



REPUBLIC OF KENYA

PARLIAMENT



SENATE BILLS

(Bill No. 11 of 2022)

**THE EMPLOYMENT (AMENDMENT)
BILL, 2022**

(A Bill published in the Kenya *Gazette* Supplement No. 198 of 30th November, 2022
and passed by the Senate, with no amendments, on 1st August, 2023)

THE EMPLOYMENT (AMENDMENT) BILL, 2022
A Bill for

AN ACT of Parliament to amend the Employment Act to provide for the right to disconnect; the right of employees to have their personal time and privacy respected and for connected purposes.

ENACTED by the Parliament of Kenya as follows —

Short title.

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

Insertion of new section 27A.

2. The Employment Act is amended by inserting the following new section immediately after section 27—

The right to disconnect.

27A. (1) An employee has the right to disconnect from their employer.

(2) An employer shall, for the purposes of subsection (1)—

(a) put in place a policy regarding the—

(i) circumstances under which an employer may contact an employee during out of work hours;

(ii) use of electronic devices to send or receive information, messages or any digital work related communication during out of work hours; and

(iii) circumstances under which the right to disconnect may be waived.

(b) specify the nature of compensation for employees who work during out of work hours

(3) Where an employer has employed more than ten employees, such employer shall, in formulating a policy under subsection (2), consult the respective employees or, where applicable, trade union.

(4) The right to disconnect shall be subject to the terms and conditions specified under section 10.

(5) The right to disconnect shall be limited only to the extent necessary to address an emergency arising out of the work falling within the responsibility of the employee.

(6) Subject to subsection (5), an employee shall not be reprimanded, punished, or subjected to disciplinary action if the employee disregards a work related communication during out of work hours.

(7) Where an employer contacts an employee during the period when there is no mutually agreed out of work hours, the employee—

(a) shall not be obliged to respond and shall have the right to disconnect; and

(b) may choose to respond, for which the employee shall be entitled to get compensation.

(8) The provisions of this section shall not apply to the provision of essential services specified under section 81 of the Labour Relations Act.

(9) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding five

hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

(10) In this section—

No. 14 of
2007.

- (a) “out of work hours” means hours other than the hours of work agreed upon between an employer and an employee in the contract of employment.
- (b) “right to disconnect” means an employee’s entitlement not to be contacted by the employer during out of work hours as per the employer’s policy.

The Employment (Amendment) Bill, 2022

I certify that this printed impression is a true copy of the Bill as passed by the Senate on 1st August, 2023.


Clerk of the Senate

Endorsed for presentation to the National Assembly in accordance with the provisions of standing order 161 of the Senate Standing Orders.


Speaker of the Senate

PRINTED BY THE CLERK OF THE SENATE

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