

**THE NATIONAL EMPLOYMENT
BILL (No. XII of 2017)**

Explanatory Memorandum

The object of this Bill is to repeal the Employment and Training Act and enact a more appropriate and modern legislative framework in order to address the needs of the labour market, including skills mismatch, underemployment, unemployment and future employment prospects, and to anticipate future needs and expectations of individuals and employers.

2. The Bill will provide for a National Employment Department which will take over the functions and powers of the Employment Service of the Ministry and will, inter alia –

- (a) promote employment;
- (b) facilitate the employment of job seekers and ensure that job seekers are able to find employment that meet their aspirations;
- (c) provide assistance and guidance with regard to employment prospects, including future employment prospects;
- (d) provide labour market information on the demand and supply of skills to local employers, job seekers and training institutions;
- (e) promote placement and training of job seekers, including young persons and persons with disabilities, through approved programmes;
- (f) promote labour migration;
- (g) encourage and promote home-based work.

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A BILL

**To provide for a more appropriate and modern legislative framework to
address the needs of the labour market**

ENACTED by the Parliament of Mauritius as follows –

PART I – PRELIMINARY

1. Short title

This Act may be cited as the National Employment Act 2017.

2. Interpretation

In this Act –

“authorised officer” means an officer designated as such by the Minister;

“Chairperson” means the Chairperson of the Committee;

“Committee” means the National Employment Advisory Committee referred to in section 12;

“Department” means the National Employment Department referred to in section 4;

“Director” means the Director of the National Employment Department referred to in section 7;

“employer” means a person, a Government department, a local authority, a statutory body, a company, a firm or other entity who or which pays for or hires the services of another person, other than a part-time employee, in exchange of his labour for production of goods or the provision of services;

“job seeker” includes –

(a) a young person who is over the age of 16 but under the age of 18; and

(b) a person in employment;

“member” –

(a) means a member of the Committee; and

(b) includes the Chairperson;

“Minister” means the Minister to whom the responsibility for the subject of employment is assigned;

“Ministry” means the Ministry responsible for the subject of employment;

“National Employment Dashboard” means the website referred to in section 6(b);

“officer” –

(a) means an officer of the Department; and

(b) includes the Director;

“part-time employee” means an employee whose normal hours of work are less than those of a comparable full-time employee;

“supervising officer” means the supervising officer of the Ministry.

3. Application of Act

(1) This Act shall apply to a resident of Mauritius.

(2) This Act shall bind the State.

4. National Employment Department

There shall be, within the Ministry, a department to be known as the National Employment Department.

5. Objects of Department

The Department shall –

- (a) promote employment;
- (b) facilitate the employment of job seekers and ensure that job seekers are able to find employment that meet their aspirations;
- (c) provide assistance and guidance with regard to employment prospects, including future employment prospects;
- (d) provide labour market information on the demand and supply of skills to local employers, job seekers and training institutions;
- (e) promote placement and training of job seekers through approved programmes;
- (f) promote labour migration;
- (g) encourage and promote home-based work.

6. Functions and powers of Department

The Department shall –

- (a) collect and analyse data on any employment related matter in order to address the needs of the labour market, including skills mismatch, underemployment, unemployment and future employment prospects, and to anticipate future needs and expectations of job seekers and employers;
- (b) set up and operate a website, to be known as the National Employment Dashboard, to –
 - (i) assist job seekers to search for career opportunities;
 - (ii) provide a platform for employers to advertise vacancies;

- (iii) ensure easy access, in a timely manner, to job vacancies and key labour market indicators;
 - (iv) provide labour market information for the benefit of employers and job seekers;
 - (v) provide a National Human Resource Inventory with categorisation by age, sex, qualification, locality, occupation, skills and experience;
 - (vi) enable linkages between the public service and the private sector, including private recruitment agencies and other stakeholders; and
 - (vii) publish reports and disseminate any other information on employment related matters;
- (c) establish and implement programmes and projects relating to employment and training;
 - (d) organise job fairs and other events on training opportunities and employment prospects;
 - (e) provide vocational guidance and counselling;
 - (f) do such other things as may be necessary for the purposes of this Act.

PART II – ADMINISTRATION

7. Director, National Employment Department

(1) There shall be a Director of the National Employment Department, who shall be a public officer.

(2) There shall be such public officers as may be necessary to assist the Director in the administration of this Act.

(3) The Director and the public officers shall be under the administrative control of the supervising officer.

8. Duties and responsibilities of Director

The Director shall be responsible for –

- (a) the day to day operations of the Department;
- (b) the implementation of any employment policy of the Government; and

- (c) any other employment related matter as the Minister may direct.

9. Powers of authorised officers

An authorised officer may –

- (a) during office hours, enter the premises of an employer, inspect any record kept under this Act, or require the employer to furnish him with such information as he may require in relation to any of its employee;
- (b) summon, in writing, any job seeker, employer or any other person, whom he has reasonable cause to believe possesses any information relevant to any inspection, examination or investigation, to attend at a time and place specified and to give such information or to produce any relevant document.

PART III – REGISTRATION OF JOB SEEKERS AND RESPONSIBILITIES OF EMPLOYERS

10. Registration of job seekers

(1) Any job seeker shall, in order to benefit from the services offered by the Department, register in person with the Department.

