Law of the Child (Apprenticeship)

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THE LAW OF THE CHILD (Apprenticeship) REGULATIONS, 2012

PART I
PRELIMINARY PROVISIONS

1. These Regulations may be cited as the Law of the Child Act (Apprenticeship) Regulations, 2012.

2. These Regulations shall apply to all Ministries, Agencies and Departments as well as other bodies and individuals providing apprenticeship training in Tanzania Mainland and shall be read together with the Vocational Education and Training Act Employment and Labour Relations Act and any other relevant laws and Regulations.

3. In these Regulations unless the context otherwise requires:

   “Act” means the Law of the Child Act;
   “formal apprenticeship training” means a process of training a skill or trade/occupation undertaken both at the institution or workplace in the formal or informal sector;
   “apprentice” is a child of fourteen years and above who is employed to learn an occupation in the formal or informal sector;
   “caregiver” mean apparent, guardian, institution responsible for caring for the child, village leader or a recognized village committee, teacher or any person responsible for carrying for a child;
   “child” means person below the age of eighteen years;
   “hazardous work” means an work which places a child at risk to suffer physical or mental injury;
   “labour officer” means an officer responsible for labour inspection as provided in Sections 43(3) of the Labour Institutions Act;
   “person with disability” means a person with a physical, intellectual, sensory or mental impairment and whose functional capacity is limited by encountering attitudinal, environmental and institutional barriers;
   “remuneration” means the total value of all payments in money owing to an apprentice arising from work done during the course of apprenticeship training;
   “social welfare officer” means a social welfare officer in the service of government;
"training provider" mean an employer or any registered institution or person responsible for providing apprenticeship in accordance with national laws and standards;

"occupational, Safety and Health Standard" has a meaning as cribbed to it under the Occupational, Health and Safety Act.

**PART II**

**FORMAL AND INFORMAL APPRENTICESHIP**

4. Apprenticeship training shall be provided in the formal and informal sector in accordance with Rules and Regulations set out by the institutions responsible for vocational and apprenticeship training.

5.—(1) There shall be an enterprise and institutional based formal training.

(2) An Institutional based training shall be provided by an institution registered under the Authority responsible for Vocational Training.

(3) Enterprise based training shall be provided by enterprises in collaboration with formal training institutions within and outside the country under conditions established in a Memorandum of understanding between the enterprise, the Training Provider and the relevant government authority.

(4) The training provider shall be required have a minimum of the following:

(a) work equipments and protective gears for apprentices;
(b) safe and clean sanitary facilities for apprentices;
(c) a place for apprentices to rest during the break period; and
(d) a safe environment for undertaking apprenticeship training.

(5) Enterprises providing vocational training may be entitled to incentive as government may deem appropriate.

(6) Apprentices who are able to read and write and who have a minimum level of education as prescribed by the government authority responsible for Vocational Education and Training shall be qualified for entry in the formal apprenticeship training.

(7) Formal apprenticeship training shall be undertaken by any institution certified to undertake such training up to a level specified by the responsible government authority.

(8) Enterprise based apprenticeship training shall be undertaken under conditions supervised by a qualified supervisor from the enterprise and monitored by a responsible government authority.
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(9) Apprentices shall be consulted at each stages of training regarding the training content, methodology and any other matters related to the training.

(10) An application for formal apprenticeship training can be made by an employer on behalf of apprentice, individuals or VET trainees who have successfully completed an approved level of training as specified by the vocational education and training standards and as set out by the government authority responsible for Vocational Education and Training.

(11) Formal training institutions shall use approved standard curricula established by relevant institutions to guide formal training delivery.

(12) Training provided in a formal sector shall comply with laws and Regulations governing rights of children.

(13) An apprentice from low income household who face difficulties in paying fees or in meeting any financial costs associated with the costs of the training shall be assisted in obtaining financial assistance by the local government authority, private sector or individuals in collaboration with the caregiver.

(14) A formal apprenticeship training shall not exceed four years of training.

6.—(1) An informal apprenticeship training shall be undertaken by any institution or individual whether certified or not to undertake such training.

(2) Certified training authorities shall undertake the training in accordance with rules and regulations regarding standards and level of training as specified by the responsible government authority.

