

# **Labour Act 1997**

(Act No.20- 1997)

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In the name of God the Merciful and Compassionate,

According to the Constitution Decree No. 3 of 1995 the National Council has passed and the President of the Republic has ratified the following Act:

#### Part I: Preliminary Provisions

##### Title

1. This Act may be cited as "Labour Act 1997" and shall take effect as from the date of its signature.

##### Repeal and saving

2.1. The following Acts shall be repealed :

- a. The Manpower Act 1974.
- b. The Industrial Relations Act 1976.
- c. The Industrial Safety Act 1976.
- d. The Individual Labour Relations Act 1981.

2. Provided that all rules and regulations made thereunder shall be deemed valid as if incurred or made under the provisions of this Act until they are repealed or amended under this Act.

##### Exemption

3. The following categories of persons shall be exempted from the applications of this Act: -

- a. The Members of the Judiciary;
- b. The Counsels of the Ministry of Justice;
- c. Persons of Disciplinary Forces ;
- d. Persons of National Security Organ;
- e. Persons employed in the federal and states governments and public corporations whose conditions of employment are governed by special laws save the rules concerning the industrial relation and industrial safety ;
- f. Domestic servants according to the definition specified in the Domestic Servants Act 1955;
- g. Agricultural worker, other than persons employed in the operations, repair or maintenance of mechanical appliances and devices, and other than persons employed in factories, ginneries, diaries and similar establishments in which agricultural products are processed or adopted for marketing and other than persons employed in the administration of agricultural undertakings or doing clerical accounts work, stores, gardens, and poultry;
- h. members of the employer's family residing with him and wholly dependent upon him;
- i. casual workers;
- j. Any class of persons, the Ministry Council may declare by an order that they are exempted totally or partially from the provisions of this Act.

##### Interpretation

4. In this Act, unless the context otherwise requires:

"*wage*" means the aggregate of the basic pay, and all other remuneration payable to the worker by an employer and includes the value of any food, fuel or residence and any over time, payments or other remuneration for any work done, and any other bonus; provided that it shall not include any ex-gratia payments, or gift or travelling allowance or privilege or any subscription paid by employer for the work in any social insurance project such as provident fund, or pension, or life insurance, or special expenses paid by the employer to the worker.

*"members of the family"* means husband or wife, father, mother, grandfather, grandmother, daughter, granddaughter, grandson, brother, sister, half-brother, half-sister, stepfather, stepmother, stepson, and stepdaughter.

*"dependent family"* means those members of the family of the worker who are wholly or partly dependent upon his earning.

*"Licensing"* means obtaining license in the prescribed form for erecting a new factory or an extension to an existing one or carrying out other industrial operations and it includes also obtaining a license for making alterations relating to the arrangement, erection or organisation of machinery.

*"Accident"* means any injury or occupational disease set out in schedule No. (6) hereto, which occurs to the worker in the course of employment or being caused thereby; and disables him from performing his work and also means any fire, explosion or collapse which occurs in the factory.

*"Serious Accident"* means any accident causing death or 50 percent or more disability, or causing injury to more than one worker, and also fire, explosion or collapse that causes damage in the means of production or places of work.

*"Infant"* means any person under 16 years of age.

*"Continuous service"* means continuous service with same employer starting from the date of employment and includes the period of training and the probationary period specified in section 29 (4).

*"Worker"* means any person male or female not less than 16 years old who performs work in return for wages of whatever type in service and subject to the management or supervision of the employer, whether his contract of service is written or oral, expressed or implied or for the purpose of training or probation, or who performs manual or semi manual work whether skilled or unskilled in consideration of wage of whatever kind.

*"Production Worker"* means the worker whose wage is based on the amount of daily work or piecework.

*"Casual Worker"* means any person who performs temporary work in a factory for a period not exceeding fifteen days and of a nature, which is not included within the activity performed in the factory.

*"Contract of service"* means any contract whether written or oral, expressed or implied, where under any person is employed under the supervision and control of an employer for a wage of any kind but shall not include contracts of apprenticeship and under the apprenticeship and Vocational Training Act, 1974

*"Competent authority"* means the Minister or Wali whatever so requires

*"Employee"* means any person who employs by contract of service one person or more for a wage of any kind.

*"Medical Practitioner"* means a medical practitioner registered under the Medical Council Act 1992.

*"Commission"* means the Federal Commission for manpower established under section 5(1) of this Act.

*"Sub-Commission"* means the Sub-Commission for manpower established under section 5(2) of this Act.

*"Substance"* includes any solid, liquid, gas or any other compound.

