

**RESEARCH, LEGISLATION AND LABOUR
STANDARDS DIVISION**

LABOUR ACT 1975

ACT 50 OF 1975
(As amended)

30 DECEMBER 1975



THE LABOUR ACT 1975

RL 3/315-30 December 1975

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PART I - PRELIMINARY

1. Short title.

This Act may be cited as the Labour Act,1975.

2. Interpretation.

In this Act-

"agreement" means a contract of employment, whether oral or written, implied or express;

"Board" means-

- (a) in Part VI, the Termination of Contracts Service Board established under section 38;
- (b) in Part X, the Labour Advisory Board established under section 54;

"bullying" means any form of physical or psychological harassment; (Act No. 1 of 2004)

"child" means a person under the age of 16;(Act No. 26 of 2006)

"continuous employment", subject to sections 34(2) and 35(3), means the employment of a worker under an agreement, or under more than one agreement where the interval between one agreement and the next does not exceed 28 days;

"contractor" means a person who employs a worker for the purpose of a public contract;

"Court" means the Industrial Court;

"designated year" means any year which the Minister may, by regulations, designate as such;

"employer", subject to sections 26 and 39(1)-

- (a) means the person responsible for the payment of remuneration to a worker;
- (b) includes a person, other than another shareworker, who shares the profit or gross earnings of a shareworker; (Regulations – GN No. 128 of 2003)

"factory" -

- (a) means any premises with machinery on which, or within the precincts of which, persons are employed in the making, altering, repairing, cleaning, breaking up or adapting for sale of any article for the purpose of gain and over which the employer has the right of access or control;
- (b) includes any premises on which -
 - (i) ships or vessels are constructed, repaired or broken up;

- (ii) the business of sorting any article is carried on as a preliminary to the work carried on in a factory or as an incidental to the purposes of a factory;
- (iii) the business of washing or filling bottles or containers or packing articles is carried on as an incidental to the purposes of a factory;
- (iv) the business of hooking, plaiting, lapping, making up or packing of yarn or cloth is carried on;
- (v) the business of a laundry is carried on as an ancillary to another business or as an incidental to the purposes of a public institution;
- (vi) the construction, reconstruction or repair of vehicles or other plant for the use for transport purposes is carried on as an ancillary to a transport undertaking or other industrial or commercial undertaking not being premises used for the purpose of housing vehicles where only cleaning, washing, running repairs or minor adjustments are carried on;
- (vii) printing by letter-press, lithography, photogravure, or other similar process, or book-bindings is carried on by way of trade or for purposes of gain or as an incidental to another business so carried on;
- (viii) mechanical power is used in connection with the making or repair of articles of metal or wood as an incidental to any business carried on by way of trade or for the purposes of gain;
- (ix) articles are made or prepared as an incidental to the carrying on of building operation or works of engineering construction, not being premises in which such operations or works are being carried on;
- (x) bread, biscuits or confectionery are baked by way of trade for purposes of gain;
- (xi) tobacco leaf is cured or otherwise made ready for manufacture or is manufactured into tobacco in any form;

"good and sufficient cause" includes -

- (a) illness or injury certified by a medical practitioner;
- (b) absence sanctioned by the employer;

"goods vehicle" has the same meaning as in the Road Traffic Act;

"harassment" means any unwanted conduct, verbal, non-verbal, visual, psychological or physical, based on age, disability, HIV status, domestic circumstances, sex, sexual

orientation, race, colour, language, religion, political, trade union or other opinion or belief, national or social origin, association with a minority, birth or other status, that a reasonable person would have foreseen that a worker would be affected negatively in his dignity and includes sexual harassment; (**Act No. 1 of 2004**)

"industrial undertaking" includes -

- (a) mining and quarrying operations or other activities connected with mineral prospecting;
- (b) the manufacture, production, assembly, installation, repair, maintenance, modification or destruction of materials or properties;
- (c) ship building operations;
- (d) the generation, transformation, and supply of electric power or other type of energy;
- (e) the construction, extension, installation, repair, maintenance, alteration or demolition of buildings, airfields, tramway lines, harbours, dockyards, piers inland water ways, roads, tunnels, bridges, drainage, water pipes, telegraphic and telephonic installations, electric gas or water works or other construction work including the preparation for or laying the foundation of any such work or structure; and
- (f) such other undertaking as the Minister may by regulations determine;

"job contractor" means a person who -

- (a) employs a worker for the performance of any work or service which he has contracted to do or provide for another person;
- (b) recruits workers on behalf of another person in the course of that other person's trade or business;

"machinery" includes -

- (a) boilers;
- (b) prime movers and transmission gears;
- (c) furnaces and storage tanks;
- (d) vats, tanks and cooling or drying devices used in connection with the produce of any mechanical process;

"officer" means an officer of the Ministry of Labour and Industrial Relations;

"partnership" includes any association or body of persons whether corporate or unincorporate;

"pay period" means the period for which remuneration is paid under section 4;

"Permanent Secretary" means the Permanent Secretary of the Ministry of Labour and Industrial Relations;

"place of work" means a place where work is performed under an agreement;

"prime mover" means an engine, motor or other appliance which provides mechanical energy from whatever source derived;

"public contract" means a contract involving the expenditure of funds by the Government, a local authority or by a body specified in the First Schedule;

"remuneration" -

(a) means all emoluments earned by a worker under an agreement;

(b) includes -

(i) any sum paid by an employer to a worker to cover expenses incurred in relation to the special nature of his work; and

(ii) any money to be paid to a job contractor, for work by the person employing the job contractor;

(c) does not include money due as a share of profits;

"retirement age" means, in respect of a worker whose month and year of birth is mentioned in column 1 of the Fifth Schedule, the date on which the worker attains the age specified in column 2 of that Schedule; **(amended by Finance Act 2008; Act No 18 of 2008)**

"severance allowance" means an amount calculated in accordance with section 36;

"sexual harassment" has the meaning assigned to it by section 20 of the Sex Discrimination Act 2002; **(Act No. 1 of 2004)**

"shareworker" means a person who -

(a) is remunerated wholly or partly by a share in the profits or gross earnings of the work done by him; and

(b) is not an owner of the main equipment used in the work he does;

"shift work" means work on which 2 or more persons are regularly and alternately employed at different times;

"shop" means a place where any wholesale or retail trade or business is carried on;

"shop assistant" means a worker employed in a shop in connection with the serving of customers, the receipt of orders, or the despatch of goods;

"stipulated hours" means the hours specified in section 15(1) and (2) or such lesser number of hours of work as may be specified in an agreement;

"threat" means any declaration of intention to use force on, or to intimidate, a worker; (**Act No. 1 of 2004**)

"trade or business" -

(a) includes -

- (i) the business of a barber or hairdresser;
- (ii) the sale of refreshments or intoxicating liquors;
- (iii) sales by auction; but

(b) does not include the sale of programmes and catalogues and other similar sales at theatres and places of amusement;

"transmission gear" means a device by which the motion of a prime mover is transmitted to or received by a machine or other appliance;

"week" means a period of 7 consecutive days;

"week day" means a day other than a public holiday;

"worker", subject to section 26 -

(a) means a person who has entered into or works under an agreement or contract of apprenticeship with an employer, other than a contract of apprenticeship regulated under the Industrial and Vocational Training Act 1988, whether by way of casual work, manual labour, clerical work or otherwise and however remunerated;

(b) includes a shareworker;

(c) does not include -

- (i) a job contractor;
- (ii) except in relation to Part VI and section 55A, a person whose basic wage or salary is at a rate in excess of 240,000 rupees per annum; (**Acts No. 37/2001, 1/2004, 26/2006**)

"working day", in relation to a day which a worker may include in his attendance record for the purposes of Part V -

(a) includes -

- (i) a public holiday on which he works;

- (ii) a day on which he has been absent for good and sufficient cause; and
 - (iii) a day on which the employer was unable to provide him with work;
- (b) does not include a day on which he is employed on task work unless -
- (i) excluding any time allowed for meals and tea he has remained at work for a total of -
 - (A) 6 hours, or in the case of a young person 5 hours, on a week day other than a Saturday; or
 - (B) 5 hours on a Saturday;
 - (ii) he has completed the task allotted to him; or
 - (iii) he has earned the minimum daily rate of remuneration in force or current in the sugar industry;

"young person" means a person, other than a child, who is under the age of 18.

