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# REGULATORY IMPACT ASSESSMENT

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The Monetary Cost of Complying with  
Employment Regulations: Experience  
from the Hotel Industry in Tanzania

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## ACRONYMS

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Covid-19	–	Corona Virus Disease 2019
CCA	–	Compliance Cost Assessments
EPA	–	United States Environmental Protection Agency
HAT	–	Hotel Association of Tanzania
IT	–	Information Technology
PPD	–	Public-Private Partnerships
RIA	–	Regulatory Impact Assessment
TCT	–	Tanzania Confederation of Tourism
TRA	–	Tanzania Revenue Authority
TShs	–	Tanzanian Shillings
UK	–	United Kingdom

## EXECUTIVE SUMMARY

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This Regulatory Impact Assessment (RIA) is a result of joint efforts between REPOA and the Hotel Association of Tanzania (HAT). This RIA which surveyed 160 hotels across 8 geographical zones in Tanzania quantifies compliance cost that the hotel industry encounters when adhering to the existing labour regulations. The assessment focuses on the 4 labour regulations of the: 1) 12-month employment period 2) nine-hour working period 3) compensation for working on public holidays; and 4) paid leave.

The regulation that compels businesses to issue 12-month employment contracts costs an average of TZS 5.5 million annually per hotel, summing up to TZS 9.9 billion annually to the entire hotel industry. Such compliance costs largely emanate from the seasonal nature of the tourism sector which operates less than 10-month a year. As a result, the hotels are left with two-month period of incurring payroll costs at the time of no or very low revenue.

The compliance costs from the regulation that requires businesses to pay overtime to employees working during public holidays are also substantial. With an average of 17 public holidays in Tanzania per year, the compliance cost per hotel (when doubling wage payment to employees working during such days) is TZS 3.3 million per hotel summing up to TZS 6.0 billion annually for the entire hotel industry. Such costs are a heavy burden to the industry, where the number of hours worked, and changes in the average compensation of employees are traditionally the two leading components driving labour costs in the hotel industry.

To stay compliant with the regulation on nine-working hours costs a hotel (located in national parks and game reserves) TZS 1.2 million monthly, summing up to TZS 3.7 billion annual for all the hotels located in national parks and game reserves). The overtime cost comes from the 3 extra hours on each day that employers are forced to pay security guards working at night. The reason is that, at night the 9 hours marks around 2am (midnight). At such time, it is not safe for drivers to bring security guards back home just because the 8 working hours have lapsed. Security guards who are not paid overtime claim them when their relationships with employers turn sour leading to litigations.

Employment regulation on paid leave also amplifies compliance costs. The regulation demands that an employee employed on a seasonal basis is entitled to paid leave – a demand that is not considerate of situations when businesses are closed for circumstances outside the control of the business. Absence of unpaid leave provision proved a very big challenge at the time of Corona Virus Disease 2019 (covid-19) when most employers closed businesses with no income to meet payroll expenses. Using Covid-19 as a case study, the monthly compliance costs for the entire industry could reach as high as TZS 4.1 billion if half of the hotels were closed. The cost rises to TZS 24.5 billion for the case of business closure for 6 months. The cost estimates presented in this RIA reveal how much savings can be made from addressing several regulatory areas identified in the Republic of Tanzania's (2018) Blueprint for Regulatory Reforms to Improve the Business Environment.

Findings from this RIA lead to four key reform recommendations: 1) regulations need to introduce shift working hours to minimise business exposure to overtime-related costs 2) the need to exempt the tourism sector from the regulation on 12-months

employment period 3) the need to set the hours of work for security guards different from that of the other employees 4) the need to allow employers to give off days in lieu of the public holidays that the employee worked. The proposed reforms are reasonable and offer a balanced approach. They are in line with the seasonal nature of the tourism business while at the same time do not negatively affect the welfare of employees. In other words, if such reforms are implemented the government will be meeting its several developmental objectives, including advancing business environment, and protecting workers' rights.

## 1.0 INTRODUCTION

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The employment regulatory regime in Tanzania is governed by the Employment and Labour Relations Act [Principal Legislation]<sup>1</sup> and its respective Employment and Labour Relations (General) Regulations, 2017.<sup>2</sup> In addition to multiplicity of taxes, fees, and charges, one of the long-standing outcries from the tourism business operators is the employment regulatory regime that has, over the years, remains insensitive to the nature of the tourism business. The two regulatory regimes disregard the seasonality<sup>3,4</sup> nature of tourism, for instance by, compelling employers to contract employees for twelve months – despite the sector operating for less than 10 months a year. Due to seasonality, the sector is sensitive to costs associated with underutilisation of capital assets and human resources during off-peak seasons.

This Regulatory Impact Assessment (RIA) is a result of joint efforts between REPOA and the Hotel Association of Tanzania (HAT). The RIA quantifies the cost that tourism business operators, in particularly the accommodation businesses, incur when complying with the existing employment regulatory regime. The RIA primarily responds to the following questions: *How much compliance costs do the employment regulatory regime impose on the tourism-related accommodation businesses in Tanzania?*

There are two important value additions from this study, First, the study attempts to fill an important gap in the literature, that is, absence of hotel industry level data on the costs of meeting different regulatory regimes. Such data will enrich the ongoing policy debates on business environment with quantitative information away from anecdotal data that has over the years characterise such dialogues. Quantitative data relative to qualitative and subjective data are more likely to draw the attention of stakeholders which in turn advances the likelihood of reaching consensus on areas to be reformed. This study therefore adds to the other literature such as Jensen (2008) and Shekidele (1999) that have quantified compliance costs in non-hotel related industries.

Second, as stated by IFC and World Bank (2012), if compliance costs are high in a country, policymakers need to know which regulatory regimes are causing most of the burden for businesses and should therefore pinpoint areas for reform. This RIA responds to such arguments by explicitly identifying the magnitude of the compliance costs and the relative contribution of each regulatory regime to such costs.

This document is organised as follows. The next section describes the specific regulatory clauses to undergo RIA. Section 3 presents methods for data collection, analysis, and presentation, followed by section 4 that discusses the findings by offering recommendations for reforms. Section 6 concludes.