*"The Council"* means the Council of Labour Relations established by section 70 (1)

*"Labour Office"* means any office established by the competent authorities for the enforcement of the functions of this Act

*"Employer"* in the case of

- a. The private and mixed sector it means: every national person or body corporate who employs one or more employees under contract of service and it includes:

First: The heirs and successors and assignees of an employer as the case may be .

Second: The owner of any establishment or the chairperson or any person authorised by him

- b. The Federal Government and the federal government organ; the Minister of Finance or any person authorized by him.
- c. The public sector companies; the chairperson or any person authorized by him.

*"Basic Salary"* means the salary plus the cost of living allowance excluding other allowances.

*"Project"* means any project under the management of any person; wherein one or more workers are employed in return for wage of whatever type in the federal or states governments, public, private, corporation or mixing sector.

*"Factory "* means any industrial establishment or corporation or scheme under the management of a natural or corporate person, wherein one or more workers are employed in return for wages of whatever type and includes all the industrial operations set out in schedule No.(2)hereto, and any places, whether in open space or otherwise where any of following are carried out, directly or indirectly, for trade purpose or for gain :

- a. manufacturing any substance wholly or partially;
- b. changing, repairing, ornamenting, finishing, cleaning, washing, preparing, any substance for the sale or the demolition thereof;
- c. printing by a printing press, lithography, photo-engraving, bookbinding,
- d. or any other similar process;
- e. generation of electricity, transforming its current or its distribution or use in factories and electrical schemes.

*"Dependants"* means those members of the family of an employer who have no work, profession or income by which they earn a living and his relatives or the relatives of his wife, who depend wholly on him for their livelihood

*"Industrial Safety Inspector"* means the official appointed under section 87 hereto,

*"Civil Servants"* means any civil servant who occupies a position set out in the first section of the public budget of the state;

*"Trade dispute"* means any dispute between employers and employees, between employees and employees, between employers and employers respecting the employment or non- employment or the terms and circumstances of employment of any person.;

*"Trade Union"* means any trade union formed under the Employees Trade Union Act 1992

*"Minister"* means the Central Minister of Manpower;

*"Intimidate"* means to cause in the mind of the employee or employer a reasonable apprehension of injury to him or any member of his family or to any of his dependants or of violence or damage to any employer or employee or to his property.

## PART II: THE MANPOWER

### The Commission and its Constitution

5.1 The Minister may, by an order made by him, constitute a commission to be cited as the Federal Commission for manpower, consisting of a president, specialised members representing the state's organs concerned, workers and employers.

2. The Commission provided in section (1) may constitute subcommittees for it in the states
3. The Federal Commissions and its subcommittees in the states are subject to the supervision of the Minister

### Function of the Commission

6.1. The Commission shall have the following functions:

- a. Co-ordination of the activities of the executive organs concerned with manpower in accordance with the prescribed general policy
- b. Compiling and maintaining up to date statistics and submission of all information and recommendations, as it thinks fit, to the minister who submits them to the Minister's Council
- c. Supervising over the prescribed manpower programs in such manner as may be compatible with the development plans
- d. Performing any other functions in the field of the manpower which the minister entrusts to it within the general policy prescribed by Minister's Council.

6.2 .The Commission may authorise any of its functions to the subcommittees in the states.

### Financial resources

7. Funds shall annually be appropriated for the activities of the commission and its sub committees from specific percentage of the development budget recommended by the National Council for planning to enable the Commission to perform its functions

## PART III ORGANISATION OF EMPLOYMENT

### Establishment of employment exchanges

8.1. The minister may establish employment exchange and determine the areas or groups for the service of which such exchanged are concerned

8.2. The employment exchange is subject to the supervision of the competent authority.

8.3. Every unemployed person willing and able to work or every workman desirous of changing his work , may apply for the registration of his name for such purpose at the employment exchange concerned, presenting all the necessary particulars and documents in proof thereof

8.4. The employment exchange may require any person willing to work or change his work to pass a vocation test which it thinks appropriate for proving his skills or to produce any necessary documents including the personal identity card in the places in which The Identity Cards Act,1981 applies

8.5 The employment exchange shall register every application presented to it which satisfied the conditions and shall give the applicant a certificate free of charge within a maximum period of two days from the time of presenting the application; provided that the validity of such certificate shall not exceed one year

8.6. No person shall register his name at one time in more than one employment exchange or furnish false particulars at the time of registration.