3. Application of Act

Subject to any provision to the contrary in any other enactment, this Act shall apply to every agreement.

PART II - AGREEMENTS AND REMUNERATION

4. Agreements.

- (1) Subject to subsection (3), no person shall enter into an agreement under which remuneration is to be paid at intervals of more than one month.
- (2) An agreement which contains a provision inconsistent with subsection (1) shall to the extent of the inconsistency be void.
- (3) An agreement may be entered into for a specified piece of work.
- (4) Where a worker -
 - (a) is summoned or required to report at a given place or conveyed there by the employer or his agent; and
 - (b) is found fit and willing to perform the work for which he was summoned, required to report or conveyed,

the worker and the employer shall be deemed to have entered into an agreement.

- (5) Where the worker is required to perform task work, his employer or his agent shall, before the work is commenced, inform the worker of the nature of the task he is required to do each day and the rate at which he will be remunerated for that work.

5. Capacity of workers.

Notwithstanding any other enactment, a person who is of the age of 16 or more shall be competent to enter into an agreement and shall, in relation to the agreement and to its enforcement, be deemed to be of full age and capacity. (Act No. 26 of 2006)

6. Liability for act or omission of another.

Notwithstanding any other enactment, no worker shall be bound by virtue of an agreement to answer for the act or omission of any other person

7. Employment of children and young persons.

- (1) No person shall enter into an agreement with a child.
- (2) No person shall employ or continue to employ a young person -
 - (a) on work which is harmful to health, dangerous, or otherwise unsuitable for a young person;
 - (b) after being notified in writing by an officer that the kind of work upon which the young person is employed is harmful to health, dangerous, or otherwise unsuitable for the young person. (**Merchant Shipping Act No. 28 of 86**)

8. Payment of remuneration.

- (1) Subject to any express provision in the agreement, every agreement shall be presumed to be one under which remuneration is to be paid at monthly intervals.
- (2) No agreement shall contain a term as to the place at which, or the manner in which or the person with whom, any remuneration paid to a worker is to be spent.
- (3) An agreement which contains a provision inconsistent with subsection (2) shall to the extent of the inconsistency be void.
- (4) (a) Subject to paragraph (b), no employer shall, except with the Permanent Secretary's written consent, pay remuneration to a worker otherwise than -
 - (i) within working hours; and
 - (ii) at or near the place of work.

- (b) Nothing in paragraph(a) shall prevent a worker from agreeing that this employer shall pay his remuneration into his bank account.
- (5) Except in the case of a worker who is employed in a shop, no employer shall -
 - (a) pay remuneration to a worker in a shop; or
 - (b) cause or allow the owner or manager of, or any person employed in, a shop to pay remuneration due by him to his worker.
- (6) Where the Minister is satisfied that it is in the public interests so to do, he may by regulations, provide that such categories of workers as may be specified in the regulations shall be entitled to an additional month's remuneration in respect of the month of December.

9. Remuneration in special circumstances.

- (1) An employer shall pay to a worker -
 - (a) a full day's remuneration where -
 - (i) the employer is unable or fails to provide work; or
 - (ii) owing to climatic conditions, power failure, or breakdown in machinery or appliances, work has been stopped after the worker has worked for more than 2 hours;
 - (b) half a day's wages where owing to climatic conditions, power failure, or breakdown in machinery or appliances -
 - (i) the employer is of opinion that no work can be performed; or
 - (ii) work has been stopped before the worker has completed 2 hours' work.
- (2) Subject to section 30(1), an employer may, with the approval of the Permanent Secretary, require a worker to work temporarily for a time shorter than specified in the agreement and to accept a reduced remuneration.
- (3) Where a cyclone warning class III or IV has been issued and for so long as the warning remains in force, a worker may absent himself from work and the employer shall pay remuneration to the worker at the normal rate in respect of the period of absence.
- (4) No remuneration shall be payable to or recoverable by a worker for or on account of any period -
 - (a) during which the worker was in lawful custody;

- (b) spent by the worker in going to or returning to a reform institution;
- (c) spent by the worker in going to, attending or returning from a court in relation to proceedings in which he has been convicted of an offence.

10. Mode of payment of remuneration.

- (1) Subject to subsection (2), every employer shall pay remuneration to his workers in legal tender.
- (2) An employer may -
 - (a) with the Permanent Secretary's consent, pay remuneration to his workers partly in legal tender and partly in kind;
 - (b) with the worker's consent, pay his remuneration by cheque.

11. Payment of remuneration on termination of agreement.

- (1) Subject to subsection (2), every employer shall, on the termination of an agreement, forthwith pay to a worker any remuneration due under the agreement.
- (2) Where the parties to an agreement are deemed to have entered into a fresh agreement under section 30(2), the employer shall, not later than 2 week days after the expiry of the previous agreement, pay to the worker the remuneration due under the previous agreement.
- (3) Where notice of termination of an agreement has been given under section 31, the employer shall on the date of expiry of the notice, pay to the worker any remuneration due.
- (4) Where an agreement is terminated otherwise than by notice under section 31 or by expiry of the period for which the agreement was agreed to last, the employer shall not later than 2 week days after the termination of the agreement, pay to the worker any remuneration due.
- (5) Where an agreement is terminated and at the time of termination the worker has not taken any leave to which he is entitled under section 21, the employer shall in lieu of leave, pay to the worker the remuneration to which he would have been entitled if he had worked.

12. Advance on remuneration and recovery

- (1) Subject to subsection (4), no employer shall advance to a worker more than 3 months' remuneration.
- (2) An advance of remuneration made in contravention of subsection (1) shall be irrecoverable.
- (3) No employer shall, for the purpose of recovering any advance made under subsection (1), make a deduction from the remuneration payable to the worker which exceeds one fifth of the remuneration.
- (4) The Minister may by regulations prescribe the conditions under which an employer may advance more than 3 months' remuneration to a worker.

13. Deductions

- (1) Subject to subsection (2) and section 12 and without prejudice to sections 104 and 104A of the Income Tax Act, no employer shall make -
 - (a) a deduction from remuneration by way of discount, or for interest or any similar charge on account of an advance of remuneration made to a worker;
 - (b) an arrangement with a worker for a deduction from his remuneration or for a payment to the employer, for or in respect of a fine, or bad or negligent work, or damage to the materials or other property of the employer.
- (2) An employer may, with the worker's written consent, deduct from the remuneration of the worker and pay to any body specified in the Second Schedule any sum which the worker wishes to be paid to that body. **(Act 54 of 1984)**
- (3) No employer shall make a deduction under this section which, together with any deduction authorised by any other enactment, exceeds one half of the remuneration payable to that worker for any pay period.
- (4) No person shall make any deduction from remuneration in the form of a direct or indirect payment for the purpose of obtaining or retaining employment.

14. Public contracts

- (1) No contractor shall be entitled to any payment in respect of work performed in the execution of a public contract unless he has, together with his claim for payment, filed a certificate -
 - (a) showing the rates of remuneration and hours of work of the various categories of workers employed in the execution of the contract;

- (b) stating whether any remuneration payable in respect of work done under the contract is due;
 - (c) containing such other information as the Permanent Secretary may require to satisfy himself that the provisions of this Act have been complied with.
- (2) Where the Permanent Secretary is satisfied that remuneration is still due to a worker employed on a public contract at the time the claim for payment is filed under subsection (1), he may, unless the remuneration is sooner paid by the contractor, arrange for the payment of the remuneration out of the money payable under the public contract.
- (3) Except with the written consent of the Permanent Secretary, no contractor shall transfer or assign a public contract.

PART III - HOURS OF WORK

15. Days and hours of work

- (1) Subject to subsections (4) and (5), no worker shall be bound to work more than 6 days in a week nor more than -
- (a) where the worker is a young person, 6 hours in a day exclusive of the time allowed for meals and tea;
 - (b) where the worker is not a young person, 8 hours in a day exclusive of the time allowed for meals and tea.
- (2) Where by his agreement a worker is required to work for 6 or more days in a week the worker may on one day of the week, agreed upon between the employer and the worker, stop work after 5 hours' work and the employer shall pay to the worker a full day's remuneration in respect of that day.
- (3) (a) No person shall employ a young person or a female worker in an industrial undertaking for more than 10 hours in a day or -
- (i) in the case of a young person, between 6 p.m. and 6 a.m.; and
 - (ii) in the case of a female worker, between 10 p.m. and 5 a.m.