(2) Any job seeker who, without any reasonable excuse, declines a job offer or training offer which is in line with his profile and qualifications 3 times successively within a period of one year, shall not benefit from the services offered by the Department for a period of one year from the date of the last offer.

(3) Every registered job seeker shall, within 15 days after obtaining an employment, notify the Department.

11. Responsibilities of employers

Every employer shall –

- (a) through the National Employment Dashboard –
 - (i) register with the Department;
 - (ii) advertise any vacancy, open to the public, within 7 days of the advertisement;
 - (iii) submit to the Department the names of any person it has recruited, together with such other particulars as the Department may require, within 30 days of such recruitment;

- (iv) notify every termination of employment or retirement within 15 days of such termination or retirement;
- (b) submit such other information, in relation to its employees, as the Department may determine.

PART IV – NATIONAL EMPLOYMENT ADVISORY COMMITTEE

12. National Employment Advisory Committee

(1) There shall be, for the purposes of this Act, a Committee to be known as the National Employment Advisory Committee.

(2) The Committee shall consist of –

- (a) a Chairperson, holding at least a Master's degree, having wide experience in labour market issues and having at least 10 years' experience at senior management level, to be appointed by the Minister;
- (b) the Director;
- (c) a representative of the Ministry;
- (d) a representative of the Ministry responsible for the subject of education;
- (e) a representative of the Ministry responsible for the subject of finance;
- (f) the Director, Mauritius Institute of Training and Development or his representative;
- (g) the Director, Human Resource Development Council or his representative;
- (h) a representative of Statistics Mauritius;
- (i) a member representing organisations of employers, to be appointed by the Minister after consultation with the most representative organisations of employers;
- (j) a member representing organisations of workers, to be appointed by the Minister after consultation with the most representative organisations of workers; and

- (k) 3 members, having wide experience and knowledge in the field of human resource, to be appointed by the Minister.

(3) Every member, other than a member referred to in subsection (2)(b) to (h), shall hold office for a period of 2 years and may be eligible for reappointment.

(4) Every member shall be paid such fee or allowance as the Minister may determine.

13. Functions of Committee

The Committee shall advise the Minister on –

- (a) employment policies and strategies;
- (b) employment opportunities, both local and overseas;
- (c) training and placement schemes;
- (d) labour market trends and statistics;
- (e) linkages between the education and training systems and the workplace;
- (f) measures to reduce the mismatch between demand and supply of labour;
- (g) the development of criteria and guidelines for the implementation of this Act; and
- (h) any other employment related matter as the Minister may direct.

14. Meetings of Committee

(1) The Committee shall meet as often as the Chairperson may determine but at least once every month.

(2) At any meeting of the Committee, 7 members shall constitute a quorum.

(3) The Committee may, where it considers necessary, co-opt such other persons with relevant knowledge and experience not already available to the Committee to assist it in relation to any matter before it.

(4) Subject to this section, the Committee shall regulate its meetings and proceedings in such manner as it may determine.

15. Technical committees

(1) The Committee may set up such technical committees as it may determine to assist it in the discharge of its functions.

(2) A technical committee shall consist of at least 3 members and such co-opted members as the Committee may determine.

(3) Subject to this section, a technical committee shall, with the approval of the Committee, regulate its meetings and proceedings in such manner as it may determine.

PART V – MISCELLANEOUS

16. Submission of reports

(1) Any private or public institution, offering post-secondary academic or technical and vocational education or training shall, not later than one month after a calendar year, submit to the Department, in such form as the Department may determine, an annual report of its Mauritian students or trainees, who have enrolled for, are following, or have ceased following, courses during the preceding year.

(2) The Commissioner of Prisons shall, not later than one month after a calendar year, submit to the Department, in such form as the Department may determine, an annual report of Mauritian inmates.

17. Offences

Any person who –

- (a) obstructs or gives false or misleading information to an officer under this Act; or
- (b) otherwise contravenes this Act,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 25,000 rupees and to imprisonment for a term not exceeding 6 months.

18. Regulations

(1) The Minister may make such regulations as he thinks fit for the purposes of this Act.

(2) Any regulations made under subsection (1) may provide –

- (a) for the levying of fees and charges;

- (b) that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 25,000 rupees.

19. Repeal

The Employment and Training Act is repealed.

20. Consequential amendment

The Employment Rights Act is amended –

- (a) in section 43(2)(a), by deleting the words “Employment Service” and replacing them by the words “National Employment Department”;
- (b) in section 44(6), by deleting the words “Employment Service” and “second time” and replacing them by the words “National Employment Department” and “third time”, respectively.

21. Transitional and savings provisions

- (1) In this section –

“Employment Service” means the Employment Service referred to in the repealed Employment and Training Act.

(2) Any record kept under the repealed Employment and Training Act shall, on the commencement of this Act, be deemed to have been kept under this Act.

(3) Any act or thing done by the Employment Service shall, on the commencement of this Act, be deemed to have been done by the National Employment Department.

(4) A reference in any enactment, arrangement, agreement or any other document to the Employment Service or the Employment and Training Act shall be construed as a reference to the National Employment Department and the National Employment Act 2017, respectively.

22. Commencement

(1) Subject to subsection (2), this Act shall come into operation on a date to be fixed by Proclamation.

(2) Different dates may be fixed for the coming into operation of different sections of this Act.