#### Private employment exchange and employment exchange agencies

9. 1. The Minister may in the cases of extreme necessity which so require and accordance to the rules and conditions determined by him permit any person to establish private employment or carry on employment business; provided that the exchange shall not charge any commission or obtain any fees from the workman in consideration for getting him employed

9. 2. Subject to section (1) no person or body shall carry on an employment business

#### Prohibition of employing unregistered persons

10. Without prejudice to the provisions of this Act, no project shall employ any person falling within the jurisdiction of any of the employment exchanges unless he has obtained a certificate of registration in accordance with the provision of section 8(4)

#### Furnishing particulars

11. Every project shall furnish the competent authority or the commission of the employment exchange concerned with any particulars required within two weeks from the date of request

#### Nomination of employment

12.1 Subject to the provisions of the Public Service Act 1994 and the regulations made thereunder: -

- a. No notice for any post for the purpose of employment shall be issued by any means of publication or publicity except after obtaining a written permission from the competent employment exchange; and there shall be mentioned in the notice the serial number of the permission issued by the employment exchange
- b. Every project which employs ten persons or more and desires to employ any of the persons to whom this Act applies and who falls within the jurisdiction of any employment exchange shall apply to the competent employment exchange for nominating a person or persons who possess the required qualifications for the post; and the appointment shall be made from those nominated by the employment exchange; provided that the provision of this sub-section shall not apply to the employment of the following categories:

(i) employment of persons for casual work the performance of which does not take more than three months or any period determine by the Minister;

(ii) employment by the employer of the members of his family or his dependants;

(iii) principal posts the holders of which are considered as authorised representatives of the employer and the determination thereof shall be made by a decision of the Minister;

(iv) employment by an administrative body concerned with the welfare of ex-convicts

12.2. The Minister may make a decision to increase or reduce the number referred to in sub-section (1) hereof or order the exemption of any categories of workman from the provision thereof

12.3 . Any project may publish a notice for any post under sub-section (I) in accordance with the condition of the post submitted to the employment exchange; and if the employment exchange notifies the project, to which the provision of sub-section (2) of this section apply, that there is no person among those registered therein who possesses the required qualification or the employment exchange has failed to submit a suitable nominee within two weeks from the date of the receipt of the application, in such case the project shall notify the competent employment exchange with the name and the



qualification of the person who has been chosen for the post within a week from the date of his employment

#### Notification of the employment exchange of appointment

13. Every project appointing a person registered at an employment exchange shall return the certificate of registration of such person to the exchange after recording the required particulars thereon within a period of two weeks from the date of appointment.

#### Employment of Sudanese abroad

14. Every Sudanese willing to work abroad shall obtain a permit therefor from the Commission according to the Regulation made under this act without prejudice to any other condition, or procedure, which shall, be required to be satisfied under any other Acts

#### Inspection and investigation

15.1 For the implementation of the provisions of this Act, the officials authorised by the Commission who shall carry cards evidencing their authorisation shall have power to visit projects at any time to carry out the functions of inspection or investigation or examining documents or cards relating to the workmen and to require the necessary particulars from the employers or persons acting on their behalf or to summon them if they decide it is necessary, and the employers or their agents or person shall facilitate the work of such officials and shall furnish them with the honest and correct information in relation to their work. The competent authorities shall give effective assistance to such officials in carrying out their functions if the situation so requires

2. The Minister shall issue the orders necessary for the regulation of methods and procedure of inspection and the cards of the officials carrying out inspection

#### Vocational Training

##### Training of workers

16. The employer may perform training to his workers for learning or training a designated trade within a specific period of time according to the requirements and needs of the work

##### Training Contract

17. The training shall be made in a writing contract, the obligation of the two parties in the period and the stages of training shall be prescribed, provided that the wage during the period of training shall not be less than minimum standard wage according to the Minimum Standard Wage Act 1974.

##### Termination of training contract

18. The employer may terminate the training contract when has proof of the incapacity and preparedness of the worker for training in a designated trade or working in satisfying manner

### PART IV. EMPLOYMENT OF WOMEN AND JUVENILES

#### Requirements of employment of women

19. No women shall be employed in works which are dangerous, demanding great bodily effort or prejudicial to health such as carrying heavy weights and work done under the ground or under water and also work which would expose them to poisonous substances, cold, or heat exceeding the reasonable limits women can withstand.

### Time of employment of women

20.1 No women shall be allowed to work between 10 p.m. and 6 a.m. with the exception of employment of women in administrative, professional, technical work or social or health services work.

20.2 Notwithstanding the provision of subsection (1) the competent authority in consultation with the Commission may allow under the conditions prescribed by it, any class of women to work at night in response to the requirements of public interest.