## 2.0 CONCEPTUALISING COMPLIANCE COSTS<sup>5</sup>

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Concepts that describe compliance costs are well elaborated in the literature with most of them similar in detail. Chattopadhyay and Das-Gupta (2002) and Evans (2008) identify compliance costs to include both the financial and time costs that businesses incurred besides the actual tax, charges, and levies liability in the process of becoming and remaining compliant. Chattopadhyay and Das-Gupta (2002), for example, consider the financial and time costs to be incurred from 1) acquiring regulatory knowledge 2) filling up and processing forms and information (filing and storing data necessary to stay compliant) 3) visits to offices of regulatory bodies 4) payments for advisory services (tax consultants, for instance) 5) purchase, install and maintaining software and hardware to facilitate processing of liabilities associated with regulatory requirements.

In line with Chattopadhyay and Das-Gupta (2002), other researchers including Sandford (1994, 1995), Woellner et al. (2001) and Lopes and Martins (2013) extend the scope of compliance costs to include psychological costs. Such costs include sufferings that individuals experience from stress, anxiety and frustration when attempting to comply with regulations. Despite increasing efforts, such psychological costs remain difficult to quantify (Woellner et al 2001).

The activities associated with fulfilling regulatory requirements as described above require human resources, making wages and salaries of employees involved in such activities key part of 'compliance costs' as well. The inclusion of financial and time terminologies in the description of compliance costs has empirical implications as well. First, the terminology 'time' implies that whenever one investigates compliance costs, the investigator must estimate the time (for instance, in hours) it takes for employees to meet a regulatory requirement on behalf of their employers. Second, the terminology 'financial' directs the investigator to establish monetary values for not only the activities that has direct financial implications (e.g., cost of travelling to the offices of regulators) but also the dollar value of the time employees spent on fulfilling regulatory demands.

Based on the conceptualisation of compliance costs by EPA<sup>6</sup> (2010), and Guasch and Hahn (1999), the variety of compliance costs that Chattopadhyay and Das-Gupta (2002) outline fall under the category of explicit costs. They are distinct from implicit costs, which are primarily the costs of foregone opportunities (e.g., cost of lost sales) when one spends time meeting regulatory demands. Relative to the explicit costs, the implicit costs are difficult to measure as they do not involve actual payment of money (Seens 2010). With such measurement difficulties, the implicit costs of compliance have been left out of most studies that have attempted to quantify compliance costs.

There have also been some attempts to separate compliance costs between computational (unavoidable or involuntary e.g., wages for employees involved in meeting regulations) and planning costs (avoidable or voluntary - to better manage and/or minimize future liabilities, for example tax liabilities) (Evans 2008). However, according to Evans (2008), several literatures avoid making such distinctions – largely because it is often almost impossible to disentangle one from the other. For this RIA, only explicit, measurable costs that business owners, managers and staff incur to stay compliant are included.

Overall, the literature on compliance costs agrees that some of such costs of unnecessary and can be avoided. Outside the actual payments of taxes, levies and charges, such costs function like a form of tax (Seens 2010). Whereas consumers bear part of the cost in the form of higher prices, businesses bear a portion in the form of lower profits for owners and lower wages for employees (Seens 2010). This is in addition to the cost incurred by the regulatory agencies themselves (the cost of developing, administering, and enforcing regulations), which also translates into costs for taxpayers (Seens 2010). Such costs are relatively more prevalent in developing countries because of the weak institutional set-ups Ali (2018). With Elinor Ostrom's definition of institutions in mind (institutions as the rules, norms, or strategies for successful collective actions), weak strategies, rules, and expectations will in turn breed weak laws, policies, and developmental interventions. These in turn produce inefficient regulatory regime and ultimately contribute to high cost of compliance (Ali 2018).

It is however worth highlighting that the literature on compliance costs do not advocate for elimination of regulations and reporting requirements completely. Rather, they argue for the need to determine the right balance of reporting requirements that produces the desired benefits for society while limiting costs (Seens 2010). This is because regulations have some benefits including preserving the quality of the environment, protect the health and safety consumers, facilitate efficient operation of competitive markets to enforce contractual agreements, and proper functioning of the fiscal system (Chattopadhyay and Das-Gupta 2002; Guasch and Hahn 1999; Seens 2010).

### 3.0 EMPLOYMENT REGULATIONS AND IMPLICATIONS TO THE ACCOMMODATION BUSINESS

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The regulatory regime that this RIA attends is the Employment and Labour Relations Act [Principal Legislation] and its respective Employment and Labour Relations (General) Regulations, 2017. Specific clauses and their respective adverse impacts on tourism accommodation-related businesses (hotels from herewith) are discussed below:

**Clause no. 11.<sup>7</sup> *Contract for specified period:*** A contract for a specified period referred to under section 14(1)(b) of the Act, shall not be for a period of less than twelve months.

**Adverse impact on tourism businesses:** The employer is compelled to pay an employee who is not necessarily required for 12 months period. The tourism business is seasonal which, for the case of Tanzania is less than 10 months a year. Thus, employing an employee on specific task contract which is, in some cases less than 12 months, leads to unnecessary employment litigation challenges.

**Clause no. 17-24.<sup>8</sup> *Hours of work:*** For example, clause 19(2) states that “Subject to this Sub-Part, the maximum number of ordinary days or hours that an employee may be permitted or required to work are- (a) six days in any week; (b) 45 hours in any week; and (c) nine hours in any day”.<sup>9</sup>

**Adverse impact on tourism businesses:** The employer is forced to pay overtime of three extra hours (compliance costs) each day to security guards working at night. The reason is that, at night the eight hours marks around 2am (midnight). As such it is not safe for both drivers to bring security guards back home at that time just because the eight hours have lapsed. Security guards who are not paid overtime claim them when their relationships with employers turn sour leading to litigations.

**Clause 25.<sup>10</sup>** If an employee works on a public holiday specified in the Public Holidays Ordinance, the employer shall pay the employee double the employee's basic wage for each hour worked on that day.

**Adverse impact on tourism businesses:** The requirement is not affordable to every employer, given the fact that 1) some employers are micro and small businesses 2) public holidays are days in which tourism businesses are mostly active compensating for losses from other days of the week.

