L.N. 15 of 1988

EMPLOYMENT SERVICE ACT, 1955
(ACT NO. XIV OF 1955)

Auxiliary Workers and Training Scheme Regulations, 1988

IN EXERCISE of the powers conferred by section 13A of the Employment Service Act, 1955, the Minister for Social Policy has made the following regulations:—

Citation.

1. These regulations may be cited as the Auxiliary Workers and Training Scheme Regulations, 1988.

Interpretation.

2. In these regulations, unless the context otherwise requires:

"auxiliary worker" shall have the same meaning as that in the Act;

"the Board" means the Board of Directors, appointed in accordance with regulation 3 of these regulations;

"Director of Labour and Emigration" includes any officer of the Department of Labour and Emigration who is authorized by the Director to act on his behalf;

"Employment Service" has the same meaning as that in the Act;

"Minister" means the Minister responsible for labour;

"the Scheme" means the Auxiliary Workers and Training Scheme.

Board of Directors.

3. (1) There shall be a Board of Directors which shall be directly responsible for the Scheme of training, work and placing of auxiliary workers in suitable employment.

(2) The Board shall be appointed by the Minister and shall consist of a Chairman, a Deputy Chairman, such representatives of Ministries according to the exigencies of the Scheme and a representative from each of the Confederation of Trade Unions, the Employers' Association, the Federation of Industries and the General Workers' Union. The Minister shall also appoint a substitute person for each director for the same period as the director whom he shall be substituting and who may attend Board meetings in the absence of the director.

(3) The Minister may appoint another person to act as Secretary to the Board.

(4) The Board shall execute policy directives issued by the Minister and observe such regulations or instructions as are issued by the Director of Labour and Emigration under labour laws.

(5) The Board may function notwithstanding any vacancy in the number of its members, but it shall not function unless the Chairman or the Deputy Chairman and four other members are present.

(6) Without prejudice to paragraph (5) of this regulation, the Board may regulate its own procedure.

Assessment and Placement Office.

4. (1) There shall be an Assessment and Placement Office established by the Board which:

(a) examines the applicants submitted by the Employment Service and conducts the necessary interviews and investigations with an aim of obtaining the best assessment possible of the applicants' disposition for training and ability in some work or skill; and

(b) places auxiliary workers either in the training phase or in the work phase according to the exigencies and the possibilities of the Scheme.

(2) The Board shall appoint examiners to assess applicants by means of a trade aptitude test and/or a trade test in a particular trade indicated by them.

(3) In this Office there shall be, to the extent possible, qualified personnel in vocational guidance to assist Scheme members in any problems they may have, and also to give them such advice as may be deemed necessary.

Skills Training Agency.

5. (1) The Board shall establish a Skills Training Agency (hereinafter called "the Agency"), within the Scheme, which shall have the aim of promoting, developing and implementing teaching, training, practice and experience programmes which are intended generally to further advance the educational level and personality development of the auxiliary workers and, in particular, to develop trades and other abilities, as may be identified for the needs of the means of production in the industrial and tertiary sectors, and also to foster further motivation in the workers to achieve better quality and more efficiency in their work.

(2) The Agency shall seek to ensure that the teaching and the training are given:

(a) in sectors where skills are required to be revived with an aim of conserving the nation's cultural and environmental heritage;

(b) in traditional technical skills;

(c) in the manufacturing and services sectors; and

(d) in high technology sectors.

(3) The Agency shall promote the teaching and training of the members in the Scheme in different systems of productive associations including co-operatives.

(4) The Agency shall in its operations give attention to the human resource of women within the Scheme with an aim of increasing the presence of women at all levels of the labour market.

(5) The Agency shall, in co-ordination with other departments and organizations, provide facilities for the rehabilitation and special training of handicapped persons in the Scheme.

(6) The Board shall ensure that the Agency shall have the necessary structures and organization (such as space, teachers, vocational guidance, training and teaching tools, etc.) so as to give to workers within the Scheme the necessary training at a suitable level and to retrain workers in such manner that, when they are constrained to change their work, they will be able to move from one kind of work to another according to the exigencies of changes in the labour market.

(7) The Agency shall work in close collaboration with the Department of Education, the Malta Development Corporation, workers' Unions and employers' Associations, and ensure that the teaching and training programmes will be integrated within the framework of the national system of technical and vocational education.

