TRAINING AND EMPLOYMENT OF DISABLED PERSONS ACT

Act 9 of 1996 – 1 December 1996

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SCHEDULE

TRAINING AND EMPLOYMENT OF DISABLED PERSONS ACT

1. Short title

This Act may be cited as the Training and Employment of Disabled Persons Act.

2. Interpretation

In this Act—

"Board" means the Training and Employment of Disabled Persons Board established under section 3;

"disabled person" means a person who is certified by the Board—

(a) to have a long-term physical disfigurement or physical, mental or sensory disability, including a visual, hearing or speech functional disability, which gives rise to barriers or prejudices impeding his participation at an equal level with other members of society in major life activities, undertakings or fields of employment that are open to other members of society; and

(b) to be willing and able to work;

"employer"—

(a) means any person who, or entity which, has in his or its regular employment 35 or more employees; and

(b) includes every statutory body;

"exempt employer" means an employer who is exempt under section 13 (7) from employing disabled persons;

"Hearing Committee" means the committee referred to in section 13 (4);

"member" means a member of the Board and includes the Chairperson;

"Minister" means the Minister to whom responsibility for the subject of social security is assigned;

"suitable employment" means such employment as a disabled person may, having regard to his disability, be reasonably engaged in, and includes any work which a disabled person may, on a contract of service or for services, be called upon to perform at his residence or in any other premises.

[S. 2 amended by s. 3 of Act 14 of 2012 w.e.f. 1 September 2012.]

3. Establishment of Board

(1) There is established for the purposes of this Act the Training and Employment of Disabled Persons Board.

(2) The Board shall be a body corporate.

(3) The Board shall consist of—

(a) a Chairperson, to be appointed by the Minister;

(b) a representative of the Ministry responsible for the subject of social security;

(c) a representative of the Ministry responsible for the subject of employment, labour and industrial relations;

(d) a representative of the Ministry responsible for the subject of social integration and economic empowerment;

(e) a representative of the Mauritius Institute of Training and Development;

(f) the Head, Disability Unit of the Ministry responsible for the subject of social security;

(g) a representative of employers, to be designated by the Mauritius Employers' Federation;

(h) a representative of trade unions, to be appointed by the Minister;

(i) four disabled persons, to be appointed by the Minister on the recommendation of the National Council for the Rehabilitation of Disabled Persons.

(4) The Chairperson and the representatives of employers and disabled persons shall be appointed for such term as the Minister may determine.

(5) In the absence of the Chairperson from any meeting of the Board, the representative of the Ministry shall preside at that meeting and shall, in relation to that meeting, exercise the functions and have all the powers of the Chairperson.

(6) Seven members of the Board shall constitute a quorum.

(7) The Board may appoint such committees and co-opt such persons to such committees as it may deem necessary.

(8) Subject to this section, the Board shall regulate its meetings and proceedings in such manner as it thinks fit.

(9) The members shall be paid such fees or allowances as the Minister may determine.

[S. 3 amended by s. 4 of Act 14 of 2012 w.e.f. 1 September 2012.]

4. Functions of Board

The functions of the Board shall be to—

(a) prevent, as provided under section 16, discrimination against disabled persons resulting from or arising out of their disability;

(aa) educate and sensitise employers on the importance of employing disabled persons and contribute to remove barriers or prejudices with regard to the employment of such persons;

(b) encourage the establishment of appropriate vocational centres and other institutions for the training of disabled persons;

(c) operate and encourage schemes and projects for the training and employment of disabled persons;

(d) improve generally the social and economic status and condition of disabled persons;

(e) perform such other functions, not inconsistent with this Act, as the Minister may, in writing, specify or approve.

[S. 4 amended by s. 5 of Act 14 of 2012 w.e.f. 1 September 2012.]

5. General Fund

The Board shall establish a General Fund—

(a) into which all monies received by the Board shall be paid; and

(b) out of which all payments required to be made by the Board shall be effected.