- (b) Where a worker employed in an industrial undertaking has worked up to or beyond 10 p.m., the employer shall not require him to resume work before the lapse of 11 hours after he has ceased work.
- (4) (a) Subject to paragraph(b), no employer shall employ a young person for more than 36 hours in a week.
(b) An employer may employ a young person in a shop for a period not exceeding 48 hours in a week.
- (5) A worker on shift work may be employed in excess of the stipulated hours, without added remuneration, if the average number of hours covered by a pay period does not exceed the stipulated hours.
- (6) Except where he voluntarily undertakes so to do, no worker shall be required to work on a public holiday.

16. Overtime

- (1) Subject to subsection (3), where a worker works on a week day for more than the stipulated hours, the employer shall, in respect of the extra work, remunerate the worker at not less than one and a half times the rate at which the work is remunerated when performed during the stipulated hours.
- (2) Subject to subsection (3), where a worker works on a public holiday, the employer shall, in addition to the remuneration payable under the agreement, remunerate the worker in respect of any work done -
 - (a) during the stipulated hours, at not less than twice the rate at which the work is remunerated when performed during the stipulated hours on a week day;
 - (b) outside the stipulated hours, at not less than 3 times the rate at which the work is remunerated when performed during the stipulated hours on a week day.
- (3) An agreement may provide that the remuneration provided for therein includes payment for work on public holidays and overtime where -
 - (a) the maximum number of public holidays; and
 - (b) the maximum number of hours of overtime on week days and on public holidays, covered by the remuneration are expressly provided for in the agreement.

17. Meal and tea breaks

- (1) Subject to subsection (2), every employer shall, unless the worker and the employer otherwise agree, grant to a worker -
 - (a) who is at work between the hours of -
 - (i) 9.00 a.m. and 1.30 p.m.; or
 - (ii) 5.00 p.m. and 8.00 p.m.;a break of at least one hour for a meal between those hours;
 - (b) who is employed for more than 6 hours consecutively in one day-
 - (i) a tea break of at least 20 minutes; or
 - (ii) 2 tea breaks of at least 10 minutes each.
- (2) The break granted to a worker under subsection (1)(a)(i) shall, unless the worker and the employer otherwise agree, be taken before noon.

PART IV - OTHER CONDITIONS OF WORK

18. Transport of workers

- (1) No person shall, except with the Permanent Secretary's written consent, transport a female worker or cause a female worker to be transported in -
 - (a) a goods vehicle;
 - (b) any other vehicle, unless the vehicle is provided with an easy means of entering and alighting which does not involve climbing.
- (2) Where, at the time of entering into an agreement, a worker's place of work is more than 3 miles from his usual place of residence and the worker is required to work between 9.00 p.m. and 5.00 a.m., the employer shall provide the worker with transport or, where facilities of transport by bus are available at the time the worker is required to start or to cease work, a sum equivalent to the bus fare for the return journey between his usual place of residence and the place of work.
- (3) The Minister may, by regulations, prescribe the categories of workers to whom transport facilities shall be provided and the conditions under which such workers shall be transported. **(Regulations – GN No. 78 of 1976)**

19. Privileges for female workers

- (1) (a) A female worker shall, on production of a medical certificate, be entitled to 12 weeks' maternity leave.
 - (b) Leaves deductible from the 12 weeks' entitlement may be taken within a period of 6 weeks before confinement, provided that if the leave taken exceeds four days consecutively, the worker shall produce a medical certificate to that effect.
 - (c) Entitlement to leave under paragraph (b) shall not prejudice the right of a worker to go on sick leave within the period of 6 weeks before confinement. **(Act No. 26 of 2006)**
- (2) Any period of absence under subsection (1) shall -
 - (a) be deemed to be absence from work with the consent of the employer; and
 - (b) where the female worker has been in continuous employment with the same employer for more than 12 months, be on full pay.
- (3) (a) Subject to paragraph(b), where a female worker is nursing her unweaned child, she may require her employer to grant her at such time as is convenient to her -
 - (i) a break of one hour daily; or
 - (ii) a break of half an hour twice daily,for the purpose of nursing her unweaned child.
 - (b) The employer may require a break under paragraph(a) to be taken immediately before or after a meal or tea break.
- (4) No break taken under subsection (3) shall be deducted from the number of hours of work of the worker.
- (5) A female worker shall be entitled to 2 weeks' leave on full pay following a miscarriage certified by a medical practitioner. **(Act No. 26 of 2006)**

20. Sick leave

- (1) Subject to subsection (2) and (3), every worker who has been in continuous employment with the same employer for more than 12 months shall be entitled in every year to 21 working days' leave on full pay on grounds of illness.
- (2) (a) Where a worker absents himself on grounds of illness, he shall, except where the employer is aware of the nature of the illness, as soon as possible notify his employer of his illness.

- (b) Where a worker referred to in paragraph(a) remains ill for more than 4 days he shall, in addition, forward to his employer a medical certificate -
 - (i) where the worker was admitted to a hospital or similar institution, within 3 days following his discharge;
 - (ii) in every other case, on the day following the fourth day of absence.
- (3) A medical certificate issued for the purpose of showing good and sufficient cause for absence from work shall not be valid in respect of any period in excess of 4 days before the day on which the person to whom the certificate relates had been examined by the medical practitioner issuing the certificate.
- (4) The employer may, at his own expense, cause a worker who is absent on grounds of illness to be examined by a medical practitioner.

21. Annual leave

- (1) Every employer shall grant a worker who has been in continuous employment with him for 12 consecutive months 14 working days' leave on full pay to be taken at such time as the employer and the worker may agree.
- (2) Where the employer and the worker are unable to agree as to when the leave under subsection (1) is to be taken, half of the leave period shall be fixed by the employer and the other half by the worker. **(Act No. 43 of 1983)**

21A. Additional leave (Act No. 17 of 1987)

Notwithstanding section 3 or any other enactment, every worker shall be entitled to two days leave in every year in addition to the annual leave, by whatever name called, to which he is entitled under -

- (a) section 21; or
- (b) any other enactment; or
- (c) the provisions of any agreement.

22. Medical facilities

- (1) Every person who employs 15 or more workers shall make appropriate arrangements for the medical and health requirements of his workers at work.

- (2) Where a worker has suffered injury or illness at work necessitating his removal to his home or to a hospital or other similar institution, the employer shall promptly and at his own expense provide an appropriate means of conveyance for the worker.

23. Report of accidents (Repealed by OHSWA, Act No. 34 of 1988)

24. Safety of workers (Repealed by OHSWA, Act No. 34 of 1988)

25. Other facilities

- (1) (Repealed by OHSWA, Act No. 34 of 1988 as well as subsections 2(b) and 2(c))
- (2) Where the Permanent Secretary or a Government medical officer is of opinion that no adequate arrangements exist to provide for the nursing of children of workers, he may, by written notice served on the employer, give such directions to the employer as he thinks fit.
- (3) An employer shall comply with the directions given to him by a Government Medical Officer or the Permanent Secretary under subsection (2).