20.3 The daily total rest intervals for women shall not be less than one hour with pay and the intervals shall be regulated so that the interval of rest extends for half an hour or more; provided that the working period shall not extend for five consecutive hours without such interval

### Requirements for employment of infants

21.1.No infants shall be employed in any of the following works:

- a. Carrying heavy weights;
- b. Steam boilers and pressure receptacles;
- c. Blast furnaces and foundries;
- d. Works done under the ground, or under water and mines or quarries work;
- e. Works in the composition of which lead and its compounds enter;
- f. Works in which workers are exposed to poisonous or injurious materials whether organic or inorganic such as lead, mercury, cyanide, calcium, petrol and its compounds;
- g. Radiation works and ionising radiation,
- h. Maintenance of machinery and the belts thereof

21.2 Subject to the sub-section (1) hereinbefore. Juveniles shall not generally be employed in dangerous industries and works injurious to health or those which require physical effort, or in works and jobs which are injurious to their morals. The Minister may specify certain works and jobs as such.

21.3 No infants shall be required to work at night between 8 p.m. and 6 a.m. and the commissioner may, where he deems it fit, exempt any infant between fifteen and sixteen years of age from the application of the provision of sub-section (1),

21.4 Juveniles under twelve years of age shall not be employed with the exception of:

- a. the vocational schools of the State;
- b. training workshops not for the purposes of profit;
- c. members of the employer's family who work under his supervision in an enterprise in which no other person is employed;
- d. workers under apprenticeship contract;

21.5 The Minister or any person authorised by him may refuse the employment of juveniles under the age of 15 years in such industries and enterprises as he may specify by decision.

21.6 Subject to subsection (5) a juvenile under fifteen years of age shall not be employed unless he has a guardian who resides with him in the place of work. And the contract with the juvenile shall not be binding on him unless his guardian has approved his employment and presented to the employer what proof of his guardianship over the juvenile, and his address.

21.7 Juveniles shall not be employed for additional hours and shall not be employed in the weekly or official holiday or waive their right to annual leave or postpone or break the same.

### Medical Examination for Juveniles

22. Full medical examination shall be made for every juvenile before his employment and at periodic intervals after employment in the manner specified by the Commissioner according to the nature of work. a medical practitioner shall carry out the appropriate examination and issue the necessary medical certificates.

#### Hours of work of the juvenile

23. The normal working hours for juveniles shall be seven hours during which there shall be an interval of one hour for rest with pay, and the juvenile shall not be employed for more than four consecutive hours without interval for rest.

#### Fixing the conditions and regulations concerning the juveniles in a conspicuous place

24. The employer shall fix in a conspicuous place in the place of his work a copy of the regulations concerning the employment of juveniles provided for in his Act, and a list showing the hours of work and the periods of rest.

#### Competent authority's notification

25. The employer shall notify the Competent authority of any infant who appears to be an unnaturally violent delinquent, who attempts to damage materials or machinery, or is habitually negligent and repeated an absent from work without acceptable excuse

#### Termination of the juvenile's contract of service

26. The contract of service of any juvenile shall be terminated if it is proved that he is unfit for work according to a medical certificate issued under section 22 hereof.

#### Establishment and Constitution of the Special Committees

27. The Minister may establish and constitute special committees for any industry, or specific occupation, to lay down conditions of service for juveniles and for specification of weights that juveniles of less than fifteen years of age shall be asked to carry, pull or push. Such committees shall submit their recommendations to the Minister to make the appropriate decision thereon.

### PART V: CONTRACT OF SERVICE

#### Writing of the Contract

28.1 Any contract which exceeds three months in duration shall be made in writing by the employer. Such contracts shall be written in three copies, signed by the two parties. Each party shall keep one copy and the third copy shall be deposited with the Commissioner.

28.2 .The contract made under sub-section (1) shall not be deemed beneficial to the employer unless and until the worker takes cognizance of and signs it, either by writing his names or putting his thumb impression or stamp on it. He may call a witness to read the contract over and sign it by writing his name or impressing his thumb or stamp thereunder.

28.3. In case the worker is not able to read the contract, the employer shall read the contract in the presence of the witness selected by the worker; provided that such witness is able to write and read.

28.4. In the absence of a written contract, the worker may prove his entitlements by any kind of evidence.

28.5. When a dispute arises between the employer and a worker working without contract of service for solving the dispute, they may be guided by one or more similar contracts that have been made with a

number of workers, working with the same employer for the same period, for the same work and in the same enterprise.

#### Types and Terms of Contracts

29.1. The contract of service may either be for a definite or indefinite period, and it may be for the performance of a specific work.