**Clause 29(2a).<sup>11</sup>** Section (2a) an employee employed on a seasonal basis is entitled to paid leave under the provisions of this Part. **Clause 29(2b)** an employee, with less than six months service and who has worked more than once in a year for the same employer, shall be entitled to paid leave under the provisions of this Part if the total period worked for that employer exceeds six months in that year.

**Adverse impact on tourism businesses:** Absence of unpaid leave provision proved a very big challenge at the time of Covid-19 when most employers closed businesses and therefore not having any income to meet operation expenses like salaries. Also, employers avoided retrenchment option 1) hoping business would turn back 2) retrenchment costs financial resources as employees are legally entitled to be paid terminal benefits when retrenched.

## 4.0 METHODOLOGY

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### 4.1 DATA COLLECTION METHODS

Following IFC and World Bank (2012), compliance cost survey is often the best way to measure the costs and estimate the risks of regulatory compliance in developing countries. This RIA therefore uses primary data and to some extent secondary information from the existing literature. The primary data were collected through 1) face to face survey of hotel managers in Tanzania 2) circulating an email-based questionnaire to HAT members. Both means of collecting primary data were applied together with the sole purpose of increasing the response rate. To further increase the response rate, the questionnaire was shortened to focus on key data required at the analysis stage.

In addition, respondents were also encouraged to focus on providing estimates – as compliance costs are difficult to precisely state. The risk of biased responses, particularly overstating regulatory compliance costs, was mitigated by cross validating responses from businesses managing similar accommodation type. A total of 160 hotels were surveyed.

The surveyed hotels came from the 8 regions of Arusha (Northern zone), Iringa (Southern highland zone), Dodoma (central zone), Kigoma (Western zone), Mbeya (Southwest Highlands zone), Mwanza (Lake zone), Mtwara (Southern zone), and Dar es Salaam (Eastern zone). Each of the 8 geographical zones in Tanzania contributed 20 hotels to the sample. Each region represents a particular zone in the parentheses.

### 4.2 DATA ANALYSIS METHODS

Following SCM Network (2004), this RIA applied a standard cost model which primarily quantifies and aggregate the costs businesses incur to stay compliant. The expression for computing compliance cost of the existing regulation  $i$  (borne by the businesses ( $Ceb_i$ )) is presented as:

$$\sum_i^4 Ceb_i = (UC_i)(P)(F_i)$$

Where:

$Ceb_i$  = Cost of the existing regulation  $i$  (borne by the hotel business)

$UC_i$  = Unit cost (cost incurred by the hotel business to comply with regulation)

$P$  = Population i.e., no. of hotel businesses affected

$F_i$  = No. of times compliance is required

The computation of the compliance costs does not include overhead as some of the literature does. The overhead for the individual employee represents costs in addition to direct pay costs. The overhead includes fixed administration costs, such as expenses for premises (rent or building depreciation), telephone, heating, electricity, Information Technology (IT) equipment, etc.<sup>12</sup> This implies that the compliance costs that this study has established are much higher when one decides to add overhead costs.

## 5.0 FINDINGS

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### 5.1 QUANTIFYING THE COSTS OF COMPLYING WITH EMPLOYMENT REGULATIONS

#### 5.1.1 Twelve-Month Employment Regulation



**The regulation: Cost to hotel businesses from clause no. 11 of the Employment and Labour Relations (General) Regulations, 2017. The clause is on the employment contract for specified period stating ‘A contract for a specified period referred to under section 14(1)(b) of the Act, shall not be for a period of less than twelve months.**

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The calculation of compliance costs from fulfilling the regulation above involved the following: 1) the estimated number of hotel businesses in Tanzania is 1,815, with an average of 4.3 employees per business 2) responses to the Linkert scale survey question were quantified by assigning a cost factor to each response type.

The responses ‘to a great extent’ are assumed to have come from hotel businesses that intended to issue 4-month employment contracts but are compelled by the regulation to issue a 12-month employment contract. The assumption is that the remaining 8 months of the 12 months period is the cost of complying with the regulation. The cost factor is therefore 0.67 (that is 8 months divided by 12 months).

For the responses ‘somewhat’, the applied assumption is 6 months intended period to employ against the 12-month regulatory requirement. The remaining 6 months are a cost to the business giving a cost factor of 0.5 (6 months divided by 12 months). For the responses ‘very little’, the assumption is that hotel businesses intend to employ for 9 months. The remaining 3 months are therefore cost to the business giving a cost factor of 0.25 (that is, 3 months divided by 12 months).

The cost factor for the responses ‘not at all’ is zero (hotels intend to employ for the entire period of 12 months). Each cost factor is thereafter multiplied to the annual wage bill. Using the above assumptions, Table 1 shows that the average annual compliance cost per hotel business is TZS 5.5 million summing up to TZS 9.9 billion (the total cost for the entire hotel industry).

**Table 1: Calculation of Compliance Cost for the 12-Month Employment Regulation**

1.0 No. of accommodation facilities	1,815
2.0 Cost factors	
2.1 To a great extent	0.67
2.2 Somewhat	0.5
2.3 Very Little	0.25
2.4 Not at all	
3.0 Annual cost per business	5,449,286
4.0 Annual compliance costs (all businesses)	9,890,453,485

### 5.1.2 Employment Regulation on Payment of Overtime during Public Holidays



**Cost to hotel businesses from Clause 25 of the Employment and Labour Relations Act [Principal Legislation]. The clause states that ‘If an employee works on a public holiday specified in the Public Holidays Ordinance, the employer shall pay the employee double the employee’s basic wage for each hour worked on that day’.**

The annual number of public holidays in Tanzania is estimated at 17 days comprising of 8 religious’ holidays, 3 national holidays, 2 commemorating the anniversaries of national leaders, and the last 4 holidays are for the other national importance. Table 2 demonstrates the calculation of compliance costs that the hotel businesses incur in Tanzania to meet the Clause 25 of the Employment and Labour Relations Act.

The average annual compliance cost per business to comply with the double wage payments to employees working during public holidays is TZS 3.3 million. It is TZS 6.0 billion for the entire accommodation business in Tanzania. This is significant as traditionally, two main components drive changes in hotels’ labour costs. That is, changes in the number of hours worked, and changes in the average compensation of employees.