PART V - ENTITLEMENT OF WORKERS IN THE SUGAR INDUSTRY

26. Interpretation of Part V

In this Part-

"employer" means a person who owns either a sugar factory or land under sugar cane cultivation of an extent exceeding 10.5522 hectares (25 arpents) in the aggregate;

"remuneration regulations" means -

- (a) the Sugar Industry (Agricultural Workers) (Remuneration Order) Regulations 1983;
- (b) the Sugar Industry (Non-Agricultural Workers) (Remuneration Order) Regulations 1985;

"worker" – (Act No. 54/84, SIEA Acts No. 34/.88 & 20/2001)

- (a) has the same meaning as in paragraph 2(1) of the (Remuneration Order) Regulations;
- (b) includes a person specified in paragraph 2(2) of the (Remuneration Order) Regulations;

27. Continued employment of existing workers in the sugar industry (SIEA Act No. 20/2001)

Subject to –

- (a) this Act;
 - (b) section 23 of the Sugar Industry Efficiency Act 2001; and
 - (c) section 24 of the Cane Planters and Millers arbitration and Control Board Act,
- every worker in employment on 31 May 2001 shall be entitled to remain in the employment of his employer;

28. Employment with alternative employer (Repealed by the SIEA 20 of 2001)

29. Worker's remedy (Repealed by the SIEA 20 of 2001)

PART VA - WORKERS EMPLOYED BY JOB CONTRACTOR

28. Workers employed by job contractor

- (1) Where a worker is employed by a job contractor for the purposes of –
 - (a) land preparation, growing, harvesting or processing of sugar cane and the construction, repair or maintenance of roads, bridges or water works, structures or buildings, wholly or substantially required for the purposes of the sugar industry and any other work incidental to the exploitation of land; or
 - (b) the transport of canes, sugar, materials or supplies used in connection with any work specified in paragraph(a),the job contractor shall comply with this Act, and the Sugar Industry (Agricultural Workers) Remuneration Order Regulations 1983 and the Sugar Industry (Non-Agricultural Workers) Remuneration Order Regulations 1985.
- (2) Where an employer has recourse to one or more job contractors, the number of man-days performed by –
 - (a) workers employed by the job contractor; and
 - (b) seasonal workers employed by the employer,shall not, in any year, exceed 20 per cent of the total number of man-days performed in that year by workers in employment under section 27.
- (3) Every employer shall, on or before 31 January of every year, submit to the Permanent Secretary, separate returns in respect of agricultural workers and non-agricultural workers, showing in respect of the preceding year –
 - (a) the number of workers employed by him under section 27;
 - (b) the number of seasonal workers employed by him;
 - (c) the number of workers employed by job contractors under section 28; and
 - (d) the number of man-days performed by the workers referred to in paragraphs (a), (b) and (c).
- (4) In this section, “employer” has the meaning assigned to it under section 26.

PART VI - TERMINATION OF AGREEMENTS

30. Termination of agreement

- (1) Subject to any express provision of the agreement and to subsections (2) and (3), every agreement shall terminate on the last day of the period agreed upon or on the completion of the specified piece of work.
- (2) A party to an agreement, other than an agreement entered into for a specified piece of work, shall, on the termination of the agreement, be deemed to have entered into a fresh agreement upon the same terms and conditions as the previous agreement unless notice has been given by either party to terminate the agreement in accordance with section 31.
- (3) Where a worker is ill-treated by his employer, he may claim that the agreement has been terminated by the employer.
- (4) An agreement shall be broken -
 - (a) by the worker, where he is absent from work, exclusive of any day on which the employer is not bound to provide work, without good and sufficient cause for more than 2 consecutive working days;
 - (b) by the employer, where he fails to pay the worker the remuneration due under the agreement.

31. Notice of termination of agreement

- (1) A party to an agreement for a period of time may, except where he is prohibited by an enactment from doing so, terminate the agreement on the expiry of notice given by him to the other party of his intention to terminate the agreement.
- (2) Notice may be verbal or written and may, subject to subsection (3), be given at any time.
- (3) Subject to any express provision of the agreement, the length of the notice to be given under subsection (1) shall -
 - (a) where the worker has, for not less than 3 years, been in continuous employment with the same employer, be not less than 3 months;

- (b) in every other case -
 - (i) where the worker is remunerated at intervals of not less than 14 days, be not less than 14 days before the end of the month in which the notice is given;
 - (ii) where the worker is remunerated at intervals of less than 14 days, be at least equal to the interval.

32. Unjustified termination of agreement

- (1) No employer shall dismiss a worker -
 - (a) by reason only of the worker's filing in good faith of a complaint, or participating in a proceeding, against an employer involving alleged violation of a law;
 - (b) for alleged misconduct unless -
 - (i) he cannot in good faith take any other course; and
 - (ii) the dismissal is effected within 7 days of -
 - (A) where the misconduct is the subject of a hearing under subsection (2), the completion of the hearing;
 - (B) where the misconduct is the subject of criminal proceedings, the day on which the employer becomes aware of the final judgment of conviction; or
 - (C) in every other case, the day on which the employer becomes aware of the misconduct.
- (2) (a) No employer shall dismiss a worker unless he has afforded the worker an opportunity to answer any charges made against him and any dismissal made in contravention of this paragraph shall be deemed to be an unjustified dismissal.
- (b) The worker may, for the purposes of paragraph(a), have the assistance of a representative of his trade union, if any, of an officer or of his legal representative.
- (3) (a) Subject to paragraph(c), a worker whose employment has been unjustifiably terminated may refer the matter to an officer and shall be allowed the assistance of a representative of his trade union, if any.

- (b) Where a reference under paragraph(a) does not result in the matter being satisfactorily settled, the worker may lodge a complaint with the Court and shall be allowed the assistance of a representative of his trade union, if any.
- (c) No worker shall, under paragraph(a), refer a matter to an officer unless he does so within 7 days after he has been notified of his dismissal.
- (4) Where a matter is referred to an officer or to the Court under subsection (3), the employer may not set up as a defence that the worker has abandoned his employment unless he proves that the worker has, after having been given written notice -
 - (a) by post with advice of delivery; or
 - (b) by service at the residence of the worker, requiring him to resume his employment, failed to do so within a time specified in the notice which shall not be less than 24 hours from the receipt of the notice.
- (5) Subsection (4) shall not apply in relation to a worker who has notified the termination of his employment in writing.

33. Worker under notice of termination

During the period when a worker is under notice of termination of agreement under section 31 the employer shall, on satisfactory proof of the purpose of the request, allow the worker who requests it reasonable time off, without loss of pay, to seek further employment.

34. Payment of severance allowance

- (1) Subject to section 35, an employer shall pay severance allowance to a worker who has been in continuous employment with him for a period of 12 months or more where -
 - (a) the employer terminates the employment of the worker;
 - (b) the worker, on or after attaining the age of 60, retires voluntarily; (**amended by Finance Act 2008; Act No 18 of 2008**)
 - (ba) the worker, on or after attaining the retirement age, retires at the request of the employer; or (**amended by Finance Act 2008; Act No 18 of 2008**)
 - (c) the worker, before attaining the age of 60, retires voluntarily in accordance with the provisions of any Remuneration Order Regulations made by the Minister under section 96 of the Industrial Relations Act.
- (2) For the purposes of this section -

- (a) a worker who works for his employer on 4 or more days in any week shall be deemed, in respect of that week, to have been in continuous employment;
- (b) no worker shall cease to be in the continuous employment of any employer by reason of his participation in a strike which is not unlawful under the Industrial Relations Act;
- (c) where a worker ceases to be in the employment of one employer and enters the employment of another under section 35(3), the employment of the worker by the first and second employer shall be deemed to be continuous. (Act No.19/80; 17/83; 35/84; 54/84; 40/88)

35. Exclusion of severance allowance

- (1) No worker shall be paid severance allowance where he is dismissed under section 32(1)(b).
- (2) Where -
 - (a) an employer dies and his worker is employed or offered employment by the personal representative or heir of the deceased employer forthwith after the death;
 - (b) a worker's employment by a partnership ceases on the dissolution of the partnership, and he is employed or offered employment by a member of the dissolved partnership or a new partnership forthwith after the dissolution;
 - (c) a worker's employment by a body corporate ceases on the dissolution of that body and he is employed or offered employment by some other corporate body in accordance with an enactment or a scheme of reconstruction forthwith after the dissolution; or
 - (d) a worker's employment ceases on the disposal by his employer of the goodwill, or of the whole or a substantial part of the business, or of that part of the business in which he is employed and he is employed or offered employment by the person who acquires the goodwill or business or part of the business forthwith after the disposal,

on terms and conditions which are not less favourable than those of the former agreement, the worker shall not be entitled to severance allowance.