29.2. The duration of a definite period contract shall not exceed two years, and it may be renewed only once in the same enterprise. Such new period shall be considered continuous with the previous service and in case the worker continues in service after the duration of the period of renewal, he shall be deemed as contracting for an indefinite period contract.

29.3. Any written contract shall be considered indefinite unless it is clearly stated therein that it is for a definite period or it is for performing a specific work, or for the substitution of a worker for another.

29.4. The probationary period shall not exceed three months with the exception of the training period and the contract of service is considered an indefinite contract if the period is not specified and the probationary period has elapsed, without the contract being terminated by either party.

#### Contents of the Contracts of Service

30. The contract of service shall be written in clear and unambiguous terms where the rights and obligations of the two parties are to be clearly specified. Without prejudice to the generality of the foregoing, the contract of service shall contain the following particulars:

- (a) the name of the employer, and the name of the enterprise, its place and address;
- (b) The full name of the worker, his age, domicile, and any other particulars necessary for identification and his qualifications;
- (c) The nature and kind of work agreed upon to be performed; the starting date, and the place of work;
- (d) The agreed wage and the mode of payment;
- (e) Period of notice for the termination of the contract;
- (f) Any other terms of service to be agreed upon;
- (g) Any other particulars under the provisions of this Act.

#### Terms inconsistent with the provisions of this Act

31. Any term in the contract which is inconsistent with the provisions of this Act shall be void even if it preceded the date of its commencement, unless such term is more favorable to the worker who can claim all his entitlements under this Act.

#### Work that differs from that agreed upon

32. The employer shall not ask the worker to do without his consent work basically different from the work agreed upon in the contract of service unless necessity so requires for prevention of an accident or repair of what arises from that accident, or in the case of *force majeure* provided that such request shall be temporary for a period not exceeding two weeks.

#### Presenting of Contracts

33. The Commissioner may, if he deems it necessary, ask the employer to present to him all contracts of service or of those of the same categories of workers working with him, for the purpose of perusal and checking.

#### Receipt for the papers of the worker and his certificates deposited

34. The employer shall give the worker a receipt for documents or certificates deposited with him

### PART VI: WAGES, LOANS AND OTHER EMOLUMENTS

#### General provisions about payment of wages

35.1. The wages of the worker shall be paid in cash, and there may be exempted therefrom what is included into the wages such as providing the worker with food, fuel, lodging, transportation or clothing.

35.2. The wage may be paid daily, weekly, fortnightly, or monthly, in the manner agreed upon unless the Commissioner directs otherwise.

35.3. The employer and the production worker contracting to work for an indefinite duration shall agree to a specific wage for the minimum amount of the daily work and according to such wage there shall be calculated the entitlements of the worker other than the gratuities, and for the purposes of this section the wage of the production worker shall be calculated at a rate equivalent to that received by any other labourer carrying on a similar work and the wage shall be paid to him after certain periods of time under sub-section (2).

35.4. Notwithstanding any agreement between the employer and the production worker on the changes of the system of employment by transferring the worker from the monthly to the daily, the weekly or the fortnightly pay, or to the wage based on production, the worker shall continue to be entitled to all rights which he gained during the period in which he worked on the basis of the monthly pay.

35.5. Subject to sub-section (2) the wages of the daily workers shall be paid daily, unless there is an agreement between the employer and the worker, payment will be at the end of the working day in the place of work and during the working hours.

35.6. With the exception of what was provided for in sub-section (5) the wages shall be due at the end of the week, the fortnight, or the month as the case may be and shall be paid in the place of work and during the working hours. The payment of wage shall not be delayed to after the third day, from the date of entitlement as agreed upon.

35.7. In the case of termination of the contract of service, all entitlements of the worker shall be paid within a week from the date of termination.

35.8. The wages shall be paid to the worker personally, or to any person authorised by him in writing without any deduction. Unless, when such deduction is agreed upon in writing by the parties or such deduction is made under the provisions of this Act or any other Act. In the case of making any deduction, the employer shall give the worker a statement of such deduction if the worker so requests.

#### Deductions for Absence

36. 1. The worker shall not be entitled to his wage for the period of his absence from work, except in cases specified under this Act or where the employer consents to pay during absence from work.

36.2. The worker who completes three months in continuous service is entitled to a wage during his absence from work for any of the following reasons:

(a) The unavailability of the ordinary means of transportation;

- (b) Occurrence of catastrophes or events that prevent him from attending to the work;
- (c) Summons by the Court, or any other public authority authorised by law so to do;
- (d) Death of husband, or wife, or any of the sons, or any of the parents, or any of the brothers or sisters;
- (e) Any other reason accepted by the employer.

