

STATUTORY INSTRUMENTS

2005 No. 62.

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

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STATUTORY INSTRUMENTS

2005 No. 62.

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

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

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

PART I—PRELIMINARY

1. Title

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

2. Objectives

The objectives of these Regulations are—

- (a) to promote full employment and equality of employment opportunities for all and to uphold the dignity and rights of Ugandan migrant workers;
- (b) to allow deployment of Ugandans to countries which have existing labour and social laws or are signatories to international agreements protecting the rights of migrants;
- (c) to protect every Ugandan desiring to work abroad by securing the best possible terms and conditions of employment;
- (d) to provide a mechanism for issuing licenses to recruitment agencies.

3. Interpretation

In these Regulations unless the context otherwise requires—

- “abroad” means outside of Uganda;
- “accreditation” means the grant of authority to a foreign principal to engage Ugandan migrant workers for specific jobs through a recruitment agency for overseas employment;
- “Administration” means the External Employment Unit of the Ministry responsible for employment;
- “allottee” means any person named or designated by the overseas migrant worker as the recipient of his or her remittances to Uganda;
- “authentication” means an attestation made by a duly authorised officer by which he or she certifies that a person appeared before him or her and is known to him or her to have voluntarily executed a document;

- “beneficiary” means a person to whom compensation benefits due under an employment contract are payable by operation of law or those to whom proceeds of an insurance cover are likewise payable;
- “claim” means a valid contractual claim for compensation or benefits arising from employer-employee relationship or for any personal injury, illness or death at levels provided for within the terms and conditions of employment of a Ugandan migrant worker;
- “contract agreement” means a written agreement entered into by and between a foreign principal and a recruitment agency defining their respective rights and obligations;
- “derogatory record” refers to the existence of negative information such as but not limited to illegal recruitment, falsification, swindling or conviction for crimes involving moral turpitude;
- “manpower pooling” means potential migrants databank;
- “Ministry” means the Ministry responsible for employment;
- “non-licensee” means any partnership or company which has no valid license to engage in recruitment and placement of Ugandan migrant workers, or whose license is suspended;
- “Permanent Secretary” means the Permanent Secretary of the Ministry responsible for employment;
- “personal injury” means any disease or impairment of a Ugandan migrant worker’s physical or mental condition or death arising out of or in connection with his or her employment;
- “foreign principal” means a foreign person, partnership or company engaging and employing a Ugandan migrant worker through a licensed recruitment agency;
- “provisional license” means a license issued to a new recruitment agency with a limited period of one year;
- “recruitment agency” or “agency” means a partnership or company duly licensed by the Administration to recruit and deploy Ugandan migrant workers for employment abroad;
- “recruitment and placement” means any act of canvassing, contracting, transporting, utilising, hiring, or procuring workers, and referrals, contract services, promising or advertising for migrants employment, whether for profit or not;
- “registration” means the act of recognising and entering in the official records of the Administration the existence of a foreign principal whose documents have been verified and authenticated by the appropriate officials of the government of the foreign principal;
- “standard employment contract” means a written government-approved employment contract stipulating a specific period of employment and formulated through tripartite consultation individually adopted and agreed upon by the foreign principal and the Ugandan migrant worker;

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

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

PART II—LICENSING OF RECRUITMENT AGENCIES

4. Licensing of recruitment agencies

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

5. Recruitment agencies to be partnerships or companies

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

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

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

6. Persons not eligible to be licensed as recruitment agencies

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

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

7. Application for license

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

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

- (a) the name and address of—
 - (i) the proposed recruitment agency;

(ii) the directors and shareholders, if it is a company;

(iii) the partners, if it is a partnership;

(b) the nationality and occupation of the directors, shareholders or partners;

(c) the proposed location of the recruitment agency offices;

(d) a copy of the partnership deed or the memorandum and articles of association duly registered with the Uganda Registration Services Bureau;

(e) documentary evidence to show—

(i) that the partnership or company has a minimum authorized capital of ten million Uganda shillings;

(ii) in case of a partnership, verified income tax returns for the past one year and an account showing a maintaining balance of not less than ten million Uganda shillings;

(iii) in the case of a newly incorporated company, that the company has an account showing a maintaining balance of not less than ten million Uganda shillings;

(iv) for an existing company, a verified financial statement, income tax returns for the preceding two years and an account showing a maintaining balance of not less than ten million Uganda shillings;

(f) certification from pre-employment services of the Administration on the existence of new markets;

(g) proof of international connections including websites and emails;

(h) clearance of all members of the board of directors or partners and employees of the agency from the Criminal Investigation Department, the Administration and other Government agencies.

