

# Labour Code 1997

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By virtue of the provisions of the 13th Constitutional Decree of 1995, the National Council has authorized the following Code which was adopted by the President of the Republic.

## **Chapter I.- Preliminary Provisions**

### **Name of the Code and its entry into force**

1. This Code shall be called the 1997 Labour Code and shall enter into force as from the date of its signature.

### **Repeals and Exceptions**

2. (1) The following laws shall be repealed:

- (a) The 1974 Labour Force Act;
- (b) The 1976 Industrial Relations Act;
- (c) The 1976 Industrial Safety Act;
- (d) The 1981 Individual Labour Relations Act.

(2) In spite of the repeals referred to under sub-paragraph (1) above, all the Regulations, Orders and Rules issued under the said Acts shall remain valid as though they were promulgated under the provisions of this Act pending their amendment or repeal, as the case may be, under their respective provisions.

## Exceptions

3. The following categories of persons shall be excluded from the application of the provisions of this Code:

- (a) members of the judiciary;
- (b) consultants at the Ministry of Justice;
- (c) members of the Armed Forces and the Police;
- (d) members of the National Security System;
- (e) employees of the Federal Government, the Governments of the districts, public bodies and undertakings, and public sector companies whose conditions of employment are governed by special laws and regulations with the exception of the provisions related to industrial relations and safety;
- (f) domestic servants as defined by the 1955 Domestic Servants Act;
- (g) agricultural workers other than those employed in the operation, repair and maintenance of agricultural machinery, or in enterprises which process or market agricultural products such as cotton gins or dairy product factories, or in jobs related to the administration of agricultural projects including office work, accountancy, storage, gardening, and livestock husbandry;
- (h) family members of the employer who live with him and who are completely or partially dependant on him for living;
- (i) casual workers;
- (j) any category of persons who are excluded totally or partially from the provisions of this Code by Order of the Council of Ministers.

## Interpretation

4. For the purposes of the provisions of this Code, the following terms and expressions shall, unless the context requires otherwise, have the meanings assigned to them below:

"wage": the total of the basic wage and all other benefits paid to the worker by the employer including the value in cash for food, fuel, or housing which may be provided to the worker by the employer or any other payment for overtime work, or any other special benefit paid for the performance of a job, or any other benefits. The wage shall not include any remuneration, donation, assignment allowance or any contribution to be paid by the employer on behalf of the worker to any social security project, such as post-service interests or life insurance, or special expenditures to be borne by the employer;

"family members": husband, wife, father, mother, grandfather, grandmother, son, daughter, grandson, granddaughter, father's or mother's brother or sister, step-father, step-mother, daughter-in-law, and step-son or step-daughter;

"family members": members of the workers' family who are totally or partially depended on his earnings;

"authorization": the obtention of a formal authorization to construct a new factory or to extend it or to carry on other industrial operations. It shall also mean the obtention of an authorization to make changes related to the arrangement of machinery and other equipment or their assembly or organization;

"accident": any occupational injury or disease as listed in Table 6 annexed to this Act, which afflicts the worker during working hours or because of work and which hinders his performance. The term also includes fire, explosion or collapse at the workplace;

"serious accident": any accident which causes the death of a worker or his disability by 50 per cent or the injury of more than one worker. It also includes fire, explosion, collapse causing damage to equipment or to the workplace;

"young person": any person who is under the age of 16 years;

"continuous service": service with the same employer starting from the date of employment and including the period of training and probation as provided for in article 29 (4);

"a worker": any man or woman over the age of sixteen working in return for any type of remuneration, for an employer and under his supervision and management, whether under a written or unwritten, explicit or implicit contract, or under training or probation period, or performing mental, technical, office, or administrative work;

"production worker": a worker whose wage is determined on the basis of the daily quantity of work or on the basis of piece work;

"occasional worker": any person who performs in an industry for a period of not more than 15 days a temporary job which is not part of the activity of the industry;

"contract of employment": any written, oral, explicit or implicit contract under which a person is employed under the supervision and management of an employer in return for any type of remuneration, provided that it does not include training contracts which are governed by the provisions of the 1974 Industrial Training and Vocational Training Act;

"competent authority": the Minister or the Governor, as the case may be;

"owner of the plant": any person who is effectively using, managing or owning a plant;

"employer": any person who employs, under a contract of employment, one person or more in return for any type of remuneration;

"physician": the physician registered in accordance with the provisions of the 1992 Medical Council Law;

"committee": the Federal Committee for the workforce which is established under the provisions of section 5 (1);

"Branch Committee": the Branch Committee for the work force which is established under the provisions of section 5(2);

"matter": anything which is solid, liquid or made of gas;

"Council": Labour Relations Council established under the provisions of section 70(1);

"Employment Office": any office established by the competent authority to apply the provisions of this Code;

"employment agent": in the case of

(a) private sector or mixed sector, any natural or moral person who employs one or more persons under a contract of employment, including:

(1) the inheritors and successors of the employer who are legally entitled to inherit or succeed his/her rights, whatever the case may be;

(2) the owner of any establishment or the president of its board of directors or his representative, as the case may be;

(b) the federal government and the governmental systems of the districts, the Minister of Finance or his representative;

(c) the public sector companies, the president of the Board of Directors or his representative, as the case may be;

"basic salary": the salary in addition to the cost of living allowance only;

"project": any project managed by one person who employs one or more workers in return for any type of remuneration, whether inside the Federal Government, District Government, the public, private, cooperative, or mixed sectors;

"plant": any establishment or industrial undertaking or project managed by a natural or a moral person which employs one or more workers in return for any type of remuneration. The term includes all the industrial operations listed in Table 2 annexed to this Act and any places, whether in the open air or otherwise, where the following jobs are performed for commercial purposes or for direct or indirect profit:

(a) the total or partial manufacturing of any thing;

(b) the transformation of a given thing or its reparation, decoration, production, cleaning, preparation for sale, or destruction;

(c) printing, using printers or stones; sculpture works; bookbinding or any other similar jobs;

(d) generating, distributing, or using electricity in plants and projects;

"dependants": members of the family of the employer who do not have a job or an occupation or an income for living and his relatives or the relatives of his wife who are totally dependant on him for living.

"industrial safety inspector": the employee who is appointed under the provisions of section 87;

"public employee": any public employee who occupies a post listed under Chapter One of the State Public Budget.

"employment dispute": a dispute concerning employment or the conditions of employment of any person, which arises between employers and workers, between workers themselves, or between employers themselves;

"trade union": any union established under the 1992 Trade Union Law or under any other law which replaces it;

"Minister": the Federal Minister of Labour;

"to intimidate": the act of intimidating an employment agent, an employer, any members of his family or dependants, or the recourse to violence or any acts which cause damage to an employment agent or employer or their belongings.

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## **Chapter II.- Manpower**

### **The Federal Manpower Committee and its composition**

5. (1) The Minister shall issue an Order to establish a committee under the name of "the Federal Manpower Committee" consisting of a president and a number of competent members representing the relevant administrations of the State, i.e. employers and workers.

(2) The Committee established under sub-paragraph (1) may establish branch committees in the districts.

(3) The Federal Committee and its branch Committees at the districts shall be supervised by the Minister.

### **The Competence of the Committee**

6. (1) The Committee shall:

(a) coordinate, in accordance with the adopted general policy, the activities of the executive bodies in charge of workers;

(b) calculate and count, on a regular basis, the number of workers and submit to the Minister all the information and recommendations which it deems necessary for submission to the Council of Ministers;

(c) supervise the implementation of the adopted labour programmes in a manner which is adapted to the plans for development;

(d) perform any other activities related to labour which the Minister may assign it to perform within the framework of the General Policy adopted by the Council of Ministers.

(2) The Committee may empower any of its authorities to the branch Committees in the districts.

### **The Financial Resources of the Committee**

7. The Council for National Planning recommends the allocation from the budget for development of an annual credit to finance the activities of the Committee to enable to perform its duties.

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## **Chapter III.- Organization of Employment**

### **The Establishment of Employment Agencies and registration therein**

8. (1) The Minister may establish employment agencies and determine the areas or categories of service to be covered by each agency.

(2) Employment agencies shall be subject to the supervision of the competent authority.

(3) Any person who is willing to work and is capable of work, or any worker who wishes to change his/her work, may apply to register his/her name with the competent agency for that purpose, provided that he/she submits all the necessary information and documentation which prove the authenticity of the submitted information.