#### Loans

37.1. The employer may grant loans to the workers provided that: -

- (a) Such loans shall be without interest but the employer may charge a reduced percentage to meet expenses concerning such loans;
- (b) The periodical deduction for the settlement of the loan shall not exceed 15% of the basic salary.

37.2. Subject to paragraph (b) of sub-section (1) the worker shall pay the instalments of the loan granted to him at the termination of the contract of service, through the manner specified in the contract of the loan or by any other legal means.

37.3. Courts shall not accept any claims raised by an employer against any worker concerning any loan unless such loan was granted to him under a written contract.

37.4. Loans for workers shall be without interest

#### Travelling Allowance

38. 1. Any worker asked by the employer to do work outside the area of his work or outside the station of his work the employer shall bear the expenses of transport of the worker to and from.

When the worker spends a whole night outside the place of his work for the purpose of his duty, the employer shall pay him travelling allowance at the rate specified in the conditions of his service. If there is no agreement thereto, the employer shall pay the reasonable expenses which the worker spends every night provided that in all cases what the employer pays for one night shall not be less than the wage of three days. For the purpose of this section the transfer of the worker for a period of six months or less shall be considered as travelling on duty.

#### Expenses of Transportation

39.1. The employer shall transport the worker or pay the expenses of transportation to the area where he was initially employed within seven days from the date of the termination of the contract of service.

39.2. If the employer, during the commencement of contract of service, transported the worker from the place of his work to another place, he shall pay the expenses of transporting the worker, members of his family who totally depend upon his earnings and their luggage to that place according to the prescribed rates of transportation.

39.3. In the case of the worker's death, the employer shall transport the wife or wives and children of the deceased worker who depend wholly upon his earning together with their luggage to their original place of residence if they so request.

39.4. A certificate from the competent authority shall prove the legal bail of the members of the family of the worker.

#### Statement of entitlements

The employer shall, at the termination of the contract of service, give the worker a detailed statement of his entitlements.

#### 41. Violability of reconciliation, discharge or waiver

Unless it is otherwise provided in this Act, every acquittal or reconciliation or waiver concerning prescribed entitlements hereof shall be deemed void.

### PART VII: WORKING HOURS AND LEAVES

#### Normal working hours

42. 1. The normal working hours shall be forty eight hours per week, or eight hours per day provided that an interval of not less than half an hour with pay shall be allowed during the working hours either for taking a meal or for rest.

42.2. The competent authority may an order made by it after consultation with the Council, amend the weekly or the daily working hours or the intervals of rest for some periods of the year or for some categories of workers according to the nature and kind of work.

42.3. The daily working hours shall be reduced by one hour with pay, during the month of Ramadan in relation to the fasting workers and to wet nurses for two years from the date of the birth provided that such an hour shall be payable by the employer

#### Overtime work

43.1. With the exception of the cases where the competent authority otherwise decides and subject to the provisions of section 21(7), the employer, in pressing emergency may ask the worker to do overtime work for a period not exceeding four hours and except in cases of imminent emergency the overtime work shall be an agreement of the two parties; provided that

1. its period shall not exceed four hours per day and twelve hours per week. In all cases, the overtime work shall be optional for women within the periods specified in sub-section (1).

43.2. The overtime work wages shall be paid on the date of payment of the normal wage as follows:

(a) In cases of normal working days, the hour is calculated to be equal to one and half-hour;

(b) In cases of official holidays and weekly holidays, the hour is calculated to be equal to two hour.

43.3 The overtime wage shall be calculated on the basic salary.

#### Annual leave

44.1. The annual leave is a right for the worker and shall be due according to sub-section (2) after the completion of one year of continuous service with the employer, provided that it shall be with full pay and its time shall be tabled during the year according to the needs of work and shall include the official holidays and vacations.

44.2. The annual leave shall be calculated as follows:

(a) If the worker completed from one year up to three years of continuous service, he shall be entitled to an annual leave equal to twenty days;

(b) If the worker completed eight years and less than fifteen years of continuous service he shall be entitled to an annual leave of twenty-five days;

(c) If the worker completed fifteen years or more of continuous service he shall be entitled to an annual leave equal to thirty days.

44.3. Subject to the provisions of sub-sections (1) and (2), in case of the termination of the contract of service for any reason or in the case of resignation, the worker shall be entitled to a wage for all the days of the annual leave or the proportionate part of the period he spent and had not been granted leave therefor.