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

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

(b) ensure that any Ugandan migrant worker recruited or deployed by the agency is qualified and holds the documents necessary for the job concerned;

(c) ensure that contracts of employment are in accordance with the standard employment contract and other applicable laws, regulations and collective bargaining agreements;

(d) ensure that Ugandan migrant workers are informed of their rights and duties under their contracts of employment and the articles of agreement prior to or in the process of engagement;

- (e) ensure that proper arrangements are made for a Ugandan migrant worker to examine his or her contract of employment and articles of agreement before and after he or she has signed and for the worker to receive a copy of the contract of employment;
- (f) assume full and complete responsibility for all claims and liabilities which may arise in connection with the use of the license;
- (g) guarantee compliance with the applicable labour legislations of Uganda and applicable regulations of the employment state and international labour bodies such as International Labour Organisation;
- (h) assume full and complete responsibility for all acts of its officials, employees and representatives done in connection with recruitment and placement;
- (i) deploy at least fifty Ugandan migrant workers to its new market within one year from issuance of its license which shall also be a condition to the accreditation of an already existing foreign principal;
- (j) provide individual income tax returns of the proprietor, partners, or board of directors as the case may be, for the past one year;
- (k) provide a list of all its employees involved in the recruitment and placement, together with all their particulars including their appointment, bio-data and two copies of their passport size photographs;
- (l) proof of publication of notice of the application with the names of the proprietor, partners, incorporators and officers;
- (m) provide a certificate of attendance of the representative of the company or partnership in a pre-application seminar conducted by the Administration.

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

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

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

8. Factors to be considered for grant of license

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

- (a) the financial status and history of the applicant;
 - (b) the competence and integrity of the proposed management;
 - (c) the adequacy of the applicant's capital structure;
 - (d) whether the directors, shareholders or employees have a criminal record;
- and

(e) any other matter, which the Administration may regard as relevant to the application.

9. Processing of applications

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

10. Grant of license

(1) The Administration may—

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

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

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

(3) The license shall clearly indicate—

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

(b) any conditions attached to the license.

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

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

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

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

11. Refusal of grant of license

The Administration shall not grant a licence—

(a) to a partnership or company that has been blacklisted by the Internal Security Organisation or the Administration as having a derogatory record;

(b) to a partnership whose partners or employees are suspected of or have been found guilty of carrying out illegal recruitment;

- (c) to a company whose shareholders, directors or employees are suspected of or have been found guilty of carrying out illegal recruitment; and
- (d) to a recruitment agency whose licence has been previously revoked by the Administration for contravention of these Regulations.

12. Effect of change of ownership

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

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

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

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

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

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

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

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

13. Renewal of license

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

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

- (a) renewed bank guarantee of fifty million Uganda shillings with a commercial bank to primarily answer for the valid and legal claims of

recruited Ugandan migrant workers as a result of recruitment violations or money claims;

(b) audited financial statements for the past one year with verified corporate or individual tax returns;

(c) clearance from the Criminal Investigation Department and anti-illegal recruitment branch for all its employees and officers; and

(d) other requirements as may be imposed by the Administration.

(3) The Administration shall within thirty days from receipt of the application for renewal, undertake evaluation and inspection to determine the grant or denial of the application.

(4) The Administration shall only process applications submitted with complete supporting documents.

(5) Where the equity of the agency is below the minimum capitalisation requirement, it shall be given thirty days from release of the renewed license to submit proof of capital infusion.

(6) The Administration shall suspend a license until the agency has complied with the requirements in sub regulation (4).

(7) Any agency, which fails to file an application for renewal of license, may be allowed to renew within thirty days from expiry of the licence subject to the payment of a fine of two hundred thousand Uganda shillings.

(8) When the license holder has made timely and sufficient application for renewal, the existing license shall not expire until the application has been finally determined by the Administration.