(3) The responsible government authority will determine minimum entry qualifications in the informal sector for a child that has attained minimum compulsory education.

(4) An Apprenticeship training in the informal sector shall be undertaken within a period not exceeding four years.

(5) There is no minimum entry education requirements or qualifications for apprenticeship training in the informal sector for children that have not completed compulsory education.

(6) The apprentice shall, during the term of the training in the informal sector, be paid an allowance which may be negotiated between the training provider and the caregiver.

(7) The apprentice shall be consulted at every stages of training regarding to training content, methodology and any other matter related to the training.
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(8) An applications for informal apprenticeship training shall be made by a caregiver, an employer on behalf of apprentices or individual children under supervision and guidance of a caregiver.

(9) Certified informal training institutions shall use approved standard curricula established by relevant institutions to guide training delivery and comply with all laws governing rights of children.

(10) An apprentice from low income households who face difficulties in paying fees or in meeting any financial costs associated with the costs of the training shall be assisted in obtaining financial assistance by the local government authority, private sector or individuals in collaboration with the caregiver.

(11) The apprentice shall, shall four years of training, be considered qualified and with the same qualifications as an apprentice trained in the formal apprenticeship training authority.

PART III

MINIMUM CONDITIONS FOR APPRENTICESHIP TRAINING

7.—(1) The minimum age for entering apprenticeship training shall be fourteen years.

(2) A child of fourteen years who still attending compulsory education shall not become an apprentice until that child has completed compulsory school years.

(3) A child of fourteen years and above who has not attained compulsory primary education may enrol in informal apprenticeship training.

8.—(1) The caregiver shall be required to consent to the apprenticeship training before a child is enrolled in an apprenticeship.

(2) The Training Provider to inform the caregiver of the terms and conditions of the apprenticeship training and in particular, of the skills that are imparted and may obligations imposed on the child or the caretaker.

9.—(1) The Training Provider shall inform the child of the terms and conditions of the apprenticeship training and, in particular, of the skills to be imparted and any obligations imposed on the child.

(2) The child shall be given an opportunity to reflect on the information before a he or she makes the final decision.

(3) The training provider is under a duty to interview the child and to be satisfied beyond reasonable doubt that the child consents and is willing to undertake the apprenticeship training.
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(4) A child shall be required to show consent in writing or by declaring consent to training provider in the presence of a caregiver.

10.—(1) The government authority responsible for vocational training shall specify apprenticeship standards for each occupation with sufficient consideration to the safety and wellbeing of the child.

(2) The maximum hours for apprenticeship training in a day shall be 6 hours.

(3) The maximum hours of training per week shall not exceed thirty six hours.

(4) The child shall not be training between the hours of 8.00 pm and 6.00 am.

(5) A child shall not be allowed to train beyond the time prescribed by this regulation.

(6) A child who is between fourteen and sixteen years shall not carry loads of more than ten kilograms and in the case of a sixteen to eighteen years old, a load of more than 20 kilograms, provided that a labour officer or medical practitioner shall have the power to reduce the weight so permitted in the case of any child with a recognised problem.

(7) A child shall not attend apprenticeship training for more than six days in any one week and on public holidays.

(8) A child who works for more than three hours in any one day shall be given a meal or break interval of at least one hour.

(9) A child shall be entitled to leave of thirty days away from the apprenticeship training compound.

(10) The training provided shall be responsible for ensuring that an apprentice is protected from using tools and equipments that pose a risk to the safety of the child.

(11) The training provider shall ensure that an apprentice does not have unsupervised access or is required to work unsupervised on machines that are likely to risk the health and safety of the child.

(12) The training provider shall ensure that the apprentice is using appropriate working clothes and any other safety gears.

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PART IV

PROHIBITION OF HAZARDOUS TRAINING CONDITIONS

11.—(1) Work in the context of apprenticeship is considered a worst form of child labour if apprentices under the age of eighteen years are engaged in hazardous types or conditions of work within appropriate supervision.

(2) A child shall not be apprenticed to work without approval and supervision from an authorised government body in any of the activities classified as “hazardous work” in section 82 of the Act or any Regulations made under the Act or the Occupational Health and Safety Act and any Regulations made under that Act or any other Laws and Regulations.