**Table 2: Compliance Costs to the Clause 25 of the Employment and Labour Relations Act**

Average no. of employees working on public holiday (No.)	13.35
Mean monthly salary (TZS)	217,791
Daily wage (TZS)	7,260
No. of public holidays (No.)	17
Daily wage for working on public holidays as per regulations (TZS)	14,519
Annual wage bill per employee working on public holiday (TZS)	246,830



Annual wage bill per business working on public holiday (all workers)	3,295,178.22
No. of hotels	1,815
<b>Annual compliance cost (all businesses)</b>	<b>TZS 5,980,748,466</b>

### 5.1.3 Employment Regulation on Working Hours



**Cost to hotel businesses from clause no. 17-24 of the Employment and Labour Relations Act. The clause is on hours of work: For example, clause 19(2) states that “Subject to this Sub-Part, the maximum number of ordinary days or hours that an employee may be permitted or required to work are- (a) six days in any week; (b) 45 hours in any week; and (c) nine hours in any day”.<sup>13</sup>**

As discussed in section 2.0 this regulation largely affected hotel businesses operating within national parks and game reserves (camps, and lodges). Table 3 estimates the annual compliance cost that the accommodation businesses incur from paying overtime to security guards working in camps and lodges located in national parks and game reserves. The mean monthly cost per business is TZS 1.2 million summing up to TZS 3.7 billion per year for the entire hotel businesses in Tanzania.

**Table 3: Annual Compliance Cost for 9-Working Hours to Security Guards**

No. of national parks in Tanzania (No.)	18
No. of game reserves (No.)	44
Average no. of camps and lodges in national parks/game reserves (No.)	4
Estimated no. of such lodges and camps in Tanzania (No.)	248
Average no. of security guards per camps (No.)	5
Average monthly salary per security guards (TZS)	217,791
Average overtime per day (hours)	3
Average no. of security guards working at night (No.)	2.5
Hourly wage (TZS)	907.46
Payment of overtime for 3 hours (TZS)	2,722.39
No. of days lodges operates per year (No.)	182.5
Monthly compliance cost of the regulation per business (TZS)	1,242,089
Monthly compliance cost of overtime (all businesses) (TZS)	308,038,182
<b>Annual compliance cost (all businesses) (TZS)</b>	<b>3,696,458,183</b>

## 5.1.4 Employment Regulation on Paid Leave



**Cost to hotel businesses from Clause 29(2a) of the Employment and Labour Relations Act [Principal Legislation]. Section (2a) demands that an employee employed on a seasonal basis is entitled to paid leave under the provisions of this Part. Clause 29(2b) an employee, with less than six months service and who has worked more than once in a year for the same employer, shall be entitled to paid leave under the provisions of this Part if the total period worked for that employer exceeds six months in that year.**

Table 4 presents the annual compliance cost to the employment regulation on paid leave for circumstances beyond employers' ability (covid-19, for example). Several assumptions had to be made to come up with the estimated compliance costs. First, it is estimated that half of the hotel businesses were closed during the first six months of covid-19. Second, bargaining contracts between employers and employees were uncommon. Third, full enforcement of the regulation.

Considering the three assumptions, the monthly compliance cost to the industry was TZS 4.1 billion. The cost rises to TZS 24.5 billion in a situation where half of the accommodation businesses were closed for 6 months.

**Table 4: Annual Cost of Complying with Paid Leave Regulation**

1.0 No. of accommodation businesses in Tanzania (No.)	1,815
2.0 Average no. of permanent employees per hotel (No.)	20.7
3.0 Average monthly salary per employee (TZS)	217,791
4.0 Total no. of employees (all businesses) (No.)	37,556
5.0 Monthly wage bill (all businesses) (TZS)	8,179,285,792
6.0 Monthly wage bill per businesses (TZS)	4,506,494
7.0 Annual wage bill (all businesses) (TZS)	98,151,429,507
<b>Cost of annual paid leave to the industry (TZS)</b>	<b>8,179,285,792</b>
<b>1 month paid leave cost (TZS)*</b>	<b>4,089,642,896</b>
<b>6 months paid leave cost will be (TZS)*</b>	<b>24,537,857,377</b>

\*Assuming half of the hotels were closed due to covid-19

## 5.2 COSTS OF LEGAL DISPUTES FROM NON-COMPLYING TO THE EMPLOYMENT REGULATIONS

The preceding sections estimated the compliance costs encountered by the accommodation businesses when fulfilling different employment regulations. In the past 5 years, about 15 per cent of the surveyed hotel businesses (24 out of the 160 businesses) experienced litigations brought by employees from contract termination, retrenchments etc. Table 5 presents details of the litigation costs that disaggregated between legal, compensation, time spent on the legal cases and other costs (stationaries etc.). The averages are derived from the hotels that experienced litigations (not industry averages).

Each of the 24 hotels on average paid legal fees amounting to TZS 3.6 million. The rate is equivalent to 1.5 times the income per capita in Tanzania<sup>14</sup>. In total the 13 businesses that experienced litigations paid TZS 46.2 million. A total of 18 hotels compensated workers (11.3 per cent of the surveyed hotels). The move cost the hotel businesses a total of TZS 110.8 million which is an average of TZS 6.5 million per business in the last 5 years. The amount is equivalent to 2.6 times the income per capita in Tanzania.

The accommodation businesses spent a total of 819 hours, an average of 37 hours per business to attend litigations. The 37 hours are equivalent to a week that one works for earnings (assuming a 40-hour working week). 819 hours are equivalent to 20.5 working weeks. The magnitude of 'other costs' (stationaries etc.) is less than legal and compensating costs.