(9) An application shall be considered sufficient if the applicant has complied with the requirements for renewal.

14. Publication of change of directors

Where there is a change in the membership of the board of directors or partners and appointment of new employees in an agency, the agency shall publish the changes at least once in a widely circulating local newspaper and proof of such publication shall be submitted to the Administration.

15. Notice of change of business address

(1) An agency shall give notice to the Administration of change of business address.

(2) The new office shall be subject to the regular ocular inspection procedures by duly authorised representatives of the Administration.

(3) A notice to the public of the new address shall be published in a widely circulating local newspaper.

16. Establishment of branches or extension offices

A recruitment agency shall not open or set up a branch or an extension office except with the approval of the Administration.

17. Monitoring compliance with conditions of license

The Administration shall monitor the compliance of agencies with their undertakings in connection with the issuance or renewal of the license.

18. Classification, ranking and incentives

(1) The Administration shall undertake the classification and ranking of agencies in recognition of their exemplary performance.

(2) The Administration shall issue guidelines for entitlement of agencies to schemes for incentives and rewards.

19. Grounds for suspension or revocation of license

(1) The Administration may, at any time suspend or revoke the license of a recruitment agency if it is satisfied that a recruitment agency—

- (a) has ceased to carry on business;
- (b) has changed ownership and the owners have not been cleared by the Administration or the Internal Security Organization;
- (c) has, in the opinion of the Administration contravened these Regulations in a manner which is serious or persistent;
- (d) has transferred its license to another partnership or company;
- (e) is charging, imposing or accepting directly or indirectly any amount of money, goods and services, or any fee or bond for any purpose whatsoever before employment is obtained for an applicant worker or where the fee charged is excessive or contrary to what is prescribed by the Administration;
- (f) is engaging in acts of misrepresentation, in relation to recruitment and placement of workers, such as publication or advertisement of deceptive notices or information or submission for processing of documents which are fraudulent or containing false information;
- (g) is inducing or attempting to induce an already employed worker to transfer from or leave his or her employment for another employment unless the transfer is designed to relieve the worker from oppressive terms and conditions of employment;
- (h) is influencing or attempting to influence any person or entity not to employ any worker who has applied for employment through his or her agency;

- (i) is obstructing or attempting to obstruct inspection by the Administration or its duly authorised representatives;
- (j) is substituting or altering employment contracts and other documents approved and verified by the Administration from the time of actual signing between parties up to the period of expiration of the same without the Administration's approval;
- (k) has failed to file reports as may be required by the Administration;
- (l) is unreasonably withholding or denying travel or other pertinent documents from workers for monetary consideration or reasons other than those under the Code and its implementation rules and regulations;
- (m) is engaging in recruitment activities in places other than those specified in the licence without prior approval from the Administration;
- (n) is appointing or designating agents, representatives or employees without prior approval from the Administration;
- (o) is falsifying or altering travel documents and deploying workers whose employment and travel documents were not processed by the Administration;
- (p) is publishing or causing the publication of overseas job vacancies in violation of the prescribed rules;
- (q) has failed to deploy workers within the prescribed period without valid reason;
- (r) is disregarding lawful orders, notices and other processes issued by the Administration;
- (s) is coercing workers to accept prejudicial arrangements in exchange for certain benefits that rightfully belong to the workers;
- (t) is withholding workers' salaries or remittances without justifiable reasons;
- (u) is violating these Regulations, other relevant laws and regulations, guidelines and other issuances on recruitment and placement of workers for overseas employment and the protection of their welfare; and
- (v) is violating the conditions of License;
- (w) is engaging in acts of misrepresentation for the purpose of securing a license or renewal of the licence;
- (x) is engaging in the recruitment or placement of workers in jobs harmful to public health or morality or to the dignity of the Republic of Uganda;
- (y) has incurred and accumulated three counts of suspension based on final and executory orders within the validity period of its license; and
- (z) is committing any other acts similar or analogous to the foregoing.

(6) The Administration shall not suspend or cancel the licence of a recruitment agency unless the Administration has given the recruitment agency an opportunity to be heard.

(7) Where a licence is suspended or cancelled, the Administration shall publish the suspension or cancellation in at least one widely circulating local newspaper.