(4) The employment agency may request the person who wishes to work or change his/her work to sit for a professional examination which it deems suitable to prove his/her competence, or to submit the necessary documents, including a document proving his/her identity in areas where the Proof of the Identity Law of 1981 is applicable.

(5) The competent employment agency must register each application which is submitted to it and which complies with the conditions established. It shall provide the applicant with a certificate free of charge within two days at the most from the date of the submission of the application, provided that the validity of the certificate shall not exceed one year.

(6) It shall be prohibited for any person to register his/her name with more than one employment agency at the same time or to submit false information.

### **Private employment agencies and employment service agencies**

9. (1) The Minister may, in cases which are extreme, and subject to conditions and criteria to be established by him, authorize any person to establish an employment office or to perform jobs related to employment through employment agencies provided that these agencies do not charge the worker any commission or request any fee in return for employment.

(2) In observance of sub-paragraph (1), it shall be forbidden for any person or entity to perform jobs related to employment.

### **The prohibition of employing non-registered persons**

10. Without prejudice to the provisions of this Act, it shall be forbidden for any project to employ any person who does not hold a certificate of registration with the competent employment agency as provided for in section 8(4).

### **Submission of information**

11. Every establishment shall submit to the competent authority or the competent employment agency all the information it may request, within two weeks as from the date of the request.

### **Nomination as candidates for employment**

12. (1) Without prejudice to the provisions of the 1994 Civil Service Code and the regulations made thereunder:

(a) the advertisement for a vacancy for any post in the press shall be subject to a written authorization from the competent employment agency. The advertisement must include the sequential number of the authorization issued by the competent employment agency;

(b) any enterprise employing ten persons or more wishing to employ any person covered by this Act and registered with one of the employment agencies shall submit an application to the competent employment agency requesting it to submit one or more candidates who fulfil the required conditions for the vacancy. The appointment shall be from among the candidates presented by the employment agency. The provisions of this subparagraph shall not apply to:

(I) the employment of occasional workers for jobs whose completion would not require more than three months or other periods of time to be specified by the Minister;

(II) the employment by the employer of members of his family or his dependents;

(III) the principal posts whose occupants are considered deputies of the employer. These posts shall be specified by order of the Minister;

(IV) the employment of any person who is nominated by the administrative authority responsible for released prisoners.

(2) The Minister may issue an order to increase or decrease the number referred to in sub-paragraph (1) or to order the application of the provisions of sub-paragraph (1) to any categories of workers.

(3) Where an enterprise fails to find a suitable person for appointment within two weeks as from the date of receipt of the candidature from among the list of candidates submitted to it by the competent employment agency, it may advertise for the vacancy under the provisions of sub-paragraph (1) and in accordance with the requirements of the enterprise as provided for in sub-paragraph (2). The enterprise shall inform the competent agency of the name and qualifications of the person it appoints within one week after the selection is made.

### **Notification of employment agencies of the nomination**

13. Upon the nomination of any person registered with an employment agency, the enterprise shall, within two weeks as from the date of nomination, return to that agency the certificate of registration of the person concerned after writing the requested information on it.

### **The employment of Sudanese abroad**

14. Any Sudanese who seeks a job outside Sudan must obtain the permission of the Minister in accordance with the regulations issued under the provisions of this Act and without prejudice to any other conditions or procedures which must be fulfilled under another Act.

### **Inspection and verification**

15. (1) For the purposes of the application of this chapter, officials delegated by the Minister who carry certificates proving such delegation may, at any time, visit enterprises to perform the duty of inspection or to verify or examine documents or registers related to workers. They may request the employers or their deputies to provide them with the necessary information or summon them when necessary. Employers and their deputies or agents shall endeavour to facilitate the task of such officials and provide them with true and correct information related to their duties. The competent authorities shall provide them with the required aid if necessary so as to allow them to perform their duties effectively.

(2) The Minister shall issue an order to establish procedures of inspections and to regulate the identity cards of inspection officials.

### **Vocational Apprenticeships**

16. Employers may provide new workers with the necessary training to learn a given occupation or a job within a specific period of time subject to the requirements and needs of the job.

### **Contracts of apprenticeships**

17. Training shall be provided under a written contract which shall specify the duration and stages of training as well as the obligations of both parties during the period of training, provided

that the remuneration of the apprentice during the period of training is not less than the minimum wage specified under the provisions of the 1974 Minimum Wage Act.

### **Termination of apprenticeships contracts**

18. Employers may terminate any apprenticeship contract whenever it is established that the apprentice is not fit or is incapable to/of learning an occupation or a job in a satisfactory manner.

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## **Chapter IV.- Employment of Women and Young Persons**

### **Conditions of Employment of Women**

19. It shall be prohibited to employ women in occupations which are hazardous, arduous or harmful to their health, such as carrying weights or assigning women to perform jobs under ground or under water or jobs which may expose them to poisonous material or to temperatures exceeding the normal limits borne by women.

### **Hours of women's employment**

20. (1) It shall be forbidden to employ women between 10 p.m. and 6 a.m. except in administrative and technical jobs or in any other jobs related to health and social services.

(2) In spite of the provisions of sub-section (1), the competent authority may, subject to conditions to be specified by it and after consultation with the Committee, authorize the employment of women at night for purposes related to the public interest.

(3) The total daily periods of rest for women shall not be less than one paid hour. These periods shall be broken into periods lasting for at least half an hour or more. The duration of work shall not exceed five continuous hours without any rest.

### **Conditions of employment of young persons**

21. (1) It shall be forbidden to employ young persons in any of the following jobs:

- (a) carrying heavy loads;
- (b) work involving the use of metal presses;
- (c) work related to iron and steel smelting;
- (d) work performed under ground or under water, and mining and quarrying work;
- (e) work involving the use of lead or lead compounds;

(f) jobs in which workers are exposed to organic or inorganic poisonous or harmful material such as lead, mercury, calcium, benzene and its derivatives;

(g) jobs involving x-rays and other harmful radiation;

(h) jobs involving the maintenance of machinery and conveyor belts.

(2) Without any prejudice to the provisions of sub-paragraph (1) it shall be forbidden, as a rule, to employ a young person in hazardous or unhealthy industries and jobs or in jobs requiring large physical effort or in jobs or occupations which are harmful to their morals. Such jobs and industries shall be specified by order of the Minister or his delegate.

(3) It shall be forbidden to employ a young person between 8.p.m. and 6.a.m. The competent authority may, however, exclude any category of young persons from this provision in cases of young persons between the age of 15 and 16 years.

(4) It shall be forbidden to employ young persons under the age of 12 years, except in:

(a) the State's training schools;

(b) non-profitable training workshops;

(c) jobs supervised by his family members in establishments which do not employ other persons;

(e) jobs performed under apprenticeship contracts.

### **Young persons' hours of work**

23. The normal hours of work for young persons shall be seven hours a day broken by a period of rest of one paid hour. It shall be forbidden to make a young person work for more than four consecutive hours.

### **The posting in a visible place of the provisions related to the employment of young persons**

24. Employers shall post in a visible place at the workplace the regulations governing the employment of young persons as provided for by this Act and the hours of work and periods of rest.

### **Notification of signs of misconduct**

25. Employers shall notify the competent authority or the competent employment agency of any misconduct by a worker, including extreme violence or attempts to destroy the materials or machinery at the workplace or repeated acts of negligence or absence from work without an acceptable reason.

### **Termination of contracts of employment of young persons**

26. The contracts of employment of young persons may be terminated if it is established by a medical certificate issued under the provisions of section 22 of this Act, that the young person is not fit to work.

(5) The Minister or his delegate may, after consultation with the Committee, prohibit the employment of young persons under the age of 15 years in industries and establishments to be specified by a ministerial order.

(6) In observance of the provisions of sub-paragraph (5), it shall be prohibited to employ any young person under the age of 15 years unless he/she lives with his/her guardian in the area of his/her work. It shall be prohibited to present the contract of employment of a young person as a pretext against him/her unless his/her guardian had approved of his/her employment and had provided the employer with evidence proving that he has authority over the young person, that the young person lives in the area where the job is located, and which proves the validity of his/her address.

(7) It shall be prohibited to make a young person work overtime or to work during his/her weekly periods of rest, official holidays, or to waive, postpone or reduce his/her annual leave entitlements.

