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THE EMPLOYMENT (AMENDMENT) ACT

No. 15 of 2022

Date of Assent: 4th April, 2022

Date of Commencement: 22nd April, 2022

AN ACT of Parliament to amend the Employment Act

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Employment (Amendment) Act, 2022.

Short title.

2. Section 9 of the Employment Act is amended by inserting the following new subsections immediately after subsection (4)—

Amendment of
Section 9 of No.
11 of 2007.

(5) In respect of recruitment, an employer shall not require an employee to submit any clearance or compliance certificate unless such employer intends to enter into a contract of service with the employee:

Provided that an applicant for a state office shall provide compliance or clearance certificates at such times in the recruitment or approval process as they may be required.

(6) An employer who intends to enter into a written contract of service may, in compliance with chapter six of the Constitution, request an employee to submit mandatory clearance certificates from the relevant entities.

(7) Notwithstanding subsection (6), an employer may, where an employee does not satisfy the requirements under subsection (6), withdraw an offer of contract of service.

(8) A relevant public entity shall—

- (a) not charge a fee for the issuance of a clearance or compliance certificate under this section or any other written law;
- (b) issue an applicant with the clearance or compliance certificate or reject the application within seven days of receipt of the application.

- (9) For the purposes of this section—
- (a) “employee” includes an applicant for employment;
 - (b) “employer” includes an employment agency;
 - (c) “relevant entity” includes any public or private entity that issues clearance certificates for purposes of satisfying the requirements under chapter six of the Constitution.