



**MINISTRY LABOUR AND SOCIAL PROTECTION  
STATE DEPARTMENT FOR SOCIAL PROTECTION  
DEPARTMENT OF SOCIAL DEVELOPMENT**

**GUIDING QUESTIONS FOR FOCUS AREA: RIGHT TO WORK AND ACCESS TO THE  
LABOUR MARKET**

**National Legal and Policy Framework**

**1. What are the legal provisions and policy frameworks in your country that recognise the right to work and access to the Labour market by older persons?**

- ✓ Constitution of Kenya, 2010 (Articles 41 & 57)
- ✓ Employment Act, 2007
- ✓ Labour Relations Act, 2007
- ✓ National Social Security Act
- ✓ Persons with Disability Act, 2003
- ✓ National Employment Policy
- ✓ Policy on Older Persons and Ageing
- ✓ National volunteerism Policy
- ✓ National Policy on Older Persons and Ageing, 2018
- ❖ The legislations however, do not directly make reference to older persons, nevertheless anyone working during and beyond 60 years is adequately covered.

**2. What are the challenges faced by older persons for the realization of their right to work and access to the labour market in Kenya?**

- ✓ Competition for job opportunities with the youth
- ✓ Employability, skills enhancement, education and training in the labour market which mostly require IT skills & qualifications
- ✓ Inadequate IT skills among majority of the older persons
- ✓ Limited opportunities/facilities to internet access for online business

**3. What data, statistics and research are available regarding the older persons engaged in informal work particularly older women, including conditions of their work and economic value?**

Registered self-help groups and community - based organizations (CBOs) of older persons engages in socio-economic activities. Between 2013 & 2019 the Department has registered over 250,000 community groups, out of this around 5% are groups of older persons. Efforts from of other development agents such as development partners, International & local NGOs, CSOs, FBOs and CBOs that are also



**MINISTRY LABOUR AND SOCIAL PROTECTION  
STATE DEPARTMENT FOR SOCIAL PROTECTION  
DEPARTMENT OF SOCIAL DEVELOPMENT**

implementing programmes to promote the rights and socio-economic welfare of older persons. For instance, one CBO, KARIKA is engaging over 2000 old people in various income generating activities which provide work opportunities.

The economic value of these groups has not been quantified in monetary terms, however the social impact by older persons in these informal groupings is noticeable from the increased incomes and improved livelihoods.

**AVAILABILITY, ACCESSIBILITY AND QUALITY**

**4. What steps have been taken to ensure the access of older persons to the labour market, including through physical accessibility, access to information about employment opportunities, training and the provision of appropriate workplace accommodations?**

The overall goal of the National Older Persons and Ageing Policy is to provide an environment that recognizes, empowers, and facilitates older Persons to participate in the society and enjoy their rights, freedoms and live in dignity. Some of the steps in place include;

- ✓ Cash transfer for older persons (OPCT)
- ✓ Retired Volunteers who provide their services on a voluntary basis
- ✓ Employment for retired public servants on Contract
- ✓ Provision to work and retire at 65 years for PWDs
- ✓ Open air markets (Jua kali) for retired and self-employed older persons
- ✓ National Guidelines on the Establishment and Management of Institutions of Older Persons.

**5. What steps have been taken to ensure the availability of specialized services to assist and support older persons to identify and find employment in Kenya?**

- ✓ Employment on contract for retired public servants based on expertise, institutional memory among other things in State Agencies & corporations, Boards, Commissions etc.
- ✓ Specific human resource policies that allow some institutions such as the Judiciary & Universities especially the Professors to retire at 70yrs



**MINISTRY LABOUR AND SOCIAL PROTECTION  
STATE DEPARTMENT FOR SOCIAL PROTECTION  
DEPARTMENT OF SOCIAL DEVELOPMENT**

- ✓ Universal cash transfers for the 70+ which allows the senior citizen to remain active and engage in various socio-economic activities
- ✓ Retired Volunteers - the National Policy on Volunteerism recognizes this category of volunteers who continue to work though on a voluntary basis after retirement at 60 yrs.

**6. What good practices are available in terms of ensuring the older person's enjoyment of their right to work and their access to the labour market?**

Different government institutions provide services to older persons especially those in informal groups. For instance the following;

- ✓ Ministry of Labour and Social Protection registers groups of older persons involved in informal work and empowers them through capacity building programmes that enable them to enjoy their right to work.
- ✓ Ministry of Trade organizes exhibitions/open air markets for OPs to sell their products/wares
- ✓ National Industrial Training Agency (NITA) engages with OPs in the informal sector by providing them with training on business education and life skills
- ✓ Ministry of Industrialization offers business education and training to informal groups on life skills education

**7. What protections are available to ensure older persons enjoy just and favorable conditions of work including fair wages and equal remuneration for work of equal value, safe working conditions, both in the formal and informal sector?**

Those enshrined in Sections 5 of the Employment Act is applicable to any worker including Older Persons who may be in the Labour Market, which expects employers among other things to;

- ✓ Promote equality of opportunity in employment in order to eliminate discrimination in employment and; to discourage discrimination directly or indirectly, against an employee or prospective employee or harass an employee or prospective employee— on grounds of race, color, sex, language, religion, political or other opinion, nationality, ethnic or social origin, disability, pregnancy, mental status or HIV status



**MINISTRY LABOUR AND SOCIAL PROTECTION  
STATE DEPARTMENT FOR SOCIAL PROTECTION  
DEPARTMENT OF SOCIAL DEVELOPMENT**

- ✓ The National employment policy provides that citizens should be employed in accordance with the policy directions and; that employers should pay employees equal remuneration for work of equal value.

**EQUALITY AND NON-DISCRIMINATION**

**8. In your country, is age one of the prohibited grounds for discrimination in relation to work and access to the labour market, including in older age?**

- ✓ In Kenya, the labour force is considered to be between 18- 60yrs; however as enshrined in the Constitution no one is supposed to be discriminated on the basis of their age, though this is not explicit in the Employment Act, 2007.
- ✓ The Employment Act, is currently being reviewed to be in compliance with the Kenya Constitution, 2010, hence this presents the country with an opportune moment to consider the inclusion of older persons in legislation.

**REMEDIES AND REDRESS**

**9. What mechanisms are necessary, or already in place for older persons to lodge complaints and seek redress for denial of their right to work and access to the labour market?**

Redress is available at the;

- ✓ Labour Office
- ✓ Law Courts
- ✓ Employment and Labour Relations Court up to Court of Appeal
- ✓ National Gender and Equality Commission
- ✓ Committee on the Administration of Justice