20. Suspension of license pending investigation

(1) The license of a recruitment agency may, on notice, pending investigation and resolution of the recruitment violations be suspended where—

(a) there exists reasonable grounds to believe that the continued operation of the agency will lead to further exploitation of the worker recruited or adversely affect friendly relations with any country or otherwise prejudice national interest;

(b) there is a *prima facie* case for contravention of these Regulations or directives issued by the Administration.

21. Effect of orders of suspension or revocation of license

(1) An order of suspension or revocation shall result in the suspension or termination of all the activities of the recruitment agency.

(2) The Administration may solicit the assistance of other government institutions, agencies or offices to ensure that suspension or revocation orders are implemented.

22. Derogatory record

(1) The Administration shall on notice, suspend the issuance or renewal of a license of a recruitment agency if any derogatory record is found to exist against any or all the partners or directors.

(2) The appointment of any officer or employee of any licensed agency may be cancelled or revoked at any time with due notice to the agency concerned, whenever the said officer or employee is found to have any derogatory record.

PART III—INSPECTION

23. Inspection by Administration

(1) The Administration or any other person authorized by the Administration in writing shall, during working hours, with or without prior notice to the recruitment agency or applicant for the purpose of issuance of a license, inspect the premises of the recruitment agency or applicant.

(2) The Administration shall, in case of an already existing recruitment agency, and for the purpose of approving transfer of office or opening up of a branch office, inspect the premises of the applicant.

(3) The Administration shall, before any inspection is conducted, issue a notice stating the purpose and subject of inspection, which shall be presented to the applicant or recruitment agency.

24. Periodic or spot inspection

(1) The Administration shall subject all agencies to periodic inspection of premises or pre-departure orientation seminar venues to determine compliance with these Regulations.

(2) The Administration may upon receipt of a complaint or report of violation of these Regulations, conduct spot inspection of the premises of a recruitment agency.

25. Scope of inspection

The Administration or its authorized representative depending on the purpose of the inspection, may require the presentation of necessary documents, records and books of accounts of the agency and may examine the same.

26. Violations found in the course of inspection

(1) If during the course of inspection, the agency is found to have contravened these Regulations, it shall be a ground for the suspension or revocation of a licence or for the rejection of application for the issuance or renewal of license.

(2) A copy of the inspection report shall be endorsed to the appropriate unit for necessary action.

27. Powers of inspection

The Administration or person authorized in writing by the Administration to inspect premises of a recruitment agency may—

(a) give such directions as the inspecting officer may think necessary to ensure that recruitment agencies comply with the requirements of these Regulations; and

(b) carry out any other inspection as the Administration may require.

PART IV—FEES

28. Fees chargeable to principals

(1) A recruitment agency shall charge a principal fee to cover services rendered—

(a) in the recruitment and deployment of Ugandan migrant workers; and

(b) in the documentation and placement of Ugandan migrant workers.

29. Fess chargeable from workers

(1) A recruitment agency shall charge a Ugandan migrant worker nominal fee not exceeding fifty thousand Uganda shillings for recruitment and deployment services as administration costs.

(2) A recruitment agency may also charge a Ugandan migrant worker placement fees as may be prescribed by the Administration, to cover costs of placement and services such as trade or skill testing, medical examination, passport, visa, inoculation and notaries after placement.

(3) Placement fees shall be collected from a Ugandan migrant worker only after he or she has signed the employment contract and shall be covered by receipts clearly showing it.

PART V—ADVERTISEMENT

30. Advertisement for job vacancies

(1) A recruitment agency may advertise for job vacancies with prior approval from the Administration.

(2) The advertisements shall indicate the following information—

- (a) name, address and license number of the agency;
- (b) level of competence, skill and knowledge categories and qualification standards;
- (c) number of available positions; and
- (d) name and accreditation number of the foreign principal and work site.

31. Advertisement for manpower pooling

(1) A recruitment agency may advertise for manpower pooling without prior approval from the Administration.

(2) The recruitment agency shall indicate that the announcement is for manpower pooling.