### **Medical examination of young persons**

22. Prior to employment, young persons shall undergo a full medical examination which shall be repeated on a periodical basis during his/her employment in a manner to be specified by the competent authority according to the type of work performed by the young person. The government hospital doctors shall perform the necessary examination and issue the necessary medical certificates.

### **Establishment of special committees and their competence**

27. The Minister may establish special committees for any industry or specific occupation to determine the conditions of employment of young persons and to specify the weights that young persons over the age of 15 may be assigned to carry, pull or lift. These Committees shall submit to the Minister their recommendations to enable him take an adequate decision on the matter.

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## **Chapter V.- Contracts of Employment**

### **The writing of an employment contract**

28 (1) Any employment contract exceeding three months shall be put in writing by the employer. The contract of employment shall be drawn up in three copies and shall be signed by the two parties who shall keep a copy each, and the third copy shall be kept with the Employment Agency.

(2) The contract drawn up under sub-paragraph 1 shall be valid only after it is read by the worker who shall sign it by writing his name, using his fingerprint or a stamp imprint. A worker may request a witness to read the contract with him and sign it by writing his name, using his fingerprint or a stamp imprint.

(3) In a case of an illiterate worker, the employer shall read the contract with the presence of a witness to be chosen by the worker, provided that the witness is literate.

(4) In the absence of a written contract, the worker may establish his rights by any means of evidence.

(5) In the case of a dispute between an employer and a worker working without a written contract of employment, reference may be made to one or more similar contracts of employment which were drawn up with a number of workers working for the same employer for the same period of time and at the same place.

### **Types and regulation of contracts of employment**

29. (1) A contract of employment may be drawn up for a limited or unlimited period of time and for a particular job.

(2) A contract of employment for a limited period of time shall not exceed two years and shall not be renewed more than once with the same establishment. The period of renewal shall run consecutively from the period of preceding service. Where the worker continues in service beyond the expiry of the period of renewal, he shall be deemed employed under a contract of indefinite duration.

(3) Any written contract of employment which does not indicate that it is for a definite period of time or for the performance of a specific job or for the replacement of a worker shall be deemed to be for an indefinite period of time.

(4) The probationary period shall not exceed three months, with the exception of the training period. Where a contract of employment is not for a definite period of time and where the probationary period expires without termination of the contract by one of the parties, the contract shall be deemed to be for an indefinite period of time.

### **Contents of contracts of employment**

30. A contract of employment shall be drawn up in an explicit clear manner where the rights and duties of both parties are specified meticulously. Without prejudice to the above, the contract of employment shall include the following information:

(a) name of employer, name of establishment, its location and address;

(b) full name of the worker, his/her address, date of birth, country of origin and any other information necessary to establish his/her identity and qualifications;

- (c) nature and type of work agreed upon to be performed by the worker, the date of commencement of work and its location;
- (d) the wage agreed upon by the two parties and the dates of payment;
- (e) the period of notification to be respected in the case of termination of employment;
- (f) other conditions of employment which may be agreed upon;
- (g) educational degrees, practical experience and any other relevant documents;
- (h) date of termination of the contract in case of a contract of employment for a definite period of time;
- (i) any other information to be submitted in accordance with the provisions of this Act.

### **Provisions violating the provisions of this Act**

31. Any provision of a contract of employment which violates the provisions of this Act, even if it was laid down before its promulgation, shall be null and void unless it is more favourable to the worker. A worker may request in full his/her rights which are provided by this Act.

### **Work other than that agreed upon**

32. It shall be prohibited for an employer to request a worker to perform a job which is essentially different from the job agreed upon in the contract of employment and which he/she is not willing to perform unless such performance is necessary to prevent the happening of an accident, repair the consequences of such an accident, and in cases of *force majeure*. Such assignment shall be on a temporary basis not exceeding two weeks.

### **Request to submit the contract**

33. The competent employment agency may, if it deems necessary, request the employer to provide it, for examination and review, with all the contracts of employment of his workers or of certain categories of workers.

### **Receipt of any documents or certificates deposited by the worker with the employer**

34. Employers shall provide workers with receipts for any documents or certificates entrusted to them by workers.

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## **Chapter VI.- Wages, advances and other allocations**

### **Wages**

35. (1) Wages shall be paid in cash; however, allowances for food, fuel, housing, transport or clothing which are calculated within the wage itself may be paid in kind.

(2) Wages may be paid on a daily, weekly or monthly basis as concluded between the two parties, except in cases specified by order of the competent authority.

(3) The employer and production worker working under a contract of employment for indefinite period shall agree upon a specified wage for the minimum daily work. This wage shall be used to calculate the worker's entitlements, except for rewards. For the purposes of this section, the wage of a production worker shall be calculated on the basis of the wage received by another worker performing a similar job and on a specific period of time in accordance with the provisions of sub-paragraph (2).

(4) Where an agreement between an employer and a worker is concluded to transfer a worker from a system of monthly remuneration to a system of daily, weekly or fortnightly remuneration, or a system of remuneration on the basis of piece work, the worker shall maintain the rights he/she had acquired during his/her employment under a system of a monthly remuneration.

(5) In observance of the provisions of sub-paragraph (2), workers working under a system of a daily remuneration shall receive their daily wage unless otherwise agreed upon by the employer and the worker. The daily wage shall be paid by the end of the day, at the workplace and during working hours.

(6) With the exception of the provisions of sub-paragraph (5), the wage is payable once a week, once every fortnight, or once a month, depending on each case, at the workplace and during the working hours. It shall be forbidden to delay the payment later than the third day as from the date on which it is due .

(7) In the case of termination of a contract of employment, the worker shall receive all his/her entitlements within one week as from the date of termination of the contract of employment.

(8) Wages shall be paid personally to workers or to their proxy. No cuts shall be authorised except cuts made under the provisions of this Act or any other Act. In case of any cuts, the employer shall, upon the worker's request, provide him/her with a statement showing details of such cuts.

### **Cuts because of absence from work**

36. (1) A worker shall not be entitled to any wage for the period of his absence from work except in cases authorized by this Act or cases in which the employer authorizes the absence from work.

(2) After a continuous service of three months, a worker shall be entitled to receive his/her wage in case of absence for the following reasons:

(a) interruption of the lines of transportation;

- (b) natural disasters or accidents preventing the worker from attending his/her work;
- (c) being summoned by any court or other public authority authorized by the law to summon him/her;
- (d) the death of the worker's husband, wife, child, parent, sister or brother;
- (e) any other reason which may be accepted by the employer.

### **Advanced payments**

37. (1) Employers may pay advances to workers provided that:

- (a) such advances are without any interest; however, the employer may request the worker to pay him a reduced percentage of the expenses relevant to the advanced payments;
  - (b) the periodical cuts from the worker's wage to pay off the advanced payment shall not exceed 15 per cent of the basic salary;
- (2) In observance of the provisions of paragraph (b) of sub-paragraph (1), the worker shall pay back the installments of the advanced payment on the termination of his/her contract of employment as provided for in the contract of such payment or by using other legal means.
- (3) The courts shall not rule in any case submitted by the employer against a worker in relation to the reimbursement of an advanced payment unless such payment was granted under a written contract.
- (4) There shall be no interests on the advances granted to a worker.

### **Assignment of a worker outside his workplace**

38. (1) Every worker assigned by his/her employer to work outside his/her workplace shall accept such assignment provided that the employer sustains all the expenses related to his/her transportation to and from the workplace.

(2) Where a worker spends one full night outside his workplace to perform his assignment, he shall be entitled to receive an indemnity equivalent to the category of indemnities provided for in his contract of employment. Where there is no mention in the contract of employment of such a provision, the employer shall pay the worker a sum of money equivalent to the expenses the worker sustained for each night provided that this sum does not exceed, for each night, the equivalent of the worker's wage for three days.

(3) For the purposes of this section, the transfer of a worker for six months or less shall be considered as an assignment outside his workplace .

### **Removal expenses**

39 (1) Employers shall, within seven days of termination of the contract of employment, provide the worker with the necessary transportation to enable him/her return to the place from which he/she was employed.

(2) Where an employer transfers a worker from his/her workplace to another workplace while his/her contract of employment is valid, he shall bear the expenses of transporting the worker, his dependants and their belongings .

(3) In the case of worker's death, the employer shall transport his family members who are dependent on him and their belongings to their original place of residence on their request.