44.4. The worker, with the consent of the employer, may postpone his annual leave for a year, or he may divide it between the year in which it was due and the following year and such leave shall not be postponed ( all or any part thereof) for more than one year, and the worker shall be entitled to his annual leave plus the postponed leave in the following year.

#### Travelling leave and official occasions and holidays

45.1. The worker shall be entitled to a travelling leave with full pay for travelling to and from between his place of work and his original home once per year.

45.2. The travelling leave shall be calculated according to the time shown by the Sudan Railways trains or the River transport Corporation steamers, or by any means available for land transportation to the original home of the worker; provided that in all cases the period shall not exceed ten days.

45.3. During the official occasions and holidays the worker shall be entitled to a leave with full pay, after the completion of three months of continuous service.

#### Maternity leave

46.1. A women worker after the completion of one year's service from the date of her appointment and for any subsequent year of service shall be entitled to a delivery leave on full pay calculated as follows:

(a) Four weeks before delivery and four weeks after delivery provided that the probable date of delivery and the actual date on which delivery takes place shall be certified by the Medical Practitioner;

(b) A permission may be given optionally for the same period of leave as provided in paragraph (a) to be two weeks before delivery and six weeks after delivery;

(c) If the women worker absents herself after the completion of the period mentioned in paragraphs (a) and (b) above due to illness resulting from pregnancy or delivery which makes her unable to resume work with a certification of the medical practitioner, in such case she is considered to be on a sick leave.

46.2. Without prejudice to the provisions of paragraphs (a) and (b) of section 34 (1) and the provisions of section 50, the women worker shall not be dismissed during the period of pregnancy or during the delivery leave.

#### Sick leave

47.1 Subject to the provisions of the Work Injuries Compensation Act. 1981, if the worker completed a period of not less than three months of continuous service and he is unable to come to the place of work because of a certified illness the reason of which is not due to his misconduct or negligence, he shall be entitled to a wage for all the days of his absence due to such illness and the wage shall be calculated on every subsequent twelve months he spends in the continuous service as follows:

(a) Three months with full pay;

(b) Three months with half pay;



(c) Three months with quarter pay.

47.2. The worker shall not be on a sick leave with reduced pay unless he has exhausted his normal leave.

47.3. If the illness continue for a period of more than stated above, the worker shall be on a sick leave without pay until he is sent during a reasonable period to the medical commission to decide promptly his fitness for work

#### Mourning leave

48. A women worker whose her husband has died shall be granted a mourning leave with a full salary starting from the date of death of the husband and the period of leave shall be as follows:

(a) Four months and ten days where a women worker is not pregnant

(b) if she is pregnant, the mourning leave continues till her delivery, in this case, permission may be given for maternity leave for eight weeks starting from the date of delivery

#### Pilgrimage leave

49. The worker who spend three years of continuous service, he shall be entitled to a leave on full salary once during the period of his service, and the worker shall furnish the employer with the documents which proved his intention to perform this religious task

### PART VIII: TERMINATION AND EXPIRY OF THE CONTRACT OF SERVICES:

#### Termination of Contract of Service by Notice

50.1. The contract of services shall terminate by notice for any of the following reasons:

(a) In case of disability of the worker to perform his work, or if he is so ill that he ceases to work even if after the completion of his annual sick leave whether such leave be with or without pay; provided that the illness of the worker be proved by the Medical Commission;

(b) The completion of the work contracted for, or expire of the period of the contract;

(c) The total destruction of the establishment;

(d) Attaining the age of sixty years, unless the two parties agree otherwise; provided that such period shall be considered continuous service;

(e) The dismissal of the worker, or his desertion of the work during the probationary period;

(f) Agreement of the two parties in writing to terminate the contract of service.

(g) Dissolution or liquidation of the establishment provided that is proven by official certificate from the competent authority

(h) Resignation of the worker

(i) Death of the worker

50.2. Except in cases where the contract of service provides for a longer period of notice the contract of service shall terminate for the reason mentioned in sub-section (1) by a written notice by either party, and the period of notice shall be as follows:

- (a) One month, where the worker works on the basis of a monthly wage;
- (b) Two weeks, where the worker is appointed on the basis of a fortnightly wage, and has completed less than five years of continuous service;
- (c) One week, where the worker is appointed on a weekly wage and has completed less than two years of continuous service and two weeks if he has completed two years and less than five years of continuous service;
- (d) Where the worker is appointed on the basis of a daily wage the period of notice shall be as follows: -
  - Firstly, if he has not completed three months of continuous service, at the end of any working day and it is not essential that the notice be in writing;
  - Secondly, One week, if the worker completed between three months and two years of continuous service;
  - Thirdly, Two weeks, if the worker completed between two and five years of continuous service;
- (e) One month if the worker is appointed on a daily, weekly or a fortnightly wage, and has completed not less than five years of continuous service;
- (f) Six months, directly before expiration of the contract by reason of reaching the age of pension.