(3) For purposes of clarity, hazardous work shall consist of all work that is likely to harm or place a child at risk from physical or mental injury and includes all activities listed in the list of hazardous work appended to the Regulations on Child Employment.

(4) The training provider shall abide to the laws and Regulations governing child employment.

(5) A child shall not be trained in any environment that causes a risk to health and safety, including work in places with dust or fumes, dangerous chemicals, excessive noise, vibrations, heat, bending, standing, or sitting down, exposure to alcohol, or in an environment where there is exposure to alcohol, places that are excessively wet, dangerous working facilities such heavy machinery, carrying heavy loads on the back, head or shoulders and any other act that is likely to affect the health and safety of a child.

(6) An apprentice shall not be engaged in any work or training that involves sexual acts, exposes the child to sexual or moral risks and pornography.

PART V

OBLIGATIONS OF THE TRAINING PROVIDER

12.—(1) The training provider shall provide career orientation to the child before that child embarks on the training.

(2) Career orientation shall include but not limited to the advantages and disadvantages of the trade, risks and challenges.

(3) With the object of fostering effective learning, the training provider may provide psychosocial support, counselling and guidance where required by the child depending on individual circumstances of each child.
(4) Where the training provider fails to provide psychosocial support, counselling and guidance, he shall refer the child to a Social Welfare Officer or any other authorized institution.

13.—(1) The training provider shall be responsible for ensuring regular attendance of apprentices by providing a log book in which apprentices shall be required to record their attendance on a daily basis.

(2) The training provider in the formal sector shall be responsible for imparting both theoretical and practical skills related to the trade as prescribed by the authority responsible for vocational education.

(3) The training provider in the informal sector shall be responsible for imparting practical and any other skills as the circumstances may deem appropriate.

(4) The training provider in the formal and informal sectors shall be responsible for providing information on marketability of the trade, marketability of products, entrepreneurship, life and guidance in the formal and informal sector.

14.—(1) The training provider in the formal sector shall be responsible for providing the apprentice with an examination suitable for the formal sector and in accordance with the standards established by relevant government and non-government authorities.

(2) Certified training providers in the informal sector shall provide certification in accordance with the established standards, systems and procedures as set out by the trade associations in collaboration with authorities responsible for Vocational Education and Training.

(3) The training certificate shall describe the knowledge and skills acquired during the training period.

(4) Psychosocial support, counselling and guidance for the formal and informal sector shall be regulated and guided by the government authorities responsible for social welfare.

15.—(1) The training provider shall ensure that the child has immediate access to healthcare if injured during training.

(2) The training provider shall have a duty to ensure that the apprentice does not operate dangerous machinery or work with other dangerous work-instruments or in any case, work in a dangerous and hazardous working environment.

(3) The training provider shall ensure that the apprentice is working under conditions of safety, including ensuring that they have working gear and undertake any other safety measure to guarantee protection from harm or injury.
(4) The training provider shall protect the apprentice from any harm during the training period, including psychological, emotional, physical or intellectual harm or situations that may subject the apprentice to maltreatment, degrading treatment, violence or other harmful behaviours.

(5) The training provider shall not discriminate the apprentices on grounds of sex, ethnicity, disability, HIV AIDS status, orphanhood or any other condition.

(6) The training provider shall not discriminate the apprentices on grounds of sex, ethnicity, disability, HIV AIDS status, orphanhood or any other condition.

(7) The training provider in the formal sector shall be responsible for providing comfortable accommodation and adequate and sufficient food to the apprentice during the training period.

(8) The training provider in the informal sector may negotiate comfortable accommodation and sufficient food to the apprentice with the caregiver and the apprentice.

(9) The training provider shall provide reasonable accommodation to apprentices with disability, including linking the child to healthcare providers as each case may demand.

(10) The training provider shall provide adequate seminary facilities for girl and boy apprentices at all times during the training.

(11) The training provider shall be responsible for compensating an apprentice where an injury has been sustained during the course of the apprenticeship training in accordance with agreed terms and conditions and in accordance to the laws governing compensation.

(12) The training provider shall ensure that the apprentice does not cause any threat or harm to other apprentices during course of training.

(13) The training provider shall abide by all the Laws and Regulations relating to protection of the child.