(4) The legal custody of any of the worker's family members shall be certified by the competent authority.

### **Information on entitlements**

40. On termination of the contract of employment, employers shall provide workers with detailed statements indicating their entitlements.

### **Nullifying any settlements, or release from liabilities or forfeiture of rights**

41. Unless otherwise provided by this Act, any settlement, release or forfeiture of the rights provided therein shall be null and void.

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## **Chapter VII.- Hours of work and leave**

### **Official hours of work**

42. (1) Official hours of work are 48 hours per week or 8 hours per day broken by a paid period of rest of not less than half an hour per day for eating or resting.

(2) The competent authority may, after consultation with the Council, issue an Order to amend for certain periods of the year or for certain categories of workers, as required by the nature and type of work, the weekly or daily hours of work or the periods of rest to be taken during these hours.

(3) Working hours shall be reduced by one hour during the month of Ramadan for workers who fast and for breastfeeding mothers for two years as from the date of birth of their child, provided that this hour is paid.

### **Overtime work**

43. (1) With the exception of cases for which an Order from the competent authority is issued and in observance with the provisions of section 21 (7), employers may, in cases of *force*

*majeure*, assign the worker to perform overtime work immediately after the official working hours and for a period not exceeding 4 hours. With the exception of cases of *force majeure*, overtime work may be performed only with agreement of both parties; however, its duration shall not exceed 4 hours per day or 12 hours per week.

(2) In all cases, overtime work shall be optional for women within the period provided for under sub-paragraph (1) of this section.

(3) The worker shall receive his payment for overtime work as follows:

(a) during the normal working days, he shall be entitled to receive the equivalent of his wage of one hour and a half for each hour of overtime;

(b) during official holidays, he shall be entitled to receive the equivalent of his wage of two hours for each hour of overtime work.

(4) The overtime wage shall be calculated on the basis of the basic salary.

### **Annual leave**

44. (1) Workers shall be entitled to annual leave with full pay as provided by sub-paragraph (2) after one year of continuous service with the employer and for the following years. Such leave shall be determined during the year depending on the requirements of the work. Days off and official holidays falling within a worker's period of leave shall be counted as part of his annual leave.

(2) The entitlement of the worker's annual leave shall be as follows:

(a) 20 days if a worker has been continuously employed by his employer for a period of one to three years;

(b) 25 days if a worker has spent eight years or less than 15 years of continuous service with his employer;

(c) 30 days if a worker has spent 15 or more years of continuous service with his employer.

(3) In observance of sub-paragraphs (1) and (2), a worker, on termination of his contract of employment for any reason or on his resignation, shall be entitled to financial compensation for the annual leave not taken or to leave in proportion to the fraction of the year spent in service.

(4) A worker may, with the consent of the employer, postpone his annual leave for one year or may take half of it during the year in which he is entitled to take his leave and the other half in the following year. It shall be forbidden to postpone all or part of the annual leave for more than one year. The worker shall be entitled in the following year to take his annual leave in addition to the accumulated leave.

### **Leave for travel, holidays and official holidays**

45. (1) Workers shall be entitled to a paid travel time from their workplace to their place of origin once a year.

(2) The travel time between the two places shall be calculated on the basis of the time the journey takes by travelling with the Sudanese trains or ships or with any other available means of ground transport provided that the journey does not exceed, in all cases, 10 days.

(3) Workers shall be entitled to leave with full pay on holidays and official holidays after three months of continuous service with their employer.

### **Maternity leave**

46. (1) A female worker shall, after six months of service and for each further year of service, be entitled to maternity leave with full pay to be calculated as follows:

(a) Four weeks before her confinement and four weeks after her confinement, provided that the date of confinement is certified by a doctor;

(b) two weeks before her confinement and six weeks after her confinement if she wishes so;

(c) if the female worker absents herself from work after the termination of the period provided for under paragraphs (a) and (b) above because of a disease resulting from the pregnancy or the confinement which prevents her from resuming her work, as certified by a doctor, she shall be considered to be on sick leave.

(2) Without any prejudice to the provisions of paragraphs (a) and (b) of section 50 of this Act, it shall be forbidden to rescind the contract of employment of a female worker during her pregnancy or confinement period.

### **Sick leave**

47. (1) In observance of the provisions of the 1981 Act concerning the Compensation for Industrial Injuries, a worker who has terminated a continuous period of service of not less than three months with his employer, and who is unable to attend his work because of a disease he has contracted which is not due to his behaviour or negligence and which is certified by a doctor, shall be entitled to receive his/her wage for the days of absence. The wage shall be calculated as follows:

(a) full pay for the first three months of absence;

(b) half pay for three months of absence following the first period of the three months of absence;

(c) 25 per cent of the pay for three months of absence following the second period of three months of absence.

(2) The worker shall be entitled to sick leave with reduced wage only after he/she exhausts his/her normal leave.

(3) If the disease lasts for more than the period provided for in sub-paragraph (1), the worker shall not receive his wage, and shall be considered being on sick leave without pay, until he /she is examined within a reasonable period of time by a medical committee to decide immediately whether he/she is fit to work.

### **Idda [a period of time during which a Moslem woman should be in mourning after the death of her husband] leave**

48. A female worker shall be entitled to leave with pay if her husband dies. Such leave shall be counted as from the date of death:

(a) the period of idda shall be four months and ten days if the woman was not pregnant;

(b) if the female worker is pregnant, her idda leave will end by her confinement, in which case she shall be entitled to maternity leave for eight weeks as from the date of childbirth.

### **Hadj leave**

49. Workers who have spent three consecutive years of service with an employer shall have the right to 15 days' leave with pay to perform the Hadj. This leave shall be granted once during the service of a worker. Workers shall present their employers upon their request with evidence that such leave is used for its intended purpose.

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## **Chapter VIII.- Termination of contract or employment**

### **Termination of contract of employment with notice**

50. (1) A contract of employment may be terminated with notice for the following reasons:

(a) The incapacity of a worker to perform his/her job or his/her contracting of a sickness which prevents him/her from returning to work after his/her annual sick leave with or without pay is terminated, provided that the incapacity, diseases or unfitness to work is established by the medical committee;

(b) the termination of the job or the termination of the contract for a definite period;

(c) the total destruction of the establishment;

(d) the attainment of the statutory retirement age of sixty unless the two parties agree otherwise and provided that the period of service is considered continuous;

(e) the dismissal of a worker during the probationary period or his leaving the workplace during that period;

(f) the agreement between the two parties in writing to terminate the contract of employment;

(g) the dissolution or liquidation of the establishment provided that such dissolution or liquidation is certified by the competent authority;

(h) the resignation of the worker;

(i) the death of the worker.

(2) With the exception of the cases in which it is provided in the contract of employment for a longer period of notice, the contract of employment shall be terminated for the reasons provided for under sub-paragraph (1) by a written notice from one of the parties. The period of notice shall be calculated as follows:

(a) one month for workers with monthly wages;

(b) two weeks for workers with half-monthly wages who had been in less than five years of continuous service;

(c) one week for workers with weekly wages who had been in less than two years of continuous service and two weeks for workers who had been in continuous service for a period between two years and less than five years;

(d) in cases of workers with daily wages, the period of notice shall be as follows:

i. on the last day of work for workers who had not been in three months of continuous service;

ii. one week for workers who had been in between three months and two years of continuous service;

iii. two weeks for workers who had spent between two and five years of continuous service;

(e) one month for workers with daily, weekly or half-monthly wages who had spent not less than five years in continuous service;

(f) six months before the termination of the contract of employment as a result of reaching the statutory retirement age.

(3) Where neither of the two parties notify the other of the termination of the contract of employment in accordance with the provisions of sub-paragraph 2, the injured party shall receive a compensation equivalent to the wage payable for the period of notice.

(4) A worker may, after the lapse of half of the period of notice, leave his work in search of work, provided that he receives his full wage for the remaining period of notification.

(5) On termination of the contract of employment, if the worker was entitled to his annual leave, this leave shall not be calculated within the period of notice.

(6) For the purposes of calculating the entitlements for retirement, the worker's age shall be verified so as to be identical to that mentioned in the following documents:

(a) documents signed by him and related to his health or life insurance;

(b) the original certificate of birth;

(c) the certificate issued by the medical committee to determine the worker's age.