32. Advertisement for manpower pooling by agencies

(1) A recruitment agency desiring to generate qualified applicants for additional manpower requirements, not covered by duly approved job order by the Administration may advertise only for highly skilled recruitment categories and manpower upon prior approval of Administration.

(2) The advertisement shall indicate that the announcement is for manpower pooling only and that fees shall not be collected from the applicants.

(3) The following shall be reflected in the advertisements—

- (a) name, address and license number of the agency;
- (b) work site of prospective principal or project; and
- (c) skill categories and qualification standards.

33. Press release on recruitment

(1) For purposes of these Regulations, press and media releases, whether on print, radio or television negotiations with firms involving overseas job openings, shall be considered as advertisement, and shall therefore be subject to monitoring and regulation.

(2) Subsequent publication of a previously approved advertisement or a portion of the advertisement, in another form of media release shall not require another approval provided that the publication is undertaken within a period of one month from the date of approval by the Administration.

34. Foreign advertisers for overseas job vacancies

A foreign principal or employer who wishes to advertise job vacancies in Uganda using media, broadcast or television may do so only through an agency licensed by Administration or directly through the Administration.

35. Application for Accreditation

An application for accreditation of a principal shall only be done by a duly licensed recruitment agency.

36. Requirements for accreditation

(1) A recruitment agency applying for accreditation of its principal shall submit to the Administration the following information—

- (a) standard or master employment contract;
- (b) special power of attorney or service agreement;
- (c) manpower request from a foreign principal indicating skills, wages and the number of workers required; and
- (d) other documents which the Administration may find necessary.

(2) The Administration shall, before verification or authentication of documents for accreditation of a principal require the following—

- (a) verification of documents at the site of employment undertaken by the Labour Attaché or the Assistant Labour Attaché or by the official at the Ugandan Embassy or the Ugandan foreign representative in the absence of a Ugandan Mission;
- (b) authentication of documents at the site of employment undertaken by the appropriate official of any of the designated Ministry or office of the host country; and
- (c) signing of basic documents by authorized officials of both the hiring company and its affiliate in the presence of any member of the Administration or its duly authorized representative.

37. Parties to agreement

Accreditation may be granted only when the principal and the applicant or recruitment agency are the parties to the accreditation agreement.

38. Accreditation of a foreign principal

(1) A foreign principal shall be accredited to only one agency.

(2) A foreign placement agency may be accredited as principal if it is authorized to operate as such in its country.

39. Transfer of accreditation

(1) A principal may transfer its accreditation to another agency provided that transfer shall not involve any wages and benefits of workers.

(2) The transferee agency shall comply with the requirements of accreditation and shall assume full responsibility for all obligations of the principal to its workers originally recruited and processed by the former agency.

(3) The previous principal shall notify the Administration prior to the transfer of accreditation.

40. Approval and validity of accreditation

(1) The Administration shall issue to the agency an accreditation certificate for its principal after approval of the accreditation.

(2) The accreditation shall be valid for a maximum period of two years from the date of issuance and may be renewed.

(3) Provisional accreditation may be granted for ninety days for a principal or a project that meets the accreditation requirements substantially.

41. Revocation of accreditationThe accreditation of a principal may be revoked by the Administration on any of the following grounds—

(a) upon request or notification by the principal;

(b) upon request of the agency;

(c) false documentation or misinterpretation in connection with the application for accreditation; or

(d) contravention of these Regulations;

(e) upon airing and publishing of false and deceptive advertisements by the recruitment agency; and

(f) advertisements not published in accordance with guidelines issued by the Administration.

42. Blacklisting of persons

The Administration shall blacklist employers, principals and contracting partners including natural persons who are found violating any contractual obligations to workers, agencies and the rules and regulations on overseas employment programmes.

PART VII—DOCUMENTARY PROCESSING

43. Recruitment order

A recruitment agency, which has selected workers for accredited principals, shall, as a pre-requisite for contract processing with the Administration, submit for approval a recruitment order in the prescribed form, which shall indicate *inter-alia*, the wages and salaries of selected migrant workers.

44. Documentary processing

(1) A recruitment agency shall commence processing of documents upon presentation of the approved recruitment order together with the copy of the contract signed by the worker and employer.

(2) The Administration may impose such other processing requirements as may be necessary.