- (3) Where a worker to whom an offer is made in any of the circumstances specified in subsection (2) accepts the offer, he shall be deemed to enter the employment of the person by whom the offer is made forthwith upon the cessation of his employment with the first employer.
- (4) Where a worker is deemed to be in continuous employment in accordance with section 34(2)(c) and that continuous employment is terminated in circumstances in which severance allowance is payable, the employer in whose service the worker was employed immediately before the termination shall be deemed to be the employer during the whole of the period and shall be liable to pay severance allowance accordingly.
- (5) An employer who is liable to pay severance allowance under subsection (4) shall -
 - (a) be entitled to deduct any period and to make any deduction which any previous employer would have been entitled to deduct or to make had the previous employer become liable to pay severance allowance; and
 - (b) be exempt from any liability to pay the allowance in respect of any period for which any previous employer was exempt.

36. Amount of severance allowance

- (1) Subject to the other provisions of this section and to this Part, the amount of severance allowance payable to a worker shall be calculated in accordance with subsection (2), (3) or (4) as appropriate.
- (2) Subject to subsections (5) and (7), where contributions are payable in respect of a worker under the National Pensions Act, the amount of severance allowance payable to the worker, in relation to the period during which the contributions have been paid shall be -
 - (a) for every period of 12 months -
 - (i) $\frac{1}{4}$ of a month's remuneration, other than exempt remuneration, where the worker is remunerated at intervals of not less than one month;
 - (ii) 8 days' remuneration, other than exempt remuneration, where the worker is remunerated at any other interval;

- (b) for every period less than twelve months, a sum equal to 1/12 of the appropriate sum calculated under paragraph(a) multiplied by the number of months during which the worker has been in the continuous employment of the employer.
- (3) Subject to subsections (5) and (7), where no contributions are paid or required to be paid in respect of a worker under the National Pensions Act, the amount of severance allowance payable to the worker shall be -
 - (a) for every period of 12 months -
 - (i) ½ a month's remuneration, where the worker is remunerated at intervals of not less than one month;
 - (ii) 15 days' remuneration where the worker is remunerated at any other interval;
 - (b) for every period less than twelve months, a sum equal to 1/12 of the appropriate sum, calculated under paragraph (a) multiplied by the number of months during which the worker has been in continuous employment.
- (4) Subject to subsections (5) and (7), where any exempt remuneration is payable to a worker, the amount of severance allowance payable to the worker for the period during which contributions under the National Pensions Act in respect of the worker have been paid by the employer shall be -
 - (a) for every period of 12 months -
 - (i) ½ a month's exempt remuneration (i) where the worker is remunerated at intervals of not less than one month;
 - (ii) 15 days' exempt remuneration where the worker is remunerated at any other interval;
 - (b) for every period less than twelve months, a sum equal to 1/12 of the appropriate sum calculated under paragraph(a) multiplied by the number of months during which the worker has been in continuous employment.
- (5) (a) Subject to section 37, where a worker on or after attaining the age of 60, retires voluntarily or at the request of his employer, the severance allowance payable in respect of the whole of the period during which he has been in the continuous employment of the employer shall be the amount specified in subsection (3).
 - (b) Paragraph(a) shall apply to a worker specified in section 34(1)(c).

(Amended by Acts No. 19/80; 17/83; 35/84; 40/88)

- (6) Where a worker's remuneration is fixed at a rate calculated on work done or includes any sum paid by way of commission in return for services, his remuneration shall, for the purposes of this section, be computed in the manner best calculated to give the rate at which the worker was being remunerated over a period not exceeding twelve months prior to the termination of his employment.
- (7) The Court shall, where it finds that the termination of the employment of a worker employed in any undertaking, establishment, or service was unjustified, order that the worker be paid a sum equal to six times the amount of severance allowance specified in subsection (3).
- (8) Any severance allowance payable under this Act shall be paid on the termination of the agreement.
- (9) The Court may, where it thinks fit and whether or not a claim to that effect has been made, order an employer to pay interest, at a rate not exceeding twelve per cent, from the date of the termination of the agreement to the date of payment.
- (10) For the purposes of this section -
 - (a) the remuneration which shall be taken into account in calculating the severance allowance shall be the remuneration payable to a worker at the time of the termination of his employment;
 - (b) "exempt remuneration" means any part of a worker's remuneration at the time of the termination of his employment in respect of which no contribution is required to be paid under the National Pensions Act.

37. Deductions from severance allowance

- (1) Any employer may deduct from any severance allowance payable -
 - (a) in the case of a worker, who, on or after attaining the age of 60, retires voluntarily or at the request of his employer or in the case of a worker specified in section 34(1)(c) who retires voluntarily before attaining the age of 60 in accordance with the provisions of any Remuneration Order Regulations -

- (i) half the amount of any gratuity due at the age of 60 from any fund or scheme, computed by reference only to the employer's share of contributions; (Act No. 26 of 2006)
- (ii) any gratuity granted at the age of 60 by the employer;
- (iii) 5 times the amount of any annual pension granted at the age of 60 from any fund or scheme, computed by reference only to the employer's share of contributions. (Act No. 26 of 2006)
- (iv) 10 times the amount of any annual pension granted at the age of 60 by the employer,

provided that in the case of the worker who retires under section 34(1)(c), the gratuity and pension specified in this subsection shall be deemed to be the gratuity and pension which would have been payable had the worker retired at the age of 60 under the National Pensions Act or any other fund or scheme;

(b) in any other case -

- (i) any gratuity granted by the employer;
- (ii) any contribution made to any fund or scheme by the employer.

(2) Where a worker exercises an option to take a deferred or immediate pension in lieu of the repayment of past contributions, the amount of the deduction under subsection (1)(a) shall be calculated as though the worker has not exercised that option.

(3) In this section,

"fund or scheme" means any pension or provident fund or scheme, other than the fund established under the National Pensions Act, set up by the employer for the benefit of a worker.

(Amended by Acts No. 44/76; 29/78; 19/80; 17/83; 35/84; 40/88)

37A. Termination of appointment under the Constitution

- (1) Subject to subsections (2) and (3), where an appointment is terminated under section 92 or 113 of the Constitution, the holder of the office whose appointment is terminated shall -
 - (a) where he has served for a period of 3 years or more, be eligible to compensation representing 3 months' salary;

- (b) where he has served for a period of less than 3 years, be eligible to compensation representing one month's salary.
- (2) Notwithstanding anything to the contrary in any agreement, no gratuity or severance allowance shall be payable to the holder of any office the appointment of which is terminated under section 92 or 113 of the Constitution.
- (3) Where the holder of an office to which subsection (1) applies was, immediately before his appointment to that office, the holder of a public office or in employment with a statutory body -
 - (a) he shall be entitled to resume his former office; or
 - (b) where the former office is no longer vacant, he shall be deemed for the purposes of any other enactment to have retired from that office on the ground of abolition of that office.

(Added by Act No. 3/82)

38. Termination of Contracts of Service Board

- (1) The Termination of Contracts of Service Board is established for the purposes of this Act.
- (2) The Board shall be appointed annually by the Minister and shall consist of -
 - (a) a person, who holds or has held judicial office or who is qualified to hold office as a Judge, who shall be the Chairman;
 - (b) the Principal Labour Officer or a Senior Labour Officer;
 - (c) a representative of employers;
 - (d) a representative of workers.
- (3) The appointment of every member of the Board shall be published in the Gazette.
- (4) The Chairman and 2 other members shall constitute a quorum.
- (5) All acts, matters or things authorised or required to be done by the Board shall be decided by a simple majority of the votes of the members present and voting at that meeting.
- (6) At any meeting of the Board each member shall have one vote on the matter in question and in the event of an equality of votes the Chairman shall have a casting vote.
- (7) The Board may -

- (a) make such orders for requiring the attendance of any person and the production of any document as it thinks fit; and
 - (b) take evidence on oath, and for that purpose administer oaths.
- (8) Any person whose attendance is required under subsection (7) who -
- (a) fails to attend at the time and place specified in the order;
 - (b) refuses to answer faithfully any question put to him by the Board;
 - (c) gives any false or misleading information;
 - (d) refuses to produce a document required by the Board,
- shall commit an offence.
- (9) Subject to subsections (4), (5) and (6), the Board shall regulate its proceedings in such manner as it thinks fit.