### **Termination of contract of employment in the case of repeated violations**

51. (1) If a worker commits repeated violations and receives a notice of dismissal because all or the maximum penalties were inflicted on him, the employer may, in the case of any further violation, terminate the contract of employment for indefinite period of time by a notice. The period of such notice shall be determined in accordance with the provisions of sub-paragraph 2 of section 50. The employer shall hand to the worker a letter showing the reasons for termination of employment and shall pay him/her all his/her entitlements.

(2) If the worker receives a final notice and did not commit any violation during the year following the date of notice, the notice shall be waived automatically.

### **Appeal**

52. (1) By virtue of the provisions of sections 50 or 51, any party to a contract of employment may appeal before the competent authority against the termination of a contract of employment within a period of two weeks as from the date of being notified of the termination of the contract.

(2) The competent authority shall, within two weeks as from the date of receipt of the appeal, pronounce its decision.

(3) If the competent authority approves of the termination of the contract, the employer shall pay the worker his full entitlements; however, if the competent authority does not approve of the termination of the contract, it shall order the employer to re-instate the worker and pay him all his entitlements for the period during which he was stopped from work. If the employer fails to execute the order of the competent authority to re-instate the worker to his work, he shall pay the

worker all his legal entitlements including his wage for the period where he was stopped from work and a compensation equivalent to his wage for six months.

### **Termination of contract of employment without notifying the worker**

53. Employers may terminate the contracts of employment without any notice in the following cases:

- (a) if a worker assumes a fraudulent identity or presents forged certificates or documents;
- (b) if the worker commits a fault which results in serious material loss for the employer;
- (c) if the worker fails to observe instructions for the safety of the workers and work after being warned in writing to that effect, provided that such instructions shall be detailed in writing and posted visibly in the workplace;
- (d) if the worker fails consciously to fulfil his obligations arising from his contract of employment;
- (e) if the worker divulges industrial or commercial secrets which comes to his knowledge because of his job except what is authorized by the law;
- (f) if the worker is convicted of an offence damaging to his honour, honesty or public morals or if he commits an offence against morals in the working place;
- (g) if the worker assaults the employer or his representative in a manner which is punishable by law or if he seriously assaults his supervisor or another worker at the workplace or for a reason related to work;
- (h) if the worker is found in a state of inebriation or under the effect of a drug during working hours, provided that such a state is certified by a doctor.

### **Termination of contract of employment without notifying the employer**

54. A worker may terminate his contract of employment without prior notice to the employer in the following cases:

- (a) if the employer or his representative misled the worker as to the contract of employment;
- (b) if the employer fails to perform his obligations towards the worker under the provisions of this Act or under the conditions of the contract of employment;
- (c) if the employer or his representative assaults the worker in a manner punishable by law;

(d) in the event of a serious threat to the safety or health of the worker, provided that the employer is aware of the said threat and has not adopted the necessary measures to remove the threat.

### **Submission of a labour conflicts to the competent authority**

55. (1) In all the cases mentioned under sections 53 and 54, it shall be forbidden to terminate the contract of employment before submitting the conflict to the competent authority and before obtention of its approval. The competent authority shall make the necessary investigation concerning the conflict and shall pronounce its decision on the conflict within two weeks as from the date of its submission;

(2) Employers may stop workers from working if any of the cases mentioned under section 53 is established pending the decision of the competent authority;

(3) Employers who terminate a contract of employment before the submission of the conflict to the competent authority or before the latter pronounces its decision shall be obliged to:

(a) reinstate the worker in his job after paying him full wage for the period during which he was stopped from work;

(b) pay the worker all his entitlements, including his wage for the period during which he was stopped from work, in addition to a compensation equivalent to his basic salary for six months.

(4) Where a worker leaves his job before the submission of the conflict to the competent authority or before the latter pronounces its decision, he shall not be entitled to receive his wage for the days during which he did not work.

(5) Where the competent authority is not convinced of the termination of the contract of employment under section 53, it shall decide that the contract is in force and orders the employer to reinstate the worker and pay him all his entitlements for the period during which he was stopped from work. However, if the competent authority agrees that there is a reason for the termination of the contract of employment under section 53, the employer may terminate the contract of employment and pay the worker at least three quarters of the award he is entitled to receive as well as his other entitlements with the exception of his wage for the period of notice of termination of the contract.

(6) If the employer fails to apply the decision of the competent authority to reinstate the worker to his work, he shall pay the worker all his entitlements, including his wage for the period during which he was stopped from work as well as a compensation equivalent to his basic salary for six months.

### **The reduction of the number of workers for economic or technical reasons**

56. (1) Employers may submit to the competent authority a request in due form to reduce the number of their workers or to close the workplace for economic or technical reasons.

(2) The competent authority shall submit the request of the employer to reduce the number of workers or to close the workplace to the competent committee for examination and guidance.

(3) The competent authority shall, within three weeks as from the date of receipt of the application, pronounce its decision referred to under sub-paragraph 1 after taking into consideration the recommendation of the committee submitted under the provisions of sub-paragraph 6 of this Act.

(4) If the governor of the district approves of the application to close up the workplace, or reduce the number of workers, the employer may do so provided that this measure does not prejudice the rights of workers including their rights to be notified. The employer may proceed with the reduction or closure as stated in his application if he does not receive an answer from the governor within four weeks as from the date of receipt by the governor of the application and provided that such a measure does not prejudice the rights of workers, including their right to be notified.

(5) If an employer reduces the number of his workers without taking account of the measures provided for under this section and in violation of the decision of the governor of the district, or before the latter takes a decision on the matter, or before the employer submits an application to obtain authorization to do so, he shall be obliged to:

(a) reinstate the worker and pay his full wage for the period during which he was stopped from working or;

(b) pay the worker all his entitlements including his wage for the period during which he was stopped from working and a compensation equivalent to six months of his basic salary;

(6) The competent authority shall establish tripartite committees which shall be formed of equal representation of the government, workers and employers and shall examine the application for closures of workplaces and reduction of workers and give their advice on the matter in accordance with the provisions of this Act and the regulations promulgated thereunder.

### **Termination of contracts of employment by the worker**

57. Workers may, in cases other than those provided for under section 53, terminate their contracts of employment by notifying their employers as provided for under sub-paragraphs 2 and 3 of section 50.

### **Termination of contract of employment during the period of travel by road or by boat for purposes related to work**

58. If a worker is travelling by road or by boat for purposes related to work and if during the journey his contract of employment terminates as provided for therein, or if the employer notifies the worker of the termination of contract, the employer may extend the period of the contract of employment for a period not exceeding one month starting from the date of termination of contract so as to ensure the success of the journey. The worker will, in this case, be entitled to

receive quarter of his wage for every period of extension in addition to the wage agreed upon in the contract of employment.

### **Certificate of service**

59. A worker whose contract of employment is terminated or who terminates his contract of employment shall be entitled to obtain from the employer a certificate of service, stating the name of employer, the job performed by the worker, the length of service and all the sums of money paid to him, including his wage. The said certificate shall not contain the reasons for termination of the contract or the reasons for which the worker terminated the contract.

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## **Chapter IX.- Severance pay**

### **Methods of calculating the severance benefit**

60. (1) In observance of the provisions of Social Security Act of 1990, or any other provision which is more favourable to the worker, any worker who has spent a period of continuous service with his employer of not less than three years shall be entitled to full severance pay to be calculated as follows:

(a) if the worker has terminated a period of continuous service of not less than three years and not more than 10 years, he shall be entitled to severance pay equivalent to his basic monthly wage for each year of service;

(b) if the worker has terminated more than 10 years of service, he shall be entitled to severance pay equivalent to one and a half of his basic monthly wage for each year of service of the following five years, and if he had terminated more than 15 years of service, he shall be entitled to one and three quarter of his basic wage for each additional year of service provided that the severance pay does not exceed his basic wage for 36 months.

(2) The severance pay shall be calculated on the basis of the last basic salary.

(3) The severance pay for termination of service for workers working on the basis of piece work shall be calculated on the basis of the average of their net income during the last three years before the entitlement to severance pay.