(14) After completion of the training, the training provider shall absolve the apprentice of any duty or obligation towards the training provider.

16.—(1) The Training Provider shall be responsible for registering all children participating in an apprenticeship training.

(2) The register shall include the name and age of the child, any disability, sex, residence, names of caregiver and contacts, and nature of the training to be provided.
(3) The training provider shall ensure regular communication with the caregiver regarding the progress of the apprentice including updating any new information regarding the child.

(4) The register shall be open the inspection by the government authority authorized to make inspections.

PART VI
APPRENTICESHIP AGREEMENT

17.-(1) Every training provider shall be required to sign a contract with the apprentice’s caregiver before an apprentice is enrolled for training.

(2) The agreement shall outline rights and obligations of the training provider and the apprentice.

(3) A form prescribing the content of the Agreement as provided by the Vocational Education and Training Regulations may be used to guide the contractual relations between the apprentice and the training provider.

(4) The training provider in the formal sector shall in addition be bound by the laws, Regulations and procedures established by training institutions or enterprises.

(5) The training provider in the informal sector shall be bound by the agreement between the caregiver and the provider or any other rules, procedures or systems set out by Trade Associations.

18.-(1) Without prejudice to the foregoing, termination of apprenticeship may only be undertaken in the following circumstances:

(a) incapacity proved by a report from a medical practitioner;
(b) gross misconduct;
(c) poor health that hinders effective performance;
(g) operational requirement;
(e) incapacity to learn.

(2) The training provider shall prove that the apprentice is no longer suitable for the apprenticeship training.

(3) The training provider shall in case of termination provide a notice of thirty days to both the caregiver and the apprentice informing them of the termination and reasons for termination.

(4) Where the caretaker and a child are not satisfied with the termination, they shall have recourse to a Social Welfare Officer or a Labour Officer within a period not exceeding one month from the date of termination.
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19.- (1) A caregiver can terminate the contract on behalf of the child if the training provider has defaulted in any way.

(2) The caregiver shall terminate the contract in consultation with the child and after satisfying himself that the termination of the contract is in the best interest of the child.

(3) In the event of termination as a result of child abuse, the caregiver shall inform the social welfare officer who shall take all measures to link the child to appropriate care.

20.- (1) The apprentice in the formal sector shall be entitled to remuneration as provided for by the Vocational Education and Training Act, and its subsequent amendments and Regulations made there under.

(2) Where the training provider fails remunerate the child, the laws, regulations and procedures by the responsible government vocational and training authority shall apply.

(3) Remuneration is an entitlement and shall be based upon working hours and not on the products produced by the apprentice.

(4) Remuneration shall only be paid in monetary terms and shall not include any payment in kind.

21.- (1) The provisions of any other relevant laws and procedures shall apply where there is a breach of contract between the apprentice and the training provider.

(2) Where the agreement is breached by the training provider, the caregiver or the child with the assistance of a social welfare officer, shall have recourse to a labour officer or a court of law.

PART VII

DUTIES OF AN APPRENTICE AND A CAREGIVER

22.- (1) A caregiver shall have the duty to report any abuse or exploitation to a Social Welfare Officer or local authorities where the caregiver suspects abuse or exploitation.

(2) Any other person may report of abuse or exploitation to a Social Welfare Officer or local authorities where the person suspects abuse or exploitation of an apprentice.

(3) Where a care of abuse or exploitation has been reported to a local authority, the local authority shall have the duty to immediately report the case to a Social Welfare Officer.
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Duty to follow lawful instructions

23. An apprenticeship shall follow lawful instructions and guidelines as directed by the training provider.

Duty to report damage to property

24. The apprentice shall report any damage to the property of the training provider.

Duty to care for property and equipment of the training provider

25. — (1) The child shall not steal, hide or take without the permission of the training provider any property belonging to the Training provider.

(2) At all times, the child shall take measure to ensure good care and use of the facilities and equipment belonging to the Training provider.

Duty of a child to report abuse of exploitation

26. A child shall have a duty to report abuse or exploitation to a Social Welfare Officer, local government authority or any other institution working on children’s rights.

