The Labour Institutions Act, 2007
Overview

- **Object**
  
  To establish labour institutions, and to provide for their functions, powers and duties, and connected matters thereto.
Coverage

- Part I: Preliminary
- Part II: The National Labour Board
- Part III: The Industrial Court (Repealed by Industrial Court Act No. 20 of 2011)
- Part IV Committee of Inquiry
- Part V: Labour Administration and Inspection
Coverage...Contd

- Part VI: Wages Council
- Part VII: Employment Agencies
- Part VIII: Miscellaneous Provisions
Part I: Preliminary

- Exclusion from application of the Act
  - Armed forces and reserve
  - Kenya Police
  - Kenya Prisons Service
  - Administration Police force
  - National Youth Service
- Act otherwise binding on the government
Definitions

The Act provides definition and interpretation of the following terms:

- Authorised Officer
- Board
- Labour Committee of Inquiry
- Commissioner for Labour
- Collective Agreement
- Contract of Service
Definitions

- Director of Employment
- Employee, Employer
- Employment Agency
- Employment Record
- Federation
- Labour Law
Definitions

- Sector
- Trade Union
- Industrial Court
- Redundancy
- Registrar of Industrial Court
- Registrar of Trade Union
- Medical Officer
Part II: The National Labour Board

- Establishes the National Labour Board
- Composition of the Board:
  - Chairperson
  - Secretary-General or Chief Executive of the most representative federation of trade unions and Federation of Employers Organisation respectively
Part II: The National Labour Board

- Two persons appointed from nominees of the most representative federation of employers organization
- Two persons appointed from nominees of the federation of trade unions
- Not more than two other independent members
The National Labour Board (Cont.)

- The Government officials are:
  - the Director of Employment
  - the Director Occupational Safety and Health Services.
  - The Director of Industrial Training, the Registrar of Industrial Court, and
  - The Registrar of Trade Unions
Functions of the Board Include:-

To advice the minister on all matters concerning:

- Employment and labour
- Employment and labour legislation
- Labour relations and trade unionism
Part II: The National Labour Board (Cont.)

- Any issue arising from the International Labour Organization and the International Labour Organization Convention
- Codes of good practice
- Any issues raised by an international or regional association of states
Part II: The National Labour Board (Cont.)

- Systems of labour inspection and the administration of the Labour Acts
- Any aspect of public employment services, vocational guidance, vocational training and the employment of persons with disabilities
Part II: The National Labour Board (Cont.)

- Formation and development of policies designed to promote the granting of paid educational leave to workers for the purpose of training, trade union social and civic education and trade union education
- General state of employment, training and manpower development in the country
Part II: The National Labour Board (Cont.)

- Productivity measurement and improvement
- Appointment of wages councils
- Appointment of the Industrial Court members
Part II: The National Labour Board (Cont.)

- Setting of compensation benefits in accordance with the provisions of the Work Injuries Benefits Act
- Registration, suspension and deregistration of trade unions and employers organization
- Any other matter related to the Board’s functions
Part II: The National Labour Board (Cont.)

- The Board may advice:
  - The government on the issuing of work permits to non-citizens
  - The Chief Justice on the assignment of Judges to the Industrial Court and the rules of the Industrial Court
Part II: The National Labour Board (Cont.)

- The Board may conduct:
  - any investigation that it may consider necessary and
  - Research into labour, economic and social policy

- The Board shall have the power to co-opt any person to participate in its deliberations but such a person shall not have a right to vote
The Board shall determine its own procedure for the performance of its functions.

The secretary of the Board shall brief the Board at least once every three months on:-
- The general state of economy
- Labour market information and employment trends
Part II: The National Labour Board (Cont.)

- Reported strikes and lockouts
- Inflationary trends and indices
- Number of complaints and disputes lodged with the Ministry and progress in settling such complaints and disputes,
- Labour inspection services
- Any other issues determined by the Minister or Board
The Board shall in consultation with the Minister establish the following committees:

- Work Permits Committee
- National Manpower Development Committee
- Trade Dispute Committee
- Productivity Committee, and
- Other committees or panels as necessary

The Commissioner of Labour is the secretary to the Board.
The Industrial Court

- Repealed by Industrial Court Act No. 20 of 2011
Part IV: Committee of Inquiry

- Minister has power to appoint a Committee of Inquiry whether or not a dispute has been reported to him.
- Committee may consist of one, two or more persons including Chairman as Minister sees fit.
- Minister may appoint a public officer to be the Secretary of the Committee.
Committee to submit a report on the matter to the Minister. He may order publication of whole or part of the report.
Part V: Labour Administration and Inspection

- Appointments in accordance with regulations governing public service of:
  - Commissioner of Labour
  - Director of Employment
  - Other officers necessary for purposes of administration of laws relating to labour and employment – may be designated as labour officers, employment officers or medical officers

- These constitute authorised officers
Part V: Labour Administration and Inspection (Cont.)

- Certificate of authority by the delegating person
- Inspection or visit under the Act
- Willful obstruction of authorized officer etc an offence
- Preparation of annual report of the activities conducted by Commissioner of Labour and the Director of Employment
Part VI: Wages Council

- The Minister shall establish a general wages council and an agricultural wages council.
- In addition, the Minister may establish sectoral wages councils if he is of the opinion that the remuneration and other conditions of employment are not adequately provided for by Collective Agreement or expedient to fix minimum wages.
Wages Council (Cont.)

Minister to determine:

- Terms of Reference
- Names of persons appointed
- Period they are required to investigate and prepare a report for the Minister
Wages Council (Cont.)

- Functions:
  - To investigate the remuneration and conditions of employment in any sector
  - To make recommendations to the Minister on minimum wage remuneration and conditions of employment
  - Minister to publish notice of intention to publish a wages order, and consider any representation before publishing the actual order.
Wages Council (Cont.)

- Minimum rates of remuneration or condition of employment established in a wage order constitutes the minimum terms and conditions of employment
- Breach of order subject to penalty
- Labour officer shall have power to institute proceedings for the recovery of sums due from an employer to an employee
- Keeping of records of wages by employers
Part VII: Employment Agencies

- Registration through an application to the Director
- Refusal by the Director to grant an application to be supported by reasons for such decision
- Cancellation of registration or vary the terms or conditions of any certificate of registration
- Appeal against such decisions to the Industrial Court.
Employment Agencies (Cont.)

- Requirement to charge and receive not more than the amount prescribed for any particular area and class of business
- Power of an employment officer to enter upon the premises without notice for the purposes of conducting any search necessary for the prevention, investigation or detection of an offence
Part VIII: Miscellaneous Provisions

- General penalty: 50 000/-, 3 months or both (s. 73)
- Repeal of the Wages and Conditions of Employment Act (s 75)
- NOTE: regulations not repealed and are still valid until repealed by new regulations
THE END