### **Termination of the contract of employment by the worker**

61. (1) A worker who has spent a period of not less than three years of continuous service and who terminates his contract of employment in accordance with the provisions of section 57 shall be entitled to severance pay to be calculated as follows:

(a) if the worker has spent five years in continuous service, he shall be entitled to quarter of the severance pay he is entitled to receive;

(b) if the worker has spent five years in continuous service and less than fifteen years, he shall be entitled to half of the severance pay he is entitled to receive;

(c) if the worker has spent a period of continuous service of fifteen years and less than twenty years, he shall be entitled to three quarters of the severance pay he is entitled to receive;

(d) if the worker has spent twenty years or more in service, he shall be entitled to full severance pay.

(2) Under this section, severance pay means the pay which the worker is entitled to receive in accordance with section 60.

### **The severance pay for seasonal workers**

62. (1) Every worker who performs annually a seasonal job for a period not inferior to three months shall be entitled to receive severance pay if the total number of his factual working days with the same employer is not inferior to three years.

(2) The severance pay shall be calculated in accordance with the provisions of section 60 and the season shall be considered as one year for the purposes of calculation of the severance pay.

(3) For the purposes of this section, the monthly salary of a seasonal worker shall be calculated on the basis of his net income from the same employer during the last three years of service, divided by 36 months.

(4) The provisions of this section shall be applicable as from the beginning of the season which follows the entry into force of this Act.

### **Adding the period of the previous service to the current service**

63. If a worker is re-appointed in another employment, he may request his new employer to add the period of his previous service to his new service, which may be deemed to be continuous if the worker pays his new employer the severance pay of his last employment or agrees with him about a method of payment, provided that the worker does not violate the agreement.

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## **Chapter X.- General provisions**

### **Labour regulations and penalties**

64. (1) Every employer shall lay down regulations governing penalties and procedures for imposing or applying them and post the said regulations in a visible place in the enterprise.

(2) Every employer shall submit the said regulations to the competent Labour Office. The enforcement of such regulations shall be subject to approval by the said Office.

(3) The Minister, after consultation with the General Federation of Employers and the General Federation of Trade Unions, may lay down models of detailed rules on the application of penalties imposed in various jobs so as to guide employers in the drafting of their own rules.

(4) The rules governing the disposal for the benefit of the workers of the amounts received by imposing penalties shall be specified by order of the Minister after consultation with the General Federation of Employers and General Federation of Trade Unions.

### **Maintaining records on workers**

65. Employers shall keep a file on every worker. This file shall state the conditions of the contract of employment of the worker, including his wage, deductions made, the annual and sick leaves and their dates, and any other relevant information as requested by the regulations made under this Act. Such files shall be kept for at least one year after the termination of the contract of employment of the worker. Employers shall provide the competent authority, on its request, with any of this information.

### **The validity of a contract of employment with a successor of an employer**

66. Where an employer with whom a worker has entered into a contract of employment is replaced by another person for reasons related to the sale of the enterprise, its transformation into a company or partnership, the transfer of its ownership as a result of inheritance, donation or will, or the change of its management, the contract of employment shall remain valid with that other person.

### **The prohibition of applying certain contracts**

67. Any contract of employment under which a worker undertakes to concede to his employer all or part of the sums due to him under the contract of employment shall be deemed null and void. It shall be prohibited for the courts to order the application of such contract.

### **Sums to be paid after the death of a worker**

68. (1) In case of death of a worker, the members of his family shall be entitled to receive his wage, rewards and all other amounts of money the worker was entitled to under this Act.

(2) The employer shall submit the wage of the deceased worker and all of his other entitlements to the competent Court of Personal Affairs.

(3) The Court of Personal Affairs shall distribute the wage and other entitlements referred to in paragraph 2 between the heirs of the deceased.

### **Inspection**

69. (1) For the purposes of this Act, the competent labour office or any other person may, upon approval of the competent authority, enter during the working hours (day or night) any place

which he has a reason to believe is an enterprise employing one or more workers. He may request the employer, the manager or the worker to provide him with the requested information in application to the provisions of this Act. The employer, the manager or the worker shall be obliged to submit this information.

(2) The competent authority may summon the employer, his representative or the worker to the employment agency to settle any matter in application of the provisions of this Act.

(3) It shall be forbidden to disclose the information submitted in accordance with the provisions of this section except in cases where this is necessary for the competent authority to discharge its duties.

(4) It shall be prohibited for any person performing inspection under the provisions of subparagraph 1 above to inspect any establishment where he has a personal interest.

### **The National or District Council for Labour Relations**

70. (1) A national council under the name of the National Council for Labour Relations shall be established by order of the Minister.

(2) In every district a council under the name of the District Council for Labour Relations shall be established by an order of the competent authority.

(3) In addition to the provisions of this Act, the two Councils shall have the following competence and powers:

(a) provide advice in matters submitted to them by the Minister or the Governor of the District as the case may be;

(b) provide assistance to the Minister or the Governor of the District in laying down the general policy for the labour relations and in supervising the application of this policy as the case may be;

(c) provide assistance to the Minister or the Governor of the District to organize, develop and support labour relations and to strengthen labour relations between employers and workers so as to create a favourable environment for work and production;

(d) conduct studies and submit recommendations in areas of labour relations to the Minister or the Governor of the District to take decisions as the case may be.

(4) The Governor shall submit to the Minister a periodical report on the performance of the District Council for Labour Relations to enable him lay down the general policy for labour relations.

### **Priority rights of the workers**

71. The sums due to workers or to those who succeed their rights under the provisions of this Act shall constitute a priority debt against all other debts and shall be settled before any other debts after legal expenses.

### **Exemption from legal expenses**

72. (1) Cases filed by workers, members of their families, or trade unions concerning conflicts related to the provisions of this Act shall be exempted from legal expenses during all their stages.

(2) The competent court may, in the case of a decision which is not in favour of the worker, order him to bear all or part of the legal expenses.

### **The forfeitures of a right by lapse of time**

73. It shall be forbidden in application of the provisions of this Act to waive the right of a worker to file a case claiming his rights to his wage or any of his entitlements.

### **More favourable conditions and allowances**

74. This Act shall not be interpreted in a manner which prevents employers from laying down conditions of employment which are more favourable to workers than those provided for by this Act.

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## **Chapter XI.- Industrial Safety**

### **Scope of application**

75. The provisions of this Chapter shall apply to factories and other industrial operations listed in Table 1 annexed to this Act.

### **Registration of factories**

76. (1) Every factory or industry shall be registered in accordance with the provisions of this Chapter.

(2) Every owner of an existing factory shall, within a month of the entry into force of this Act, submit in the form stated in Table 2 annexed to this Act, an application to the competent authority.

(3) The factory shall be provided with a certificate of registration in the form shown in Table 3 annexed to this Act.

### **Factory Registers**

77. As from the date of entry into force of this Act, the competent authority shall keep the factory registers which include all the data it deems necessary for each factory.

### **Authorization**

78. (1) The establishment of an industry or its extension shall be subject to an authorization of the competent authority.

(2) The competent authority may close any industry or its extension operating without the said authorization.

(3) The provision of sub-paragraph 1 shall apply to any modifications in the existing factory or its extensions or the transformation of the existing buildings into factories for assembling purposes or the addition of new machinery.

(4) Any change inside or outside a factory or any change which entails the addition of new activities, the increase of the capacity of the factory, or the transformation of the divisions of the factory, shall be considered as a modification of the factory.

### **The conditions to obtain the authorization**

79. (1) The issuance of an authorization to install or modify a factory shall be subject to the determination by the competent authority that the said factory fulfills the necessary conditions to exist and operate.

(2) The Minister shall issue an order to be published in the Official Gazette specifying the general conditions to be fulfilled by each factory.

(3) In observance of the provisions of sub-paragraph 2, the competent Minister shall specify the conditions to be fulfilled by every industry in the District.

### **Submission of application to obtain authorization**

80. The application to obtain the authorization referred to above shall be submitted to the competent authority in the form shown in Table 4 annexed to this Act. The maps, designs, and data concerning the machinery to be installed, the whereabouts of their installation, the raw materials to be used, the designs of the various buildings and all the necessary documents shall be enclosed with the application as provided by the Regulations and Orders to be issued by the competent authority in accordance with this Act or any other Act.

### **Examination fees**

81. The applicant shall be notified of the receipt of his application and shall be requested to pay the examination fees as provided by the Regulations.

### **Approval of an application**

82. (1) The applicant shall, after examination of his application, be informed of the final approval or refusal of his application.