**Table 5: Costs of Litigation Brought by Employees**

<b>1.0 Legal cost (TZS)</b>	
1.1 No. of hotels	13
1.2 Average cost per hotel	3,557,692
1.3 Total cost incurred	46,250,000
<b>2.0 Compensation cost (TZS)</b>	
2.1 No. of hotels	18
2.2 Average cost per hotel	6,514,706
2.3 Total cost incurred	110,750,000
<b>3.0 Time cost (Hours)</b>	
3.1 No. of hotels	22
3.2 Average time cost per hotel	37
3.3 Total cost incurred	819
<b>4.0 Other cost (TZS)</b>	
4.1 No. of hotels	20
4.2 Average cost per hotel	386,500
4.3 Total cost incurred	7,730,000
<b>Total cost of litigation (excl. time cost)</b>	<b>164,730,000</b>
<b>Average cost per hotel (excl. time cost)</b>	<b>3,486,299</b>

## **5.3 EMPLOYMENT REGULATIONS AND EFFECTS ON COSTS, REVENUE, AND PROFITABILITY**

### **5.3.1 The 12-Month Employment Regulation**

#### **5.3.1.1 Impact on Costs**

This RIA asked respondents to indicate the extent to which the 12-month employment regulation affects operating costs. Close to half of the surveyed hotels (43 per cent) perceived that the 12-month employment regulation 'to a great extent', negatively impacts their operating costs. Combining the proportion of respondents that did mention 'to a great extent' and the negative impact is 'somewhat' gives a 77 per cent of the hotels being affected by the regulation. This proportion is a serious concern for the service-based businesses where payroll is the primary cost of producing the service by absorbing between 30-50 per cent of revenue. Only 6 per cent of the surveyed hotels perceived the regulation to have no effect on costs.

Respondents mentioned the following negative impact of the regulation on hotel business: 1) it ignores low seasons where tourism business is low 2) increases costs of compensation when employment contracts are terminated prior to the end of the 12-month period (even if the employees are shirking). In other words, the regulation is an incentive for workers to shirk 3) increases labor costs because of non-wage payments that include pension contributions, Workers Compensation Fund (WCF), Skills Development Fund (SDL), leave benefits, in particular the paid leave.

However, the regulation has few benefits 1) it reduces costs associated with frequent recruitment, and the associated costs of drafting employment contracts and producing staff IDs regularly 2) eliminates employees' behavior of demanding pay rise when contracts expire 3) reduces training costs when employment contracts cover long period. Despite such benefits, surveyed business managers consider that the compliance costs outweigh the benefits that the regulation offers.

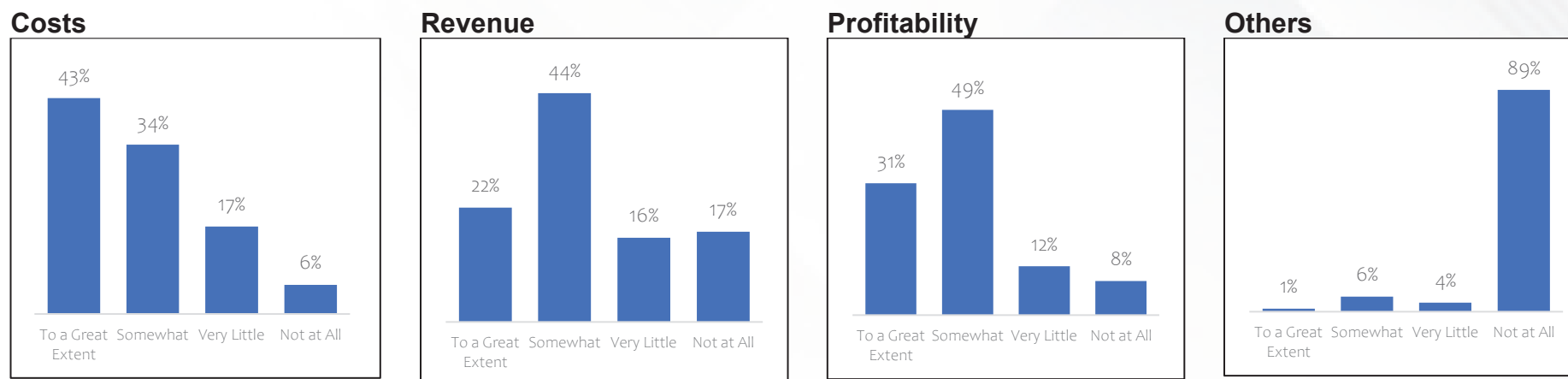
#### **5.3.1.2 Impacts on Revenue and Profitability**

This RIA also asked respondents to indicate the extent to which the 12-month employment regulation affects revenue and profitability. About 66 per cent and 80 per cent of the surveyed hotels consider that the 12-month employment regulation negatively affects 'revenue' and 'profitability' respectively. Only 17 per cent of the surveyed hotel businesses considered no impact on revenue and 8 per cent no impact on profitability. The mechanisms through which the regulation negatively affects revenue includes: 1) employees are less committed and ultimately serve clients poorly when they (employees) operate under long-term contracts 2) underperforming employees chase away customers which directly impacts on revenue.

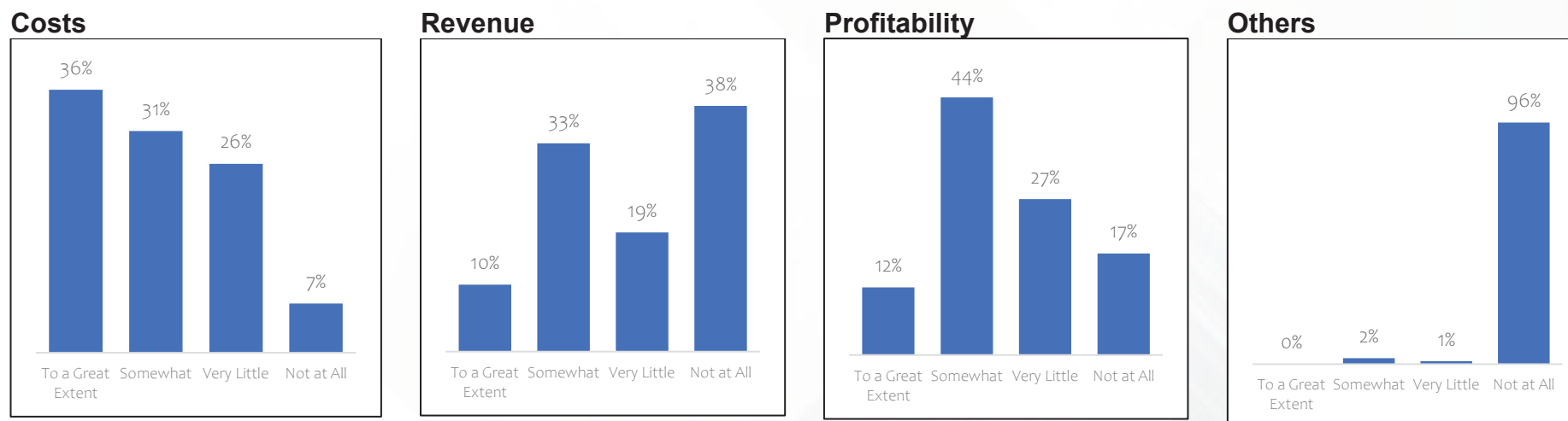
Overall, like many other businesses, revenue from hotel businesses largely depends on the number of customers; and the number of customers depends on the quality of