(8) The Agency shall ensure that members are tested for their ability in the trade in which they are trained by it, and that those who are successful in such tests are given the relative certificate.

(9) The Board shall appoint an Administrator who shall be immediately responsible for this Agency and the personnel necessary for the carrying out of the functions and work expected from it.

(10) The Agency shall also promote programmes of sports and cultural activities in which auxiliary workers engaged in the Scheme shall be invited to participate.

The work phase.

6. (1) The Board shall provide and seek temporary work for auxiliary workers in the Government, parastatal and private sectors and carry out the projects entrusted to it.

(2) Auxiliary workers who in the opinion of the Skills Training Agency show an aptitude for, and make satisfactory progress in the training in a particular trade or skill and also indicate their willingness to further their knowledge, shall, where possible, be given employment relevant to the training.

(3) The Board shall appoint a Manager who shall be responsible for the daily administration of the Scheme with regard to matters related to the work phase as well as to the execution of projects for which the Scheme will be directly responsible.

7. (1) Enrolment in the Scheme shall take place following written applications according to calls made from time to time by the Employment Service and published in the Government Gazette for categories of persons from among those referred to in section 13A of the Act. The Employment Service may also offer persons registering for work to join the Scheme and, for the purposes of the Register of Applicants for Employment (Part Two) Order, 1980, membership in the Scheme shall be considered as an offer of suitable employment. Enrolment in the Scheme. L.N. 52 of 1980.

(2) Prior to being enrolled in the Scheme, a person shall be served with a written notice regarding the general conditions of work and training and shall complete the enrolment form and sign the necessary statements for the purposes of the contract of work and training under the Scheme.

(3) Saving the provisions of any other law regarding false statements, any person making a false statement shall forfeit the right of enrolment under the Scheme and should such false statement be discovered subsequently to such person's enrolment under the Scheme, such person shall be automatically dismissed.

(4) The officer in charge shall be satisfied that the individual shall have understood the contents of the notice and of the enrolment form as well as the statements signed by him.

(5) A person shall become an auxiliary worker under the Scheme on signing the said statements.

(6) When the term in the Scheme is to be renewed, account will be taken of the advice of the Assessment and Placement Office which shall take into consideration the behaviour and performance of the auxiliary worker throughout his term within the Scheme during both the training and work phases, the skill and trade of the individual, as well as the latter's disposition for further training.

8. (1) Auxiliary workers shall be subject to such medical examinations as may be necessary from time to time both before and after enrolment in the Scheme. Medical examinations.

(2) Medical examinations shall be carried out by a Medical Board composed of a panel of medical practitioners and paramedics appointed by the Board.

9. (1) Auxiliary workers shall wear such work clothes as are normally required in the Government service or in the particular sector to which they will have been attached according to the Board's decision. Work clothes and equipment.

(2) Work clothes and equipment or tools that auxiliary workers shall be provided with shall remain Government's property and shall be returned in good condition, except for fair wear and tear, within seven days from one's termination of service in the Scheme.

10. (1) Auxiliary workers shall receive a wage payable every fortnight which shall in no case be lower than the national minimum wage in addition to the Bonus. Wages.

(2) The Board may, with the approval of the Minister, establish various grades and categories of auxiliary workers and also establish different scales of remuneration based on the type of work assigned, one's skill, efficiency and trade.

Working hours.

11. (1) Auxiliary workers shall work an average of forty hours spread over a week of five or six days or the hours of work (or training) as may apply at the place of work or establishment where they are placed.

Holidays.

12. (1) Auxiliary workers are entitled to all those public holidays established by law.

(2) Without prejudice to the exigencies of the service, auxiliary workers shall be entitled to twenty vacation leave days (twenty-four when they work a six-day week) with full pay every calendar year, with effect from the lapse of three months from the date of enrolment in the Scheme.

(3) No vacation leave shall be availed of during the training phase except in exceptional cases.

(4) Auxiliary workers shall also be entitled to full pay during sickness up to a maximum of twenty days in a calendar year. Sickness pay shall only be payable if one satisfies the conditions which the Board may set out from time to time, including that requiring auxiliary workers to submit to an examination by the Medical Board or by a medical practitioner appointed by the Medical Board.

(5) Auxiliary workers shall also be entitled to three days leave on marriage and to two days leave on the birth of a child to the auxiliary worker's wife, provided that the said two days leave are availed of consecutively within one month from the date of the child's birth.