6. General Manager

(1) The Board shall, with the approval of the Minister, appoint on such terms and conditions as it may think fit, a General Manager.

(2) The General Manager shall be entitled to attend every meeting of the Board and take part in its deliberations but shall not be entitled to vote on any matter before the Board.

(3) In the discharge of his functions, the General Manager shall act in accordance with such directions he may receive from the Board.

(4) The General Manager shall be responsible for—

(a) co-ordinating the activities of the Board with Ministries, local authorities, employers and any association or organisation of disabled persons or any other institution in order to implement the measures recommended by the Board;

(b) providing and encouraging the training of disabled persons;

(c) assisting disabled persons in securing employment;

(d) the financial management of the General Fund; and

(e) carrying out such other activities, not inconsistent with this Act, as may be approved by the Board.

7. Appointment of staff

(1) The Board may, with the approval of the Minister, employ, on such terms and conditions as it thinks fit, such staff as may be necessary for the proper discharge of its functions.

(2) All staff employed by the Board shall be under the administrative control of the General Manager.

8. Powers of Minister

The Minister may give directions of a general character to the Board, not inconsistent with this Act, and the Board shall comply with such directions.

9. Execution of documents

All documents shall be deemed to be executed by or on behalf of the Board if signed by the Chairperson and the General Manager or, in his absence, any other member designated by the Board.

10. Establishment of registers

The Board shall establish and maintain—

(a) a register of disabled persons; and

(b) a register of employers.

11. Register of disabled persons

(1) Every disabled person may apply to have his name and particulars entered in the register of disabled persons.

(2) Every applicant under subsection (1) may be required to attend such interview, medical examination and other assessment as the Board may consider necessary.

(3) Where the Board is satisfied that the applicant is a disabled person, it shall direct that the name of the applicant and his particulars be entered in the register of disabled persons.

(4) The Board may, at any time, delete, subject to section 15, the name of a person from the register of disabled persons where it is satisfied that the name has been entered by misrepresentation or through fraudulent means or where the person has ceased to be a disabled person, and shall inform the person concerned accordingly.

12. Register of employers

(1) Every employer shall apply to have his name entered in the register of employers and specify in the application—

(a) his full name, residential address and social security number;

(b) the registered name and address of his organisation;

(c) the number of employees in his organisation;

(d) the number of disabled persons he employs or may employ;

(e) the nature or description of any employment which he is providing or may provide to disabled persons; and

(f) the name, address and nature of disability of any disabled person employed by him.

(2) Every applicant may be required to attend an interview for the purposes of this Act.

(3) Where the Board is satisfied that the application complies with subsection (1), the Board shall direct that the name of the applicant and the particulars specified in the application be entered in the register of employers.

13. Duty to employ disabled persons

(1) Subject to this section, every employer shall employ such number of disabled persons as is specified in Part I of the Schedule.

(2) The Board may summon an employer to show cause, on such date and at such time as may be specified, why he is not complying with subsection (1).

(3) Every employer who fails or is unable to comply with subsection (1), either wholly or in part, shall inform the Board of the reasons for such non-compliance.

(4) The Board shall set up a Hearing Committee to hold a hearing for the purposes of this Act, and any finding and recommendation made by the Hearing Committee shall be communicated to the Board for consideration and decision.

(4A) The Hearing Committee shall consist of—

(a) a Chairperson, who shall be a law practitioner, to be appointed by the Minister, after consultation with the Attorney-General;

(b) a representative of the Ministry responsible for the subject of social security;

(c) a representative of the Attorney-General's Office;

(d) a representative of the Mauritius Employers' Federation;

(e) a representative of disabled employees, to be appointed by the Minister;

(f) the General Manager of the Training and Employment of Disabled Persons Board.

(5) A proper record shall be kept of all proceedings under subsection (4).

(6) The Hearing Committee shall, after the completion of the hearing, determine whether the employer cannot reasonably be expected, having regard to the nature of his business, to provide suitable employment to or to create suitable employment opportunities for the employment of disabled persons.