45. Payment of processing fees

A recruitment agency shall pay processing fees immediately after approval of the recruitment order and the employment contract and all payments shall be acknowledged by official receipts.

46. Agency manpower pool

(1) An agency may establish its own manpower pool in support of its marketing programme provided fees shall be charged to the worker for membership to the manpower pool.

(2) The agency shall establish a manpower registry.

47. Disqualification from manpower pool

A person may be disqualified from the manpower registry on the following grounds—

(a) submission of forged documents;

(b) breach of the code of discipline for Ugandan migrant workers;

(c) altering documents issued by the Administration such as registration card, history cards and other forms used in registration, and

(d) any other grounds that may be determined by the Administration.

48. Failure of agency to deploy a worker

Where an agency fails to deploy a worker within a period of one hundred twenty days following receipt of the recruitment order without valid reasons, such failure shall be a cause for suspension or cancellation of license and the agency shall return all documents at no cost to the worker.

49. One-stop processing center

The Administration shall act as a one-stop processing centre to provide expeditious clearing system for migrant workers and facilitate their deployment abroad.

50. Suspension of documentary processing

(1) The Administration may order the suspension of the processing of documents pertaining to a recruitment agency where it suspects that the agency is contravening these Regulations.

(2) This is without prejudice to the outcome of the investigation.

51. Trade test

Trade tests for Ugandan migrant workers shall be conducted only after the agency or its principal has secured placement for a worker and the principal has pre-qualified for an existing overseas position duly covered by an approved job order by the Administration.

52. Scope of trade test

The agency shall ensure that unless otherwise stated in the agency trade test referral slip, the pre-employment test shall be based on the line category the worker has applied for.

53. Medical examination

Medical examination of workers for overseas employment shall be conducted only after the principal has interviewed and trade-tested or pre-qualified the worker for an existing overseas position duly covered by an approved job order.

54. Labour assistance centers

(1) The Administration may establish labour assistance centers at international airports and other exit points in the country.

(2) Labour assistance centers shall—

(a) assist and facilitate the deployment and reception of overseas migrant workers; and

(b) monitor and provide appropriate advice to workers and foreign principals and employers on employment, travel and recruitment procedure.

55. Coordination with government functionaries or bodies

The labour assistance centres shall, in the discharge of their duties, maintain close coordination with the Ministries responsible for internal affairs, foreign affairs, Uganda Tourism Board, and other appropriate Government bodies.

PART VIII—RECRUITMENT AND PLACEMENT OTHER THAN BY RECRUITMENT AGENCIES

56. Recruitment and placement through the Administration

(1) The Administration shall recruit and place workers primarily on Government-to-Government arrangements.

(2) The Administration may also recruit and place workers for foreign employers in such sectors as policy may dictate.

(3) The Administration shall, among others—

(a) administer programmes and projects that may support the employment objectives of the Administration; and

(b) undertake to organise recruitment activities in districts.

57. Documentary requirements from an employer

(1) An employer recruiting and placing workers through the Administration shall submit the following documents—

(a) work permit or visa assurance of workers, where applicable;

(b) recruitment order;

(c) model employment contract; and

(d) other documents which the Administration may find necessary.

(3) The recruitment order shall state the number and category of workers needed, compensation benefits, qualifications, guidelines and testing procedures.

58. Formalisation of recruitment agreement

(1) An employer recruiting through the Administration shall be required to formalise a recruitment agreement and attestation.

(2) The agreement shall contain the following—

(a) responsibilities of the parties to the agreement;

- (b) selection and documentation procedure
- (c) fee schedules and terms of payment;
- (d) manner and facilities for remittance of worker's salary;
- (e) grievance machinery for workers; and
- (f) validity and revocation of the agreement.

(3) The standards and requirements set by the Administration for the recruitment and placement of workers shall apply to recruiting through the Administration.

59. Interview and selection

An employer recruiting through the Administration shall interview and select workers from the manpower pool developed and maintained by the Administration.

60. Medical examination

Selected workers shall undergo a standard pre-employment medical examination conducted by a duly accredited medical practitioner.

61. Travel arrangements

The employer may assume the full cost of worker's transportation after formal arrangement has been agreed to.