service. Complaints of poor customer service in Tanzania's service including the hospitality industry are not new. The mechanisms through which the 12-month employment regulation negatively affects profitability is the declining revenue (for the reasons explained above) and high cost of adhering to the regulation (retaining employee irrespective of employees' efforts and business performance).

**Figure 1: Perceived impact on hotel business from the 12-month employment regulation**



**Figure 2: Perceived impact on hotel business from the regulations on employees working overtime**



## **5.3.2 Regulation on Payments for Overtime**

### **5.3.2.1 Impacts on Costs and Profitability**

As explained in section 2.0, the regulation requires payments for overtime irrespective of the nature of the hotel businesses operating inside the national parks (camps, lodges). The surveyed hotels perceived such a regulation to negatively affect costs and profitability. This was mentioned by 36 per cent (citing cost implications) and 31 per cent (citing profitability implications) of the surveyed hotels. Increasing payroll bill is the primary mechanism through which overtime regulation increases costs of operating a hotel business.

The mechanisms through which the regulation on overtime payment affects profitability is through increasing payroll costs, particularly in a situation of stagnant revenue or when costs increase at a higher rate than revenues. To minimise the adverse effects of the regulations, some of the businesses have entered into agreements with their employees to work in shifts.

## **5.3.3 Regulations on Working during Public Holidays**

### **5.3.3.1 Impacts on Costs**

Respondents were asked to indicate the extent to which the regulation on working during public holidays affects operating costs. About 77 per cent of the surveyed hotels consider that the employment regulation on working during holidays negatively affects costs either 'to a great extent' or 'somewhat'. The mechanism through which the regulation affects costs is the increase in payroll bill as employers are compelled to pay employees for working on public holiday twice the normal wage rate.

Some of the accommodation businesses have reached an agreement with their employees to work in shifts, with the employer providing food to employees working during public holidays. Other agreements provide for payment of allowances to employees working during public holidays. The assumption behind the regulation that public holidays are booming business days does not always hold. The payments of daily rates twice the normal rates constitute a large portion of revenues. This is particularly the case when the revenue being generated during public holidays is of the same level as revenue from normal business days.

Overall, the negative impact of the double wage bill on the profitability during public holidays largely depend on whether revenue is on the increase, which in turn depends on whether the number and spending is on the rise – which depends on the quality of services being provided by businesses. Stagnant revenue is likely to amplify the negative effects of the regulation on profitability.

### 5.3.4 Regulations on Paid Leave

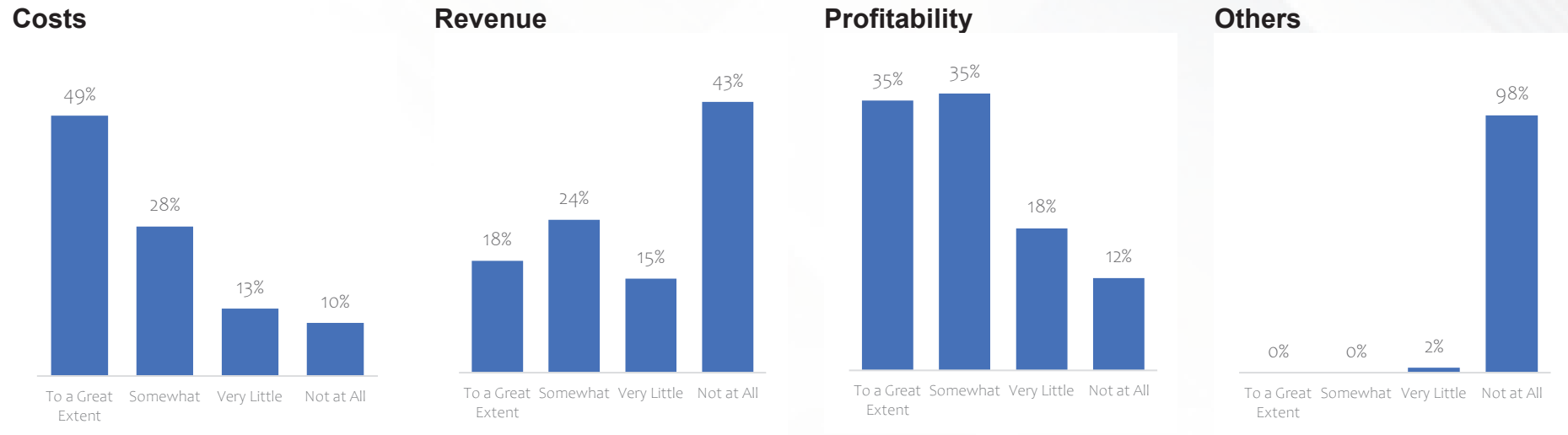
Respondents were also asked to indicate the extent to which the regulation on paid leave affects operating costs. The proportion of businesses being concerned with the negative effects of the paid leave regulation is far larger than that the case with the regulations discussed in the preceding sub-sections. About 80 per cent, 79 per cent and 74 per cent of the surveyed hotels perceived that the paid leave regulation does respectively negatively affect cost, revenue, and profitability to 'a large extent'.

The negative impact of the paid-leave regulations was severe during covid-19 pandemic where some businesses had to continue paying employees using money from other sources. Such payments further constrained the chances for some of the businesses to reopen (especially in the absence of government rescue packages).