39. Reduction of work force

- (1) In this section, "employer" means an employer of not less than ten workers.
- (2) Any employer who intends to reduce the number of workers in his employment either temporarily or permanently shall give written notice to the Minister, together with a statement of the reasons for the reduction.
- (3) On receipt of a notice under subsection (2), the Minister shall refer the matter to the Board for consideration.
- (4) Notwithstanding any other provision of this section, no employer shall reduce the number of workers in his employment either temporarily or permanently-
 - (a) before the lapse of 120 days from the date of the notice under subsection (2); or
 - (b) pending the decision of the Board, whichever is the later.
- (5) Where an employer -
 - (a) reduces the number of workers in his employment either temporarily or permanently without giving to the Minister the notice required under subsection (2);
 - (b) acts in breach of subsection (4),he shall, unless good cause is shown, pay to the worker whose employment is terminated a sum equal to 120 days' remuneration together with a sum equal to six times the amount of severance allowance specified in section 36(3).

(6) Where the Board finds that the employer's reduction of the number of workers in his employment -

(a) is justified, the employer shall pay the workers whose employment is terminated severance allowance;

(b) is not justified, the employer shall pay the workers whose employment is terminated an amount equal to 6 times the amount of severance allowance specified in section 36(3), or reinstate the worker in his former employment.

(Amended by Acts No. 19/80 & 8/82)

PART VII - JOB CONTRACTORS

40. Issue of permit

- (1) No person shall work as a job contractor unless he holds a permit issued by the Permanent Secretary.
- (2) Any person who wishes to work as a job contractor shall apply to the Permanent Secretary for a permit.
- (3) On receipt of an application under subsection (2), the Permanent Secretary may, after making such inquiry as he thinks fit -
 - (a) refuse to grant a permit and specify the ground of his refusal;
 - (b) grant the permit subject to such conditions as he thinks fit.
- (4) Any condition imposed under subsection (3) shall be endorsed on the permit.

41. Joint liability of employer and job contractor

- (1) Subject to subsection (2), a job contractor and his principal shall be jointly and severally liable for the payment of the remuneration of any worker employed by the job contractor.
- (2) The liability of the principal of a job contractor under subsections (1) and (4) shall be limited to the sum payable by him to the job contractor under the arrangement between them, or to the sum payable in respect of the time during which the workers employed by the job contractor have worked, whichever is less.
- (3) No person who is jointly liable with a job contractor under subsection (1) may set up as a defence to a claim from a worker seeking to recover remuneration the fact that he has already paid to the job contractor any sum due under the arrangement with the job contractor.
- (4) Subject to subsection (2) and Part VI, where -
 - (a) a job contractor is employed by a person; and
 - (b) a worker is employed by the job contractor in relation to his agreement with his principal,the principal shall be jointly and severally liable with the job contractor for the payment of severance allowance to the worker.

42. Remuneration to be a privileged debt

- (1) Subject to subsection (2), every worker employed by a job contractor shall, for securing payment of his remuneration, have the same privileges, in respect of the property of the principal, as he would have had if he had been directly employed by the principal without the intervention of the job contractor.
- (2) Any amount recoverable under subsection (1) shall not exceed the amount payable by the principal to the job contractor under section 41(2).

PART VIII - PART-TIME WORK

43. Interpretation of Part VIII

In this part –

“comparable full-time worker” means a full-time worker who –

- (a) has the same type of employment relationship;
 - (b) is engaged in the same or similar type of work or occupation ; and
 - (c) is employed in the same establishment, in the same enterprise or, in the same branch of activity,
- as the part-time worker concerned;

“part-time worker” means a worker whose normal hours of work are -

- (a) not less than one nor more than 5 hours daily; or
- (b) not less than 6 nor more than 24 hours weekly.

44. Payment of remuneration

- (1) Every employer shall pay to a part-time worker not less than the basic remuneration prescribed in any enactment for his category calculated proportionately on an hourly basis and increased by not less than 5 per cent.
- (2) Where no basic remuneration is prescribed in an enactment, every employer shall pay to a part-time worker not less than the basic wage of a comparable full-time worker calculated proportionately on an hourly basis and increased by not less than 5 per cent.

45. Work on Sundays and public holidays

Where a part-time worker works on a Sunday or any other public holiday, the employer shall remunerate the worker in respect of any work done in accordance with section 16(2).

46. Annual leave

- (1) Where a part-time worker is required to work not less than 6 days in a week and has been in continuous employment with the same employer for 12 consecutive months, he shall be entitled to –
 - (a) that number of days' leave as is provided for under sections 21 and 21A; or
 - (b) that number of days of annual leave as is prescribed in any enactment.

- (2) Where a part-time worker is required to work less than 6 days in a week and has been in continuous employment with the same employer for 12 consecutive months, he shall be entitled to –
 - (a) that number of days of annual leave as is prescribed in any enactment; or
 - (b) in the absence of any such enactment, that number of days of annual leave as computed in accordance with the following formula –

$N / W \times$ number of days of leave granted under subsection (1) or (2)(a) where “N” means the number of days he is required to work in a week , and “W” means the number of working days in a week of a comparable full-time worker.

- (3) The leave granted under subsections (1) and (2) shall be with pay and taken –
 - (a) at such time as the employer and the worker may agree; or
 - (b) where the employer and the part-time worker are unable to agree as to when the leave is to be taken, half as fixed by the employer and the other half as fixed by the worker.

47. Sick leave

- (1) Subject to subsections (3) and (4), where a part-time worker is required to work not less than 6 days in a week and has been in continuous employment with the same employer for 12 consecutive months, he shall, on grounds of illness, be entitled to –
 - (a) that number of days' leave as is provided for under section 20; or
 - (b) that number of days of sick leave as is prescribed in any enactment.

- (2) Where a part-time worker is required to work less than 6 days in a week and has been in continuous employment with the same employer for 12 consecutive months, he shall be entitled to –
 - (a) that number of days of sick leave as is prescribed in any enactment; or
 - (b) in the absence of any such enactment, that number of days of sick leave as computed in accordance with the following formula –
$$N / W \times \text{number of days of leave granted under subsection (1) or (2)(a)}$$
where “N” means the number of days he is required to work in a week , and “W” means the number of working days in a week of a comparable full-time worker.
- (3) The leave granted under subsections (1) and (2) shall be with pay.
- (4) Where a part-time worker absents himself on grounds of illness, he shall, except where the employer is aware of the nature of the illness, as soon as possible, notify his employer of his illness.
- (5) Where a part-time worker referred to in subsection (4) remains ill for more than 4 days he shall , in addition, forward to his employer a medical certificate –
 - (i) where he was admitted to a hospital or similar institution, within 5 days following his discharge;
 - (ii) in every other case, on the day following the fourth day of absence.
- (6) Notwithstanding subsections (4) and (5), no employer shall dismiss a part-time worker where the part-time worker fails to notify, or to produce a medical certificate to the employer, within the time required under this section, if the worker shows good and sufficient reason for such failure.
- (7) A medical certificate issued for the purpose of showing good and sufficient cause for absence from work shall not be valid in respect of any period in excess of 4 days before the day on which the part-time worker to whom the certificate relates had been examined by the medical practitioner issuing the certificate.
- (8) The employer may, at its own expense, cause a part-time worker who is absent on grounds of illness to be examined by a medical practitioner.

47A. Maternity leave

- (1) (a) A female part-time worker, who has remained in continuous employment with the same employer for 12 months immediately preceding her confinement, shall be entitled to 12 weeks' maternity leave.
 - (b) Leaves deductible from the 12 weeks' entitlement may be taken within a period of 6 weeks before confinement, provided that if the leave taken exceeds four days consecutively, the worker shall produce a medical certificate to that effect.
 - (c) Entitlement to the leave under paragraph (b) shall not prejudice the right of a worker to go on sick leave within the period of 6 weeks before confinement.
- (2) The leave under subsection (1) shall be with pay calculated proportionately, on an hourly basis, for the number of hours of work performed by the part-time worker.

(Act No. 26 of 2006)

47B. Protective equipment and travelling benefits

A part-time worker shall be provided with the same protective equipment and granted the same travelling benefits to which a comparable full-time worker is entitled under any enactment.

47C. Termination of agreement

Sections 30, 31 and 32 shall apply to any agreement between an employer and a part-time worker.