62. Orientation

Before departure for the worksite, Ugandan migrant workers shall undergo the required pre-departure orientation seminar.

63. Documentation for workers

(1) Workers recruited through the Administration shall be issued the following documents—

- (a) individual employment contract duly signed by the employer or his or her authorised representative or Administration where appropriate;
- (b) such other documents as may be necessary for the travel.

(2) The Administration may secure directly the selected worker's passport from the department of immigration.

(3) The Administration may assist employers and selected workers secure their visas from the appropriate Embassy.

64. Name hires

An individual worker who is able to secure a contract for overseas employment on his or her own without the assistance or participation of a recruitment agency shall be assisted by the Administration.

65. Ban on direct hire

(1) An employer shall not recruit Ugandan workers for overseas employment except through the Administration or a recruitment agency.

(2) Direct hiring by workers of the diplomatic corps or international organisations is prohibited.

PART IX—EMPLOYMENT STANDARDS

66. Employment standards

The Administration shall determine, formulate and review employment standards in accordance with the welfare objectives of the overseas employment programme and the prevailing market conditions.

67. Minimum provision for contract

The minimum requirements for contracts of employment shall include the following—

- (a) guaranteed wages for regular working hours and an overtime pay for services rendered beyond regular working hours;
- (b) free emergency medical and dental treatment facilities;
- (c) just cause for the termination of the contract or of the services of the workers;
- (d) workers compensation benefits and war hazard protection;
- (e) repatriation of worker's remains and properties in case of death to the point of hire, or if this is not possible under the circumstances, the proper dispatch upon prior arrangement with the worker's next-of-kin and the nearest Embassy or Consulate;
- (f) assistance in the remittance of worker's salaries, allowances or allotments to his or her beneficiaries.

68. Standard employment contract

(1) A standard employment contract shall provide for minimum employment standards and shall recognise the prevailing labour and social legislations and international conventions at the site of employment and international conventions.

(2) The standard employment contract shall provide the terms and conditions of employment.

(3) All employers and principals shall adopt the standard employment contract in relation to the employment of workers without prejudice to their national terms and conditions of employment over and above the minimum standards of the Administration.

PART X—WELFARE AND EMPLOYMENT SERVICES

69. Agencies to assist workers

(1) A recruitment agency shall ensure that workers deployed overseas are amply protected and their interests and well-being are promoted.

(2) The agency shall also be responsible for the faithful compliance by their foreign principals of all obligations under the employment contract and therefore be liable for any and all violations of the contract.

70. Pre-departure orientation seminars

(1) Every licensed agency shall be responsible for providing each worker deployed overseas a thorough pre-departure orientation seminar.

(2) A pre-departure orientation seminar shall only be conducted by the following entities—

- (a) a licensed recruitment agency with such an average annual deployment as may be determined by the Administration and with a previously accredited pre-departure orientation seminar);
- (b) association of licensed agencies;
- (c) non-government organisations with special interest and concerns for overseas migrant workers;
- (d) other persons or entities as may be allowed by the Administration; and
- (e) Embassies, consuls or diplomatic attaches of countries where workers are to be deployed.

71. Cost of pre-departure orientation seminars

Attendance by a worker in the pre-departure orientation seminar shall form part of the package of placement services already paid for by either the worker through his or her placement or by the employer or principal.

72. Review and approval of pre-departure orientation seminar programmes, tie-ups and trainers

(1) All pre-departure orientation seminar programmes, tie-ups and trainers shall be reviewed, screened and approved by the Administration.

(2) Tie-ups, which meet the requirements and trainers who pass the qualification standards of the Administration, shall be given accreditation.

73. Supervision and monitoring of pre-departure orientation seminars activities

(1) The Administration shall supervise and monitor the pre-departure orientation activities of licenced agencies.

(2) The pre-departure orientation venue of every agency shall be subjected to inspection and spot-check inspections as often as the Administration deems it proper.

74. Submission of pre-departure orientation seminars reports

A recruitment agency shall submit to the Administration an advance monthly schedule of a pre-departure orientation report which shall include seminars held in the previous month indicating the names of the facilitators, workers, participants, the date of pre-departure orientation seminar and the countries of destination.

75. Certificates of attendance

(1) A worker who completes a pre-departure orientation seminar shall be issued a certificate of attendance by the recruitment agency.