(6) Auxiliary workers shall also be entitled to two days leave on the death of any of the following relatives: the father, mother, wife, husband, son, daughter and brothers or sisters of the auxiliary worker.

(7) Auxiliary workers shall be entitled to maternity leave as established by law.

(8) Auxiliary workers shall be entitled to their pay when called to serve as jurors in Court.

Other conditions.

13. (1) Auxiliary workers may not perform private work without the Board's written permission to do so.

(2) In those cases where it results that these regulations do not make specific provision, the Board may, in consultation with the Director of Labour and Emigration, decide and its decision shall be final.

14. (1) Auxiliary workers are expected to observe the regulations in force from time to time and to carry out the orders and work given to them by their superiors at all levels. Discipline.

(2) Disciplinary measures may be taken, including dismissal from the Scheme, deduction of pay, suspension without pay or with half pay, against auxiliary workers who are found guilty of any offence listed in the Schedule to these regulations.

(3) There shall be a Disciplinary Board composed of three persons, appointed by the Board to investigate and decide disciplinary cases in the Scheme and to determine due punishment, according to the seriousness of the case.

(4) In any disciplinary case, an auxiliary worker shall be given details in writing of the charge brought against him and shall have the right to answer in writing to such charge, without prejudice to the right to appear before the Disciplinary Board if the disciplinary proceedings are continued.

(5) An auxiliary worker has the right to be present during the hearing of his case and the Disciplinary Board shall consider anything that he may say in his defence. In every case, an auxiliary worker shall have the right to hear the evidence against him and cross-examine witnesses, testify on his own behalf, and to summon witnesses for his defence. No auxiliary worker may be compelled to testify in his own defence.

(6) An auxiliary worker may be assisted by another person of his own choice.

(7) The Disciplinary Board shall regulate its procedures in such a way that, in conformity with the norms of natural justice, the proceedings are expedited for the early conclusion of cases.

15. (1) Auxiliary workers are expected to carry out all the work assigned to them accurately and conscientiously as instructed by their superiors and are to do their best to complete the work assigned to them satisfactorily and in the least possible time. Work.

(2) Auxiliary workers may be engaged in construction work, maintenance work, street cleaning, land cultivation schemes, the necessary preparation work for projects or on actual projects, as well as any other work they are capable of carrying out in the Government, parastatal and private sectors, as may be necessary.

(3) Auxiliary workers may be placed with establishments, factories and contractors to carry out work that is suitable to them and/or in which they are receiving training.

(4) An auxiliary worker who rejects an offer for employment without a valid reason loses his right to continue in the Scheme.

Casual workers.

16. Subject to the provisions of these regulations, casual workers, meaning those workers who fall within the category of workers mentioned in section 13A (1) (b) of the Act, may, while still receiving the wages of the place of work where they are employed as casuals and with other conditions similar to those generally applicable to Government employees, be given work and training within the Scheme according to exigencies.

Excess workers.

17. Workers employed in terms of section 110 of the Constitution of Malta, who are found to be in excess of the needs of the enterprise within which they are employed, may, while remaining on the books of the enterprise under the same conditions, be trained in the Scheme if the need arises and perform work which would be as analogous as possible in the Scheme while still retaining the right to revert to the enterprise in which they had been employed, when a vacancy occurs.

SCHEDULE

Regulation 14

List of offences falling under the jurisdiction of the Disciplinary Board:

(a) absence from work or late attendance for work without a valid reason;

(b) abandonment of a place of work without permission or a valid reason;

(c) the utterance of language signifying insubordination to superior officers;

(d) the use of violence on a superior officer or any other person;

(e) lack of obedience to a legitimate order or command given by a superior officer;

(f) loitering or the simulation of illness or disability, bad workmanship and low productivity;

(g) the negligent loss or damage of property belonging to Government or to third parties;

(h) the wilful destruction or damage of any property belonging to Government or to third parties, issued or entrusted to members within the Scheme;

(i) the making or aiding in the making of a false or malicious statement when this is known to be false, or of an omission, with a malicious intent, in a report, prospect, pay list or other document which is drawn up or signed by a member within the Scheme, or on whom it is incumbent to check the exactness of the contents thereof;

(j) failure to attend as a witness in an inquiry about a breach of discipline when an order has been issued summoning such attendance;

(k) an offence which may lead to criminal proceedings;

(l) any act, conduct or negligence prejudicial to the good order and discipline of the Scheme.

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