47D. Payment of severance allowance

Section 34 shall apply to any agreement between an employer and a part-time worker notwithstanding the provisions of section 34(2)(a).

47E. Amount of severance allowance

- (1) Subject to subsection (2) of this section, section 36 shall apply to every agreement between an employer and a part-time worker.
- (2) Where a part-time worker is required to work less than 6 days in a week, the severance allowance payable shall be in accordance with the following formula –

N/6 x the amount of severance allowance payable under section 36, where “N” means the number of days he is required to work.

47F. Consideration for full-time employment

Where a vacancy occurs in the full-time workforce of an employer, priority of consideration for employment shall be given, as far as possible, to a part-time worker.

47G. Transfer to part-time work

A worker may enter into an agreement with an employer to perform part-time work subject to

-

- (a) the agreement being in writing;
- (b) the agreement being for a specified period of time;
- (c) the agreement providing for the option to the worker to revert to full time work at the expiry of the specified period of part-time work.

PART IX - RECORDS AND PROCEEDINGS

48. Register of employers

- (1) Every employer who has 15 or more workers in his employment shall apply to the Permanent Secretary for registration under this Act.
- (2) Every application shall state the number of workers employed and the type of work they do.
- (3) The Permanent Secretary shall keep a register of employers.

49. Keeping of documents

- (1) Every employer referred to in section 48 shall keep a register of workers, a remuneration book, an inspection report book and such other documents as may be prescribed and retain those documents for a period of 3 years.
- (2) Every employer shall -
 - (a) enter in the register of workers the name and age of every worker, and the nature and conditions of the work he performs;

- (b) enter in the remuneration book the days on which a worker has worked and the remuneration paid to him;
- (c) on payment of remuneration to a worker -
 - (i) cause the worker to affix his signature or thumbprint in the remuneration book; and
 - (ii) issue to the worker a *payslip* which shall be in such form as may be prescribed.

(Regulations – GN No. 78 of 1976, Form C of Schedule)

- (3) Every employer shall, on request -
 - (a) produce to an officer any document kept by him under subsection (1);
 - (b) initial any entry made in the inspection report book by the officer;
 - (c) submit to the Permanent Secretary such particulars as may be required.

50 Termination of employment certificate

- (1) Every employer shall, at the request of a worker who has terminated a period of employment of more than one month, give to the worker a certificate in the form specified in the Third Schedule.
- (2) No employer shall insert in the certificate issued under subsection (1) any particulars other than those specified in the Third Schedule.

51. Power to make enquiries (Act No. 40 of 1988)

- (1) The Permanent Secretary shall have the right to -
 - (a) enter without previous notice, at any hour of the day or night, any place of work, other than premises used solely for residential purposes except with the permission of the occupier thereof;
 - (b) enter by day and without previous notice any premises which he has reasonable cause to believe to be a place of work other than premises used solely for residential purposes except with the permission of the occupier thereof;
 - (c) carry out any examination or enquiry which he may consider necessary in order to satisfy himself that the provisions of this Act and of any other enactments listed in the Fourth Schedule are being strictly observed;

- (d) interview alone or in the presence of any other person as he thinks fit and at such a place deemed appropriate by him for that purpose, the employer or his representative, any worker or person employed therein with respect to the provisions of this Act and any of the enactments listed in the Fourth Schedule; and any such employer or representative, worker or person employed so interviewed shall answer such questions truly to the best of his ability provided that no such person shall be required to give any information tending to incriminate himself;
 - (e) require the production of any books, registers or other documents, whether prescribed by law or kept by the employer, relating to conditions of employment in order to ascertain whether the provisions of this Act or any of the enactments listed in the Fourth Schedule are being complied with, and copy such documents or make extracts therefrom;
 - (f) enforce the posting of notices as may be required by the provisions of this Act and of any of the enactments listed in the Fourth Schedule;
 - (g) require an employer to submit in writing any information relating to remuneration and conditions of employment of a worker, as well as the worker's name, address, age, date of entry and category;
 - (h) require an employer or his representative to furnish the facilities and assistance required for an entry, inspection, examination or enquiry in the exercise of any of the powers under this Act or any of the enactments listed in the Fourth Schedule.
- (2) On the occasion of an inspection visit, the Permanent Secretary shall notify the employer or his representative of his presence, unless neither of them is present or easily accessible at that time.
 - (3) The Permanent Secretary may take with him a Police Officer if he has reasonable cause to apprehend any serious obstruction in the execution of his duties.
 - (4) Any person who wilfully impedes or delays the Permanent Secretary in the exercise of any power under this Act or any other enactment listed in the Fourth Schedule, or fails to comply with the request of the Permanent Secretary in pursuance of paragraphs (e), (f), (g) and (h) of subsection (1) or to produce any books, registers or other documents which he is required by or in pursuance of this Act or any other

enactment listed in the Fourth Schedule, to produce, or conceals, or prevents, or attempts to conceal or prevent, a person from appearing before or being examined by the Permanent Secretary, shall be deemed to obstruct the Permanent Secretary in the execution of his duties under this Act or any other enactment listed in the Fourth Schedule.

52. Power to summon

- (1) Where the Permanent Secretary -
 - (a) has reason to believe that an offence arising out of an agreement has been committed by an employer; or
 - (b) wishes to inquire into a matter concerning a dispute or any other matter relating to employers and workers, he may, by written notice, summon any person who

he believes can give information relating to the subject-matter of the offence or inquiry to attend and produce any document which the Permanent Secretary may require.
- (2) Any person summoned under subsection (1) who -
 - (a) fails to attend at the time and place specified in the notice;
 - (b) refuses to answer faithfully any question put to him by the Permanent Secretary;
 - (c) gives any false or misleading information;
 - (d) refuses to produce a document required by the Permanent Secretary,shall commit an offence.

53. Complaint to the Permanent Secretary

- (1) A worker may make a complaint to the Permanent Secretary against his employer or any agent of the employer in respect of any matter arising out of his employment.
- (2) An employer or any agent of the employer who prevents a worker from making a complaint to the Permanent Secretary under subsection (1) shall commit an offence.

PART X - LABOUR ADVISORY BOARD

54. Labour Advisory Board

- (1) There shall be established, for the purposes of this Act, a Labour Advisory Board.
- (2) The Board shall consist of an equal number of public officers, representatives of employers and representatives of workers.
- (3) The members of the Board shall be appointed by the Minister for such period and on such terms and conditions as he may determine.
- (4) The appointment of every member of the Board shall be published in the Gazette.
- (5) The Board shall consider, and advise the Minister upon, any matter affecting employment and labour referred to it by the Minister, and shall exercise and perform such other powers and duties in such manner and subject to such conditions as the Minister may, by regulations, direct.
- (6) Subject to subsection (5), the Board shall regulate its proceedings in such manner as it thinks fit.

PART XI - MISCELLANEOUS

55 Offences

- (1) Any person who-
 - (a) **(Deleted by section 4 of Act No. 1 of 2004);**
 - (b) prevents a worker from appearing before the Permanent Secretary, an officer, the Termination of Contracts of Service Board or the Labour Advisory Board;
 - (c) fails or neglects to pay remuneration;
 - (d) fails or neglects to pay remuneration within the prescribed time;

- (e) makes, or knowingly allows to be made, any entry in a record required to be kept by an employer which he knows to be false or misleading in a material particular;
 - (f) fails to credit a worker with the full amount of work done;
 - (g) for the purposes of this Act, produces, furnishes or knowingly allows to be produced or furnished any remuneration sheet, record, list or information which he knows to be false or misleading in a material particular;
 - (h) is liable to provide work or to pay remuneration in lieu of work and who fails to provide the work or pay the remuneration;
 - (i) obstructs the Permanent Secretary in the exercise of his powers or duties under this Act or any other enactment listed in the Fourth Schedule; **(Act No. 40 of 1988)**
 - (j) contravenes -
 - (i) any other provision of this Act or of any subsidiary enactment made under this Act;
 - (ii) an order made by the Court or the Termination of Contracts of Service Board;
 - (iii) any order or direction given under this Act;
 - (iv) an order referred to in section 110(5) of the Industrial Relations Act;
 - (v) the conditions of any permit or certificate granted under this Act;
 - (vi) the conditions of any authority issued, or approval given under this Act, shall commit an offence.
- (2) Any person who commits an offence shall, on conviction, be liable to a fine not exceeding 2,000 rupees and to imprisonment for a term not exceeding one year.
- (3) The Court may on the conviction of any person under this Act, where it thinks appropriate, make an order directing that person to comply with this Act within such time as may be fixed in the order.