(7) The Board may, in the light of the determination under subsection (6)—

(a) give such directions to an employer as it may consider reasonable and proper in all the circumstances, including a direction, that the employer shall pay to the Board such contribution as is specified in Part II of the Schedule; or

(b) exempt the employer from his obligation to employ disabled persons.

(8) The employer shall, subject to section 15, comply with any direction of the Board under subsection (7).

[S. 13 amended by s. 6 of Act 14 of 2012 w.e.f. 1 September 2012.]

14. Duty to provide suitable employment

(1) No disabled person shall be employed to perform work which, having regard to the nature of his disability, is not suitable.

(2) Where a dispute arises as to whether any work is or is not suitable for a disabled person, the dispute may be referred by the disabled person or his employer to the Board for determination.

(3) The Board shall, on being requested to make a determination under subsection (2)—

(a) —

(b) require the Hearing Committee to hold a hearing and make the determination.

(4) A proper record shall be kept of all proceedings held under subsection (3).

(5) A determination made by the Hearing Committee under subsection (3) (b) shall be communicated to the Board for consideration and decision.

(6) The Board shall inform the parties of its decision under subsection (5) and may give such directions to an employer as it may consider reasonable and proper in all the circumstances.

(7) The employer shall, subject to section 15, comply with any direction of the Board under subsection (6).

[S. 14 amended by s. 7 of Act 14 of 2012 w.e.f. 1 September 2012.]

15. Appeal

(1) A disabled person or employer, as the case may be, who is aggrieved by—

(a) the deletion of his name from the register, under section 11 (4);

(b) a direction given by the Board under section 13 (7) or 14 (6); or

(c) a decision of the Board under section 13 (7) or 14 (5),

may appeal, within 21 days of the notification of such cancellation, direction or determination, to the Judge in Chambers.

(2) The Judge in Chambers may, on an appeal, make such order as he thinks fit.

[S. 15 amended by s. 8 of Act 14 of 2012 w.e.f. 1 September 2012.]

16. —

[S. 16 repealed by s. 45 (a) of Act 42 of 2008 w.e.f. 1 January 2012.]

17. Donations and legacies

Article 910 of the Code Civil Mauricien shall not apply to the Board.

18. Offences

(1) Any employer who—

(a) fails to comply with any direction of the Board under section 13 (7) or 14 (6);

(b) —

(c) fails to register himself under this Act,

shall commit an offence.

(2) Any person who—

(a) commits an offence under this Act; or

(b) contravenes any regulations made under this Act,

shall, on conviction, be liable to a fine not exceeding 75,000 rupees or to imprisonment for a term not exceeding 6 months.

[S. 18 amended by s. 45 (a) of Act 42 of 2008 w.e.f. 1 January 2012; s. 9 of Act 14 of 2012 w.e.f. 1 September 2012.]

19. Jurisdiction

Notwithstanding—

(a) section 114 of the Courts Act; and

(b) section 72 of the District and Intermediate Courts (Criminal Jurisdiction) Act,

a Magistrate shall have jurisdiction to try all offences under this Act or any regulations made under this Act and may impose any penalty provided by this Act or by any regulations made under this Act.

20. Regulations

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

(2) Regulations made under subsection (1) may provide for amendment of the Schedule.

[S. 20 amended by s. 10 of Act 14 of 2012 w.e.f. 1 September 2012.]

21. – 25. —

SCHEDULE

[Section 13]

[Sch. repealed and replaced by s. 11 of Act 14 of 2012 w.e.f. 1 September 2012.]

PART I

Employer	Number of disabled persons to be employed
Employer having a workforce of 35 or more workers	Number representing 3 per cent of workforce

PART II

Contribution to be paid by an employer where directed by the Board	Rs 4,000 monthly for each disabled worker not yet recruited to meet the percentage specified in Part I