(2) In case of approval of the installation of a factory, the applicant shall be informed of the requirements to be met by the factory and the time set for such requirements to be met. The applicant shall notify the competent authority of his acceptance and willingness to meet such requirements. The competent authority shall issue the requested authorization after it verifies that the conditions have been fulfilled.

(3) The authorized person shall obtain from the competent authority the final approval for the installation of the factory after its completion.

### **Renunciation of an application**

83. If one year elapses after the time set to meet the requirements established by the competent authority and the applicant fails to notify the competent authority that the requirements established by it were met, his application will be considered withdrawn.

### **Refusal of an application for the authorization and the appeals against the refusal**

84. (1) The refusal of the competent authority to issue the authorization shall be based on a causative factor.

(2) The appeal against the refusal by the competent court shall be filed within a period not exceeding fifteen days as from the date of informing the applicant of the refusal.

### **Requesting information from authorized person**

85. The person who obtains the authorization shall, within a period not exceeding one year, submit to the competent authority a true statement indicating the number of workers, the conditions of work, the means of protection and any other relevant information requested by the competent authority.

### **The renouncement of the authorization and its transfer in case of death**

86. (1) The person who obtains the authorization may renounce it to another person provided that the latter submits, within fifteen days as from the date of agreement to renounce the authorization, an application to transfer the authorization to his name together with the contract of renouncement.

(2) In the case of death of the person who obtains the authorization, the successors of the ownership of the industry shall, in accordance with the provisions of this Act, inform the competent authority, within fifteen days as from the date of death, of their names and the name of the person who will represent them. They shall take the necessary measures to transfer, within six months, the authorization to their names.

## **Inspection, notification of accidents and the closure of industries**

### **The appointment of industrial safety inspector**

87. (1) The competent authority shall, in application of the provisions of this chapter, appoint industrial safety inspectors .

(2) The competent authority shall inspect all the industries and other industrial operations listed in Table 1 annexed to this Act.

### **The competence of industrial safety inspectors**

88. (1) For the purposes of this chapter and the regulations which may be issued under the provisions of this Act, an industrial safety inspector shall have the authority to enter a workplace during working hours during the day or at night to perform his duties of inspection or to verify accidents or examine machinery and materials or take samples of them and to examine any information which he deems necessary.

(2) The owner of a factory or his deputy or representative shall submit to the industrial safety inspector all the requested information and data.

### **The Federal Consultative Committee for the Affairs related to Industrial Safety**

89. (1) A committee under the name of "Federal Consultative Committee for the Affairs related to Industrial Safety" shall be established by an Order of the Minister to include a President and a number of competent members.

(2) The said Order shall specify the authorities and competence of the Federal Committee.

(3) The Committee referred to under sub-paragraph 1 may establish Branch Committees in the Districts and may delegate any of its powers to these branch committees.

### **Appointment of Industrial Safety Officers**

90. (1) Every owner of a factory employing a number of workers not inferior to 30 workers and not exceeding 150 workers shall appoint an Industrial Safety Officer who need not to be released from his normal occupational duties. Where the number of workers in a factory exceeds 150 workers, the owner of that factory shall appoint an Industrial Safety Officer who must be released from his normal occupational duties.

(2) The Minister shall establish the conditions to be fulfilled by the Industrial Safety Officer.

### **The Industrial Safety Committee**

91. (1) In every factory employing 500 workers or more, an Industrial Safety Committee shall be established and shall be composed of the manager as a president, the heads of the production

divisions, and two representatives of the unions as members , and the Industrial Safety Officer as a rapporteur.

(2) The Industrial Safety Committee shall be in charge of drawing up the policy for industrial safety in the factory and the supervision of its application in accordance with the provisions of this Chapter and the orders made thereunder. The Committee shall notify the competent authority and the owner of the factory of any matter related to the conditions of industrial safety inside the factory and of the recommendations it makes regarding the latter.

(3) The Industrial Safety Committee shall hold a meeting at least once a month. It shall be obliged to meet also in the case of a serious accident or within one week after the discovery of an occupational disease.

### **Notification of accidents**

92. Every owner of a factory shall inform the competent authority of any accident which may happen during the daily working hours or because of the work itself, which may result in

- (a) the death of a worker;
- (b) a fire or an explosion;
- (c) a serious injury;
- (d) the obstruction of any worker to perform his job.

This notification shall be sent in the form shown in Table 5 annexed to this Act, and at the end of the first day of the accident.

93. (1) The Governor or his deputy may, after consultation with the Minister of Health at the District, order the establishment of health dispensaries in the industrial areas to provide medical treatment and supervision to workers.

(2) The order referred to in subparagraph (1) above, shall specify the expenses for the installation of such dispensaries, their duties, and the financing of their services. It may also include measures guaranteeing these facilities an effective performance of their duties.

### **Informing workers of occupational hazards**

94. Every owner of an industry shall inform his workers of the occupational hazards and means for protection against such hazards. He shall take the necessary precautions to protect workers against industrial accidents and occupational diseases.

### **Training of workers**

95. Employers shall not assign a worker to perform a job before providing him with enough training or before making him work under the supervision of one or more experienced persons in the field.

### **Workers' duties**

96. (1) It shall be prohibited for a worker to perform an act which may expose him or the others to danger. He shall be obliged to use every means of protection provided to him by the employer;

(2) It shall be forbidden for a worker to intentionally damage or misuse the materials, machinery, tools and belongings to an industry.

### **Stoppage of factories and industrial operations**

97. (1) The competent authority may prohibit the operation of a given factory if it establishes that:

(a) part of the walk-ways, works, machinery and tools used in the factory are in a state or are placed or composed in a manner which exposes workers to a physical danger or damages their health, unless they are repaired or changed or transferred so that the danger is removed;

(b) the industrial operation in the factory or any other operation is in such a state which could cause physical harm to workers or their health, unless the employer takes the measures necessary to remove this danger.

(2) The competent authority may prohibit the fabrication, transformation or completion of any machinery or tool or any other thing to be fabricated or produced locally which may cause physical harm to workers or their health in a given factory or workplace.

### **The responsibility of the owner of a factory**

98. In a case of violation of the provisions of this Chapter in any factory, the owner of the factory, unless it is established otherwise, shall bear the responsibility of the violation. However, if the violation was a result of the workers's infringement of his duty, the owner shall not bear the responsibilities for the violation if it is established that he took all the required means to prevent such violation.

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## **Chapter XII.- Labour disputes and stages of their settlements**

### **Scope of application**

99. The provisions of this Chapter shall apply to any labour dispute which takes place between an employer or more and all the workers or a group of workers, whether they are members of a

trade union or not. If the workers are represented by a legitimate union then it shall be forbidden for the employer to negotiate with any group of workers other than that union.

### **The immunity of unions against cases related to negligence**

100. (1) Cases filed against a trade union, its members or its officials shall not be accepted if they were filed by workers or employment agents representing themselves or the other members of the union and if they were related to an act of laxity which is alleged to have been committed by the trade union or on behalf of it.

(2) The provisions of sub-paragraph (1) shall not be exempt from any civil or penal responsibility resulting, under the laws which are in force, from any act committed by a union member or the federations or their officials to prejudice the rights and belongings of the unions or federations.

### **Industrial dispute conspiracy**

101. (1) Any case related to an action agreed upon by two person or more to cause a labour dispute or incite it shall be rejected.

(2) Any activity which constitutes in accordance to the laws in force a crime against the safety or security of the State shall be excluded from the application of the provisions of sub-paragraph (1).

(3) For the purposes of this section, the word "crime" means any act which exposes the accused person to the punishment of imprisonment either by law or according to the discrepancy of the court.

### **The submission of civil servants to punishment**

102. No provision under this chapter shall be interpreted to mean that the disciplinary measures shall not apply to a civil servant who fails to perform his duties because he was expecting the occurrence of a labour dispute.

### **Immunity against the cases of incitement to violate the contract of employment**

103. It shall be prohibited to file a case with civil courts against any employer or worker because they acted in expectance of the occurrence of a labour dispute or its continuation.

### **Recourse to terror and harassment**

104. It shall be forbidden for any person to oblige another person to commit or refuse to commit an act by recourse to:

(a) violence, provocation, insults addressed to that person, his wife or children or to damage his belongings.