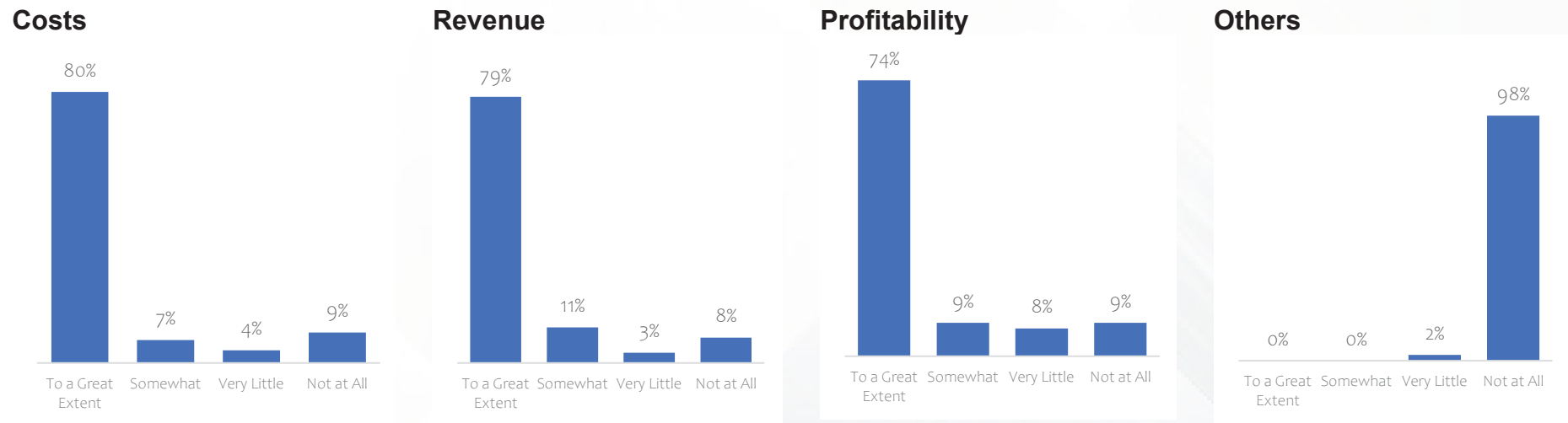
During the pandemic, some accommodation businesses managed to establish collective bargaining agreements with employees. The agreements involve employees accepting half a salary or leave without pay for a certain period. Some businesses had to hire college students as temporary employees. Profitability takes a hit when a business has no revenue stream but continues to experience labour costs that should, in a very rudimentary business principle, be covered by the revenue stream, from the same business to which the costs are incurred.



**Figure 3: Perceived impact on hotel business from employment regulation on working during holidays**



**Figure 4: Perceived impact on hotel business from the regulations on paid leave**



## 6.0 DISCUSSION

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The United Republic of Tanzania's (2018) Blueprint for Regulatory Reforms to Improve the Business Environment acknowledges, among other aspects, the private sector concerns on labour law provisions. The blueprint document specifically states that '*.... Generally, there is a feeling that compliance and administrative mechanisms of such regulations (labour regulations) are costly to the private sector. As a result, due to the inability to keep up with the burden many businesses reduce their workforce and limit their expansion..... Complaints have been raised relating to labour laws provisions which tend to be biased towards the rights of employees. This makes it difficult for employers to fire incompetent and under-performing staff*' (page 12).

However, despite acknowledging such deficiencies, the list of the planned reforms included in the blueprint leaves out many of the issues presented in the above quoted paragraph. In the section 'reform matrix A1' (page 138-147), labour laws are not among the laws to be revisited. One of the factors that are likely to contribute to this challenge is the absence of detailed systematic monitoring and progress reporting on each item included in the blueprint. Reference is made to detailed and systematic monitoring and reporting rather than general reporting that skips some of the issues in the document.

The challenge is compounded by the absence of other key monitoring information such as reasons behind limited progress or lack of progress on some of the proposed reform areas, coupled with lessons learned over the past four years of delivering on the blueprint. While these challenges do not necessarily call for the revision of the blueprint – which on its own was a significant milestone in the Public-Private Dialogue (PPD), the compliance costs presented in this RIA offer an opportunity to reinforce dialogue on specific legal provisions that amplify costs of doing business for the hotel industry.

PPD could make further advances both with respect to the blueprint as well as to other business environment related issues outside the blueprint. However, such advances will only be necessary if some of the key weaknesses in the policy dialogue platforms are addressed. Reference is made on: 1) weak coordination in monitoring and tracking agreements and resolutions reached in various PPD platforms 2) slow progress in implementing agreed reforms 3) frequent changes of top ministerial leadership has been stalling delivery of some key policy reforms 4) PPD meetings do not take place as planned partly attributed to lack of budget 5) inadequate harmonization of the public sector position on issues to be discussed with the private sector 6) mistrust between the private and public sectors. The public sector accuses private sector stakeholders of lacking transparency and wanting to lobby politicians by by-passing technical staff. These challenges are relevant to the entire private sector (hotel and non-hotel industry) and therefore require collective efforts from all private sector and umbrella associations, for workable solutions to be attained.

### Box 1: Business Friendly Reform Experiences from Southern Africa

Kabula et al. (2008) summarise key features of the labour laws in Southern Africa that provide for both the fundamental labour rights that include protection that engender decent work, and the flexibility that facilitate private sector development. Starting with South Africa, its labour law considers micro and small and medium-scale business enterprises by exempting these categories of enterprises from certain regulations, including those relating to central bargaining and other labour arrangements. The far-reaching amendments of the labour law in the country in the early 1990s also increased the maximum overtime hours and secured a minimum period of paid annual leave and sick leave per year. Outside Southern Africa, the World Bank's 2020 *Doing Business reports* countries such as Austria to had similar reforms by increasing overtime to 60 hours per week, and Hungary to 400 hours per calendar year, making employment regulation more business friendly.

Further details from Kabula et al (2008) show that in Malawi, the labour law considers the diverse types of works and specifies limits on daily and weekly hours of work for different categories of workers. The law in Mozambique provides diverse arrangements for number of paid leave, for example, one day per month of work in the first year, two days per month of work in the second year and 30 days in the third year. This implies employees on fixed-term contracts lasting between three months and one year would receive one day of paid leave for every month of service. The law also acknowledges differences in enterprises classifying them according to size (using no. employees as the size parameter). The law in Zambia also considers diversity in economic activities by empowering the Minister of Labour to, for instance, exempt or exclude certain categories of persons from coverage by labour law.