(2) The copies of certificates of attendance shall be submitted to the Administration.

76. Pre-departure orientation seminars for workers placed by the Administration

The Administration shall provide pre-departure orientation seminar to workers placed overseas through its own facility.

77. Other related programmes and activities

(1) The Administration shall deploy and implement other programmes and activities in support of pre-departure orientation seminars.

(2) The Administration may undertake a trainers' training for agencies and advance programmes designed to equip workers with the necessary skills to adapt to changes in environment.

PART XI—MISCELLANEOUS

78. Duties and obligations of a Ugandan migrant worker

A Ugandan migrant worker shall—

- (a) abide by the terms and conditions of contract;
- (b) observe and respect the laws, customs, morals, traditions and practices of the country in which she or he is working;
- (c) abide with the requirements on remittance of earnings as well as to provide material help to his or her family of his or her overseas employment;
- (d) uphold the ideals of the Republic of Uganda and to defend it, if warranted;
- (e) abide by the rules and regulations aimed at promoting the workers interest and enhancing national gains;
- (f) be the ambassador of goodwill, projecting only the good in Uganda and restrain from tarnishing Uganda's image abroad;
- (g) provide the agency or employer with correct and true statements or certifications regarding his or her skills, experience and qualifications;
- (h) maintain a high level of productivity as well as abide by company rules and regulations;
- (i) refrain from committing acts, which are detrimental to the interests of his or her employer or agency during his or her documentary processing and employment; and

- (j) restrain from degrading a colleague in order to get a position or rank or from putting a fellow worker in bad light before his or her colleagues or superiors.

79. Foreign exchange remittance

A migrant worker may remit to a beneficiary in Uganda such percentage of his or her earnings as he or she may decide.

80. Obligation to report

(1) A recruitment agency shall submit periodic reports to Bank of Uganda on its foreign exchange earnings and such information shall also be furnished to the Administration.

(2) The Administration shall establish, maintain and regularly update a database on foreign exchange payments of agencies resulting from their overseas transactions such as service fees, airfares and others.

81. Insurance cover

An employer shall provide every migrant worker insurance, which is applicable to the host country.

82. Benefits and compensation awarded to beneficiaries

Proceeds or benefits from insurance cover shall be payable to the designated beneficiaries.

83. Acts constituting illegal recruitment

The following activities shall constitute illegal recruitment—

- (a) engaging in recruitment and placement of Ugandan migrant workers without a licence issued under these Regulations; and
- (b) engaging in recruitment and placement of Ugandan migrant workers in contravention of these Regulations or any other laws governing employment of persons in Uganda.

84. Complaints procedure

(1) A person who is aggrieved by a decision or any action of a recruitment agency may file a complaint in writing against the agency with the Administration.

(2) Upon receipt of a complaint, the Administration may conduct preliminary investigations on the matter.

(3) If the Administration is of the opinion that the complaint can reasonably be solved through mediation, the Administration shall summon the parties with a view of reaching a settlement.

(4) Where the complainant raises issues beyond the mandate of the Administration, the Administration shall recommend the complainant to seek redress from the appropriate Government institutions.

85. Offences and penalties

A person who—

- (a) operates as a recruitment agency without a licence issued by the Administration;
- (b) operates as a recruitment agency while the licence is suspended or cancelled; or
- (c) obstructs an inspecting officer from accessing the offices of an agency or from carrying out his or her duties under these regulations,

commits an offence and is liable on conviction to imprisonment for three months.

86. Appeals

(1) A person—

- (a) whose application for a licence under these Regulations has been rejected; and

(b) whose licence has been suspended or cancelled, may apply to the Administration for internal review and if not satisfied, may within thirty days of being notified of the decision, appeal to the High court which may give such decision or direction as it thinks fit.

(2) The appeal shall be by way of a suit and shall be governed by the Civil Procedure Rules as in the High Court.

87. Administration to issue guidelines

The Administration may, from time to time, in writing, issue guidelines in addition to these Regulations for the better supervision and regulation of recruitment of Ugandan migrant workers abroad.

HON. BAKOKO BAKORU ZOË,
Minister of Gender, Labour and Social Development.