- (b) following that person from one place to another;
  - (c) hiding any of his materials, clothes or belongings or preventing him or depriving him from using them;
  - (d) watching or harassing the person at his house or in any other place of his residence or during his way to his house or place of residence.
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### **Chapter XIII.- Stages of settling labour disputes**

#### **Negotiations**

105. (1) In a case of labour dispute, the two parties to the dispute shall, within a period not exceeding two weeks as from the date of notification of the subject of the dispute, enter into negotiations to settle the dispute amicably, provided that the period of negotiations does not exceed three weeks as from the date of its commencement. The period of negotiations may, after agreement between the two parties, be extended to two more weeks.

(2) The competent authority or its representative may attend the negotiation of any labour dispute; however, they shall not be authorized to participate in the negotiations without the agreement of the two negotiating parties.

(3) The agreement of the settlement shall be written in three copies to be signed by the two parties. Each party shall keep one copy and the third copy shall be sent to the competent authority within fifteen days as from the date of its signature.

#### **Conciliation**

106. (1) Where the two parties to a dispute do not agree to settle the dispute in accordance with section 105, they may submit by themselves or by their representatives an application to the competent authority to settle the dispute amicably. The application shall state the names of the two parties to the dispute and their representatives, their addresses, the subject of the dispute, the circumstances of the dispute and the names of the negotiators, provided that the number of the delegates of each party does not exceed three.

(2) Where one of the two parties to a dispute submits an application to the competent authority to settle the dispute, the other party shall abide himself by the intervention.

(3) Where neither of the two parties to a dispute submits an application for conciliation, the competent authority may order the referral of the dispute to conciliation without obtaining the authorizations of the two parties. The two parties shall abide themselves to respect this order.

#### **The attendance by the representative of the Minister of Finance to the negotiation and conciliation sessions**

107. In cases where one of the public establishments, bodies or companies in which the government has shares equal to 50 per cent or more is a party to a conflict related to the conditions of employment of workers, the federal Minister of Finance shall appoint a person representing him to attend the session for negotiation and conciliation.

### **Conditions to submit applications**

108. If the application was submitted by the employment agent, it must be signed by him or by his official delegate; however, if it was submitted by workers, it must be submitted by the president of their union after the approval of the central committee of the union or the federation or half of the number of workers or officials if they are not affiliated with a trade union.

### **Amicable settlement of disputes**

109. Every competent authority shall, within a period not exceeding three weeks as from the date of the receipt of the application, endeavour to settle the conflict amicably on the basis of the information and documents submitted to it by both parties to the dispute.

110. Where a dispute is settled, the settlement reached shall be put down in writing in three copies to be signed by the competent authority and the representatives of the two parties who shall receive a copy each.

### **The validity of the agreement**

111. The agreement shall specify the period of its validity provided that it does not exceed three years unless the agreement was related to the establishment of wages and hours of work, in which case it may be extended to a period not exceeding five years.

### **The referral of the dispute to the arbitration body**

112. Where a dispute is not settled amicably within the period referred to under section 109, it shall be referred to an arbitration body for a decision without requesting the permission of the two parties to the dispute.

### **The composition of the arbitration committee**

113. (1) The competent authority shall order the establishment of an arbitration committee as follows:

(a) a judge whose rank is not inferior to a judge of a general court to be nominated as a president of the committee by the president of the judicial system in the district;

(b) in the case of private sector, an employment agent who does not have any relation with the dispute to be nominated by the employment agent, and in the case of the federal government and the governmental bodies at the district, a representative of the Minister of Finance;

(c) a representative of the trade union which does not have any direct relation with the subject of the dispute, to be nominated by the union representing the workers party to the dispute;

(d) a representative of the Ministry of Manpower;

(e) an experienced person to be nominated by the competent authority.

(2) In observance with sub-paragraph (1) and in cases where one of the public establishments, bodies or companies in which the Government holds 50 per cent or more of their shares is a party to a labour dispute related to the conditions of employment of workers, the Federal Minister of Finance shall appoint his representative in the arbitration committee. In the case of district establishments, bodies or companies, the competent governor of the district shall nominate his representative in the arbitration committee.

### **The first session of the arbitration committee and the quorum**

114. (1) The president of the arbitration committee shall determine the date of the hearing to examine the dispute, provided that this date is not later than one week as from the date of submission of the dispute;

(2) The legal quorum of the arbitration committee shall be attained by the attendance of four members of the committee, including its president.

### **The time-limit to be set for the settlement of a dispute**

115. The arbitration committee shall examine and settle the dispute submitted to it within a period not exceeding four weeks as from the date of submission. The president of the arbitration committee may request the competent authority to extend the time-limit to settle the dispute, provided that such extension does not exceed four weeks.

### **The authority of the arbitration committee**

116. The arbitration committee is empowered to summon witnesses and request them to take the legal oath and oblige them to submit the documents and information which it deems necessary for the examination of the dispute. It is also empowered to mandate a competent person to inspect the workplace, and to implement all procedures necessary for the settlement of the dispute without being restricted to apply the means of evidence which the civil courts apply.

### **The presence of lawyers and advisors**

117. The two parties to a dispute may, in the case of disputes related to the State, be represented by a lawyer or a legal advisor before the arbitration committee.

### **The laws applied by the arbitration committee**

118. The arbitration committee shall apply the laws in force, and for that purpose, it may invoke the practice and the principles of justice after taking into consideration the public, social and economic situation in the area.

#### **The decision of the arbitration committee**

119. The arbitration committee shall take its decision by the majority of its members and the opposing opinion and its motives shall be stated and explained.

#### **The binding character of the decision of the arbitration committee**

120. (1) The decision of the arbitration committee shall be final and may not be subject to appeal by any means of appeal.

(2) The president of the arbitration committee shall inform the two parties to the dispute of the decision of the committee and shall provide both of them with a copy of the decision. A copy of the decision shall be sent to the competent authority accompanied with all the documents related to the dispute so that it may keep them for its records. The competent authority may make photocopies of any of such documents to the persons concerned on their request.

#### **Travel and residence expenses of workers' representatives and trade unions**

121. In the case of a decision taken in favour of workers, officials or unions, the arbitration committee shall order the employment agent to sustain the costs which it may decide to cover the travel and residence of the workers' representatives, officials or unions.

#### **The correction of a decision or its amendment**

122. The competent authority or any party to the dispute may request the arbitration committee to explain any misunderstanding or ambiguity which may appear in the decision of the arbitration committee and to issue an order explaining such misunderstanding or ambiguity. The arbitration committee shall issue its decision after a new hearing of the parties to the dispute or without such hearing. The new decision to be issued by the committee shall be considered as amending its first decision.

#### **The remuneration of the president of the arbitration committee and its president**

123. The competent authority or its representative shall determine the remuneration of the president of the arbitration committee and its members and the manner of its payment.

#### **The non-stoppage of work or closure of the workplace**

124. Workers or officials shall be forbidden to partially or totally stop work. Employment agents shall be prohibited to close the workplace partially or totally because of a labour dispute in the following cases:

- (a) before entry into negotiations;
  - (b) immediately after submission of any application for conciliation by one of the parties;
  - (c) during the conciliation procedure;
  - (d) immediately after the decision of the governor to refer the dispute to arbitration;
  - (e) during the procedures of arbitration;
  - (f) after the issuance or pronouncement of the decisions of the arbitration committee.
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## **Chapter XIV.- Final Decisions**

### **Amendments of Tables**

125. The Minister may issue an order to be published in the Official Gazette to amend the Tables annexed to this Act.

### **Penalties**

126. (1) Without any prejudice to any more severe punishment provided for under any other Act, anyone who:

(a) causes or commits acts consisting of adding in the worker's file of employment false information with the intention of fraud, or who authorizes, in spite of his knowledge of this false information, the delay of payment of a worker's entitlements on the basis of the false information added in the file;

(b) anyone who submits or allows the submission to the competent authority of false information or documents and who is aware of the fact that such information and documents are not true,

shall be punished with imprisonment for a period not exceeding six months or a fine or with both penalties.

(2) The violation or refusal of application of any provision of this Act or the provisions of any orders, regulations or rules issued thereunder shall be considered as a crime punishable with imprisonment for a period not exceeding six months or a fine or with both penalties, if this Act or any other Act does not provide for a particular punishment for such violation or non-observance. In the case of repetition of a violation, the fine may be doubled.

(3) The competent court may allocate part of the fine for the injured person.

### **The power to issue the regulations, rules and orders**

127. The Minister may issue the regulations, orders and rules necessary to the application of this Act.