).....

SIGNED by the above bounded second surety in the presence of:.....

(Second surety)

\*Name of applicant or some person on his behalf

\*\* Name of sureties

\*\*\*Name of Migrant Worker

SECOND SCHEDULE

(r5)

FEES

	<i>Description of fee</i>	<i>Amount of fee (KSh.)</i>
1.	Fees for an initial application for the registration of an agency dealing with recruitment for foreign labour market	500,000
2.	Fees for an initial application for registration of an agency dealing with recruitment for local/ Kenyan labour market	125, 000
3.	Fees for an application for the renewal of registration of an agency dealing with recruitment for foreign labour market	250,000
4.	Fees for an application for renewal of registration of an agency dealing with recruitment for local/ Kenyan labour market	75,000
5.	Fees for a replacement of a certificate of registration	10,000

Made on the 12th May, 2016.

PHYLLIS KANDIE,  
*Cabinet Secretary for Labour and East African Affairs.*

LEGAL NOTICE NO. 111

THE COMPETITION ACT, 2010

(No. 12 of 2010)

EXCLUSION OF THE PROPOSED ACQUISITION OF 49% OF THE SHARES IN  
FINANCIAL ACCESS (EAST AFRICA) LIMITED BY FINANCIAL ACCESS  
CONSULTING SERVICES B.V.

IN EXERCISE of the powers conferred by section 42(1) of the Competition Act, 2010, the Competition Authority of Kenya excludes the proposed acquisition of 49% of the shares in Financial Access (East Africa) Limited by Financial Access Consulting Services B.V. from Part IV of the Act due to the following reasons—