55A. Workplace violence

- (1) Any person who –
 - (a) assaults,
 - (b) verbally abuses, swears at or insults;

- (c) expresses the intention to cause harm, including bullying and threatening behaviour against;
- (d) uses aggressive gesture indicating intimidation, contempt or disdain towards;
- (e) harasses;
- (f) by words or act, hinders,

a worker, in the course of or as a result of, his work, shall commit an offence and shall, on conviction, be liable to a fine of not less than 10,000 rupees and not more than 75,000 rupees and to imprisonment for a term not exceeding 2 years.

(Act No. 1 of 2004)

56. Amendment of Schedules

The Minister may, by regulations, amend the Schedules.

57. Regulations

- (1) The Minister may make such regulations as he thinks fit for the purposes of this Act.
- (2) Any regulations made under subsection (1) may provide for -
 - (a) the issue of permits;
 - (b) the taking of fees.

(Amended by Act No. 19 of 1980 & OSHWA Act No.34 of 1988)

58. (Spent, not reproduced in Revised Laws of Mauritius 1981; amended S9 of Act No. 40 of 1988 which is now spent).

59. (Spent, not reproduced in Revised Laws of Mauritius 1981; amended S9 of Act No. 40 of 1988 which is now spent).

60. (Spent, not reproduced in Revised Laws of Mauritius 1981; amended S9 of Act No. 40 of 1988 which is now spent).

61. Passed in the Legislative Assembly on the sixteenth day of December one thousand nine hundred and seventy-five.

FIRST SCHEDULE

(section 2)

SPECIFIED LOCAL AUTHORITIES AND BODIES

Central Electricity Board
Central Housing Authority
Central Water Authority
Development Works Corporation
Sugar Industry Labour Welfare Committee
Sugar Planters' Development Fund Committee
Tea Development Authority

SECOND SCHEDULE

(section 13)

DEDUCTION PAYMENTS

A Society registered under the Co-operative Societies Ordinance 1945
Central Housing Authority
Export Processing Zone Labour Welfare Fund
Mauritius Housing Corporation
National Solidarity Fund
Sugar Industry Labour Welfare Fund
(Act No. 54 of 1984; GN No. 76 of 1987 & 203 of 1989)

THIRD SCHEDULE

(section 50)

CERTIFICATE OF SERVICE

This is to certify that (1)
of

..... (2) was employed as
.....

..... (3) with (4) from
.....

..... (5) to (6)

Date
.....

Signature of employer

- (1) Name of worker in block letters
- (2) Address of worker
- (3) Position held by worker
- (4) Name of employer
- (5) Date of commencement of agreement
- (6) Date of termination of agreement

FOURTH SCHEDULE

(section 51)

POWER TO MAKE ENQUIRIES

- Additional Remuneration Acts
- End of the Year Gratuity Acts
- Industrial Expansion Act-1993 - section 20
- Industrial Relations Act

Passenger Transport Industry (Buses) Retiring Benefits Act

Sugar Industry Retiring Benefits Act

Workmen's Compensation Act

(Act No 40 of 1988 & IEA 1993 Act No. 11 of 1993)

Fifth Schedule

(section 2)

The retirement age of a person in respect of his date of birth shown in column 1 shall be the corresponding age specified in column 2

COLUMN 1		COLUMN 2		
MONTH AND YEAR OF BIRTH		RETIREMENT AGE	MONTH AND YEAR OF RETIREMENT DATE	
MONTH	YEAR		MONTH	YEAR
AUGUST	1948	60 years + 1 month	SEPTEMBER	2008
SEPTEMBER	1948	60 years + 2 months	NOVEMBER	2008
OCTOBER	1948	60 years + 3 months	JANUARY	2009
NOVEMBER	1948	60 years + 4 months	MARCH	2009
DECEMBER	1948	60 years + 5 months	MAY	2009
JANUARY	1949	60 years + 6 months	JULY	2009
FEBRUARY	1949	60 years + 7 months	SEPTEMBER	2009
MARCH	1949	60 years + 8 months	NOVEMBER	2009
APRIL	1949	60 years + 9 months	JANUARY	2010
MAY	1949	60 years + 10 months	MARCH	2010
JUNE	1949	60 years + 11 months	MAY	2010
JULY	1949	61 years	JULY	2010
AUGUST	1949	61 years + 1 month	SEPTEMBER	2010
SEPTEMBER	1949	61 years + 2 months	NOVEMBER	2010
OCTOBER	1949	61 years + 3 months	JANUARY	2011
NOVEMBER	1949	61 years + 4 months	MARCH	2011
DECEMBER	1949	61 years + 5 months	MAY	2011
JANUARY	1950	61 years + 6 months	JULY	2011
FEBRUARY	1950	61 years + 7 months	SEPTEMBER	2011
MARCH	1950	61 years + 8 months	NOVEMBER	2011
APRIL	1950	61 years + 9 months	JANUARY	2012

MAY	1950	61 years + 10 months	MARCH	2012
JUNE	1950	61 years + 11 months	MAY	2012
JULY	1950	62 years	JULY	2012
AUGUST	1950	62 years + 1 month	SEPTEMBER	2012
SEPTEMBER	1950	62 years + 2 months	NOVEMBER	2012
OCTOBER	1950	62 years + 3 months	JANUARY	2013
NOVEMBER	1950	62 years + 4 months	MARCH	2013
DECEMBER	1950	62 years + 5 months	MAY	2013

COLUMN 1		COLUMN 2		
MONTH AND YEAR OF BIRTH		RETIREMENT AGE	MONTH AND YEAR OF RETIREMENT DATE	
MONTH	YEAR		MONTH	YEAR
JANUARY	1951	62 years + 6 months	JULY	2013
FEBRUARY	1951	62 years + 7 months	SEPTEMBER	2013
MARCH	1951	62 years + 8 months	NOVEMBER	2013
APRIL	1951	62 years + 9 months	JANUARY	2014
MAY	1951	62 years + 10 months	MARCH	2014
JUNE	1951	62 years + 11 months	MAY	2014
JULY	1951	63 years	JULY	2014
AUGUST	1951	63 years + 1 month	SEPTEMBER	2014
SEPTEMBER	1951	63 years + 2 months	NOVEMBER	2014
OCTOBER	1951	63 years + 3 months	JANUARY	2015
NOVEMBER	1951	63 years + 4 months	MARCH	2015
DECEMBER	1951	63 years + 5 months	MAY	2015
JANUARY	1952	63 years + 6 months	JULY	2015
FEBRUARY	1952	63 years + 7 months	SEPTEMBER	2015
MARCH	1952	63 years + 8 months	NOVEMBER	2015
APRIL	1952	63 years + 9 months	JANUARY	2016
MAY	1952	63 years + 10 months	MARCH	2016
JUNE	1952	63 years + 11 months	MAY	2016
JULY	1952	64 years	JULY	2016
AUGUST	1952	64 years + 1 month	SEPTEMBER	2016
SEPTEMBER	1952	64 years + 2 months	NOVEMBER	2016
OCTOBER	1952	64 years + 3 months	JANUARY	2017
NOVEMBER	1952	64 years + 4 months	MARCH	2017

DECEMBER	1952	64 years + 5 months	MAY	2017
JANUARY	1953	64 years + 6 months	JULY	2017
FEBRUARY	1953	64 years + 7 months	SEPTEMBER	2017
MARCH	1953	64 years + 8 months	NOVEMBER	2017
APRIL	1953	64 years + 9 months	JANUARY	2018
MAY	1953	64 years + 10 months	MARCH	2018
JUNE	1953	64 years + 11 months	MAY	2018
JULY	1953	65 years	JULY	2018
AUGUST 1953 and after		On reaching 65 years		

(amended by section 17 of FINANCE (MISCELLANEOUS PROVISIONS) ACT 2008)