PART VIII

ADMINISTRATION AND ENFORCEMENT

Duty of a Labour Officer

27.—(1) It shall be the duty of a Labour Officer to inspect working conditions and standards in accordance with this Act, the employment and Labour Relations Act, the Labour Institutions Act or any other relevant Act with related regulations.

(2) The Labour Officer shall have the power to interview a child in private and in the absence of the training provider or any other person.

(3) The Labour Officer has order the immediate release of an apprentice from the training provider if conditions of training are found to be exploitative or abusive.

(4) Where the Labour Officer has ordered the immediate release or an apprentice from a training provider, he shall immediately refer the child to a fit institution or a Social Welfare Officer.

(5) The Labour Officer shall immediately inform a Social Welfare Officer of the release of the apprentice or inform them of the exploitative conditions of labour within a period not exceeding 24 hours after the inspection.
(6) Where the labour Officer orders the release of a child, the Labour Officer shall be required to fill a form informing the Social Welfare Officer of the situation at the Workplace, the risks involved, the harm experienced and recommendations for action.

(7) The Labour Officer shall immediately report non compliance and child labour incidences to designated authorities as prescribed by the Labour Institutions Act and its regulations.

(8) The Labour Officer shall take all measures to monitor compliances of the Act.

28.—(1) The VET inspector shall take all measures to monitor standards of the training using standardised monitoring tools prescribed the relevant training authority.

(2) The VET inspector shall immediately inform the Labour Officer and Social Welfare Officer if the conditions of training are exploitative or abusive to the apprentice.

(3) The VET inspector shall be responsible for ensuring that apprentices who have completed apprenticeship training are awarded certificates according to VET laws and regulations.

29.—(1) The Social Welfare Officer shall take all measures to follow up reported cases of exploitations or abuse of apprentices.

(2) If the Social Welfare Officer finds that an apprentice is subjected to exploitation or abuse, that officer shall remove the child and report the matter to the police and the Labour Officer.

(3) The police or a Social Welfare Officer shall be under a duty to ensure that any child found to be engaged in an exploitative apprenticeship offered rehabilitative services.

(4) The Social Welfare Officer shall be responsible for tracing the apprentice’s caregivers to notify them of the removal of the apprentice and inform them of the circumstances of such removal.

(5) The Social Welfare Officer shall provide the caregiver and the apprentice any other assistance as may be required including referring the caregiver to legal assistance, medical care and psychosocial support.
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(6) Where the labour Officer orders the release of a child, the Labour Officer shall be required to fill a form informing the Social Welfare Officer of the situation at the Workplace, the risks involved, the harm experienced and recommendations for action.

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(4) The Social Welfare Officer shall be responsible for tracing the apprentice’s caregivers to notify them of the removal of the apprentice and inform them of the circumstances of such removal.

(5) The Social Welfare Officer shall provide the caregiver and the apprentice any other assistance as may be required including referring the caregiver to legal assistance, medical care and psychosocial support.
Duty of an Occupational Health and Safety Inspector

30.- (1) Where the Occupational Health and Safety Inspector finds that an apprentice is subjected to exploitation or abuse, that officer shall remove the child and report the matter to the Social Welfare Officer and the Labour Officer.

(2) The Occupational Health and Safety Inspector shall Inspect occupational health and safety standards at the training premises.

(3) The Occupational Health and Safety Inspector shall Inspect use of working gear, including clothing and equipment.

PART IX
Dispute Settlement

Sanctions for breach

31. Where a training provider contravenes the terms of any Act regulating apprenticeships for children or these Regulations, all sanctions, remedies and penalties provided in the Act, in the Penal Code and all other relevant laws and regulations shall apply.

Dispute Settlement

32.- (1) The Labour Officer shall consult with the regional VET Officer and the Social Welfare Officer to listen to the parties and where conditions permit, to resolve the dispute on an amicable basis.

(2) Where the parties are not satisfied with the reconciliation, they have a right to institute a case in a court of law.

(3) The Social Welfare Officer shall ensure that the child has access to any assistance, including legal, health or psychosocial as the case may require.

(4) At all times, the Social Welfare Officer shall accompany the child and ensure the presence of caregivers throughout the trial.

Dar es Salaam, 27th March, 2012
HADJI MPOnda,
Minister for Health and Social Welfare