While intense debate on the employment regulations continues in such economies, the diverse experiences in such countries, as presented in this RIA show that it is possible for labour market regulations to meet multiple objectives. Such objectives include protecting fundamental rights of workers as well as having in place regulations that minimise the costs of doing business, and ultimately facilitating growth and prosperity.

## 7.0 POLICY RECOMMENDATIONS

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The methods and data used in this RIA have several advantages: 1) they allow one to point out specific regulations that are mostly burden to businesses 2) the classification of different costs of compliance highlights where regulatory reforms can be directed to 3) the survey data can be used to analyse how revisions of regulatory obligations will impact compliance costs 4) it is also possible to simulate changes in the regulation result into changes in the magnitude of the compliance costs 5) assist in the identification of government agencies responsible for burdensome regulations. Below are the proposed regulatory and policy reforms: -

### **Policy Reform 1:**

**Exempt the tourism sector from the regulation on 12-months employment period.**

As elaborated in section 3, the current labour market regulations compel employers to retain employees who are not necessarily required for 12 months period. The proposed legal revision will make the regulatory regime considerate of the seasonality nature of the tourism business which, for the case of Tanzania is less than 10 months a year.

### **Policy Reform 2:**

**Set the hours of work for security guards different from that of the other employees**

As elaborated in section 3, the current labour market regulations compel employers (lodges and tented camps located in national parks) to pay overtime of three extra hours each day to security guards working at night. In practice, the guards work for the standard 8 legal hours – with the additional 3 hours being the waiting period for daylight where it safer to be transported to their homes.

### **Policy Reform 3:**

**Allow employers to give off days in lieu of the public holidays employees have worked**

Instead of the legal requirement for employers to double the employee's basic wage for each hour worked on public holiday, to minimise business exposure to overtime-related costs, it is proposed that shift working hours are introduced. As detailed in section 3, public holidays are days in which tourism businesses are mostly active compensating for losses from other days of the week.

### **Policy Reform 4:**

**Make Compliance Cost Assessments (CCAs) mandatory**

Regulators need to have in place a set of clear and comparable performance measures of the regulations they enforce. The CCAs need to be embedded in the legislations governing different sectors, which among other aspects, set a minimum level of statistical accuracy. The CCA are now mandatory in several countries such as the United Kingdom (UK). Other countries, Canada, for instance, have invested in periodic surveys of regulatory compliance costs. The surveys assist the government

in tracking the cost and nature of the financial and non-financial burden imposed on Small and Medium Enterprises (SMEs) and to track changes in that burden over time (see Seens 2010).

**Policy Reform 5:  
Cultural change at the government level**

In addition to enhancing the business mind approach when setting up regulations, the government needs to consider appraisal of alternative policy options as an inseparable part of detailed policy development and design. In the UK, for instance, the government has in place 'The Green Book' guiding government offices on how to appraise policies, programmes and projects. It also provides guidance on the design and use of monitoring and evaluation before, during and after implementation (Government of UK 2022).

The proposed policy reforms are reasonable and offer a balanced approach by promoting private sector development without negatively affecting workers' rights. In other words, the reform proposals do not contravene the decent work principle of 'rights at work', whose one of the key elements is the 8-hour working day limit. Conceptually, increasing the number of people in decent jobs means stronger and more inclusive economic growth. Improved growth means more resources to create decent jobs.<sup>15</sup>

## 8.0 CONCLUSION

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This RIA focuses on only one aspect of the regulatory aspects to the hotel industry, that is, the employment-related regulations. Many other regulatory regimes constraining business operations include multicity of taxes, charges, and levies. These issues are discussed in a separate RIA which, like this RIA, has quantified the monetary costs of complying with multiple taxes, levies, and fees. The quantitative evidence provided by this RIA and the nature of the proposed reforms makes it easier for policy dialogue to move from expert/research debate to the bargaining and actual decision stage where the basis for negotiation is the choice of policy solutions reflecting the realities on the ground.

The social and economic benefits of minimising compliance costs and ultimately advancing private sector development are well discussed in several literature (see, for instance, the World Bank's annual series of *Doing Business*<sup>16</sup>). This RIA reveals additional benefits, the time savings when one converts the quantified costs of compliance as time savings that will be devoted to productive activities. Further benefits are visible when one converts the compliance costs into productivity gains, which, in theoretical terms, should contribute to revenue gains and ultimately an increase in profitability for the hotel industry. The increase in profitability also implies income tax gains to the government.

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## Endnotes

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<sup>1</sup> United Republic of Tanzania (undated).

<sup>2</sup> United Republic of Tanzania (2017).

<sup>3</sup> Tourism seasonality is defined as demand variations on a regular time horizon and in regular frequencies because of many factors from climate, institutional characteristics, business cycles, travel costs, and sociodemographic characteristics (see Zhang and Xie 2021).

<sup>4</sup> Zhang, Dengjun and Jinghua Xie (2021).

<sup>5</sup> This section comes from the study by REPOA and HAT that also looked compliance costs from the multiplicity of taxes, fees and charges that the hotel businesses experience (Maliti 2022).

<sup>6</sup> United States Environmental Protection Agency

<sup>7</sup> Employment and Labour Relations (General) Regulations, 2017.

<sup>8</sup> Employment and Labour Relations Act [Principal Legislation]

<sup>9</sup> In practical terms, the 9 hours refer to 8 hours of working and 1 hour of lunch break.

<sup>10</sup> Employment and Labour Relations Act [Principal Legislation]

<sup>11</sup> Employment and Labour Relations Act [Principal Legislation]

<sup>12</sup> See these discussions in SCM Network (2004).

<sup>13</sup> In practical terms, the 9 hours refer to 8 hrs of working and 1 hour of lunch break.

<sup>14</sup> Income per capita is taken from United Republic of Tanzania (2019).

<sup>15</sup> International Labour Organisation (2022)

<sup>16</sup> The series were discontinued in September 2021.



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