50.3. If either party did not notify the other of the expiry of the contract of service and under sub-section (2) the injured party shall be paid a compensation equivalent to the wage of the period of notice.

50.4. The worker may after the completion of half of the period of notice, leave the work for starting other work; provided that he is paid a full wage for the remaining period of notice.

50.5. If the worker at the expiry of the contract of service is entitled to his annual leave, the period of such shall not be calculated in the period of notice.

50.6. For the purpose of pension the age shall be proved by any of the following means and according to the following requirements:

- (a) The admission of the age recorded by the employer in the document of the social security or pension. Or life insurance signed by the worker;
- (b) The original certificate of birth;
- (c) Certificate of birth by assessment from the medical commission.

#### Termination of the Contract of Service in the case of repeated contraventions

51.1. In the case of repeated contravention, if the worker is notified of dismissal where all or the maximum penalties prescribed were exhausted, the employer in the case of any succeeding breach, may terminate the indefinite contract of service by notice, the duration of which shall be fixed according to the provisions of sub-section (2) of section 50: provided that the employer shall give the worker a letter showing the reasons of the termination of the contract of service, and shall pay him all his entitlements.

51.2. The notification shall be automatically lapsed if the worker has received a final notification and has not committed any contravention within the year which follow the date of notification.

#### Appeals

52.1. Any of the two parties may appeal to the Commissioner against the order of termination of the contract of service under sections 50 or 51 within a period of two weeks starting from the date of notification.

52.2. The competent authority shall make his decision within a period of two weeks starting from the date of receiving the application of appeal.

52.3. If the competent authority approves the termination of the contract the employer shall pay to the worker all his entitlements. If the Commissioner did not approve the termination he shall order the return of worker to his work; provided that all his entitlements for the period of suspension shall be paid to him. In case that the employer objects to carrying out the decision made by the competent authority, the employer shall give the worker all his legal entitlements including his wage during the period of suspension, plus a compensation equalling to six months pay.

#### Termination of the Contract of Service without notification to the worker

53. The employer may terminate the contract of service without notice in the following cases:

- a. If the worker assumes the personality of another, or if he presents for the purpose of work forged papers;
- b. If the worker made a mistake resulting in gross negligence that caused heavy financial loss to the employer;
- c. If the worker in spite of being notified in writing does not comply with any instructions made for the safety of the workers and of the undertaking; provided that such instructions be in writing and fixed in a conspicuous place;
- d. If the worker deliberately omits to carry out his obligations under the contract of service;
- e. If the worker discloses any industrial or commercial secrets which come to his knowledge in the course of his duties, save what the law permits;
- f. If the worker is convicted of an offense concerning honour or morality or conduct or if he commits in the place of work an act inconsistent with morality;
- g. If the worker commits an assault on his employer or the responsible manager which is punishable by law or if in the course of or during his work commits any grievous assault to any of his superiors or any other worker;
- h. If the worker is found in an obvious state of drunkenness or was under the influence of an intoxicating drug; provided that the medical practitioner so decides.

#### Termination of the Contract of Service without notification to the employer

54. The worker may terminate the contract of service without giving notice to the employer in the following cases:

- a. If the employer or the person on his behalf cheated the worker in relation to the contract of service;
- b. If the employer has not satisfied his obligations towards the worker in accordance with the provision of this Act or the terms of the contract of service;
- c. If the employer or the person acting on his behalf commits an assault punishable by law on the worker;
- d. If there is a serious danger threatening the safety of the worker or affecting his health, provided that the employer knows the danger and does not take the measures and procedure necessary to prevent it.

#### Referring of disputes to the Competent Authority

55.1. In all cases specified in sections 53 and 54, the contract of service shall not be terminated before referring the dispute to the competent authority to obtain his approval. The Commissioner shall make the appropriate investigation concerning that case or cases, and he shall make his decision thereon within a maximum period of two weeks starting from the date of referring the dispute to him.

55.2. In case of proof of any of the cases specified in section 53, the employer may suspend the worker until the competent authority makes its decision.

55.3. When the employer terminates the contract of service before referring the dispute to the competent authority or before the competent authority make its decision, the following steps shall take place:

- a. The worker shall be returned to his work together with payment of full wage for the period during which he was suspended; or
- b. Payment of all entitlements of the worker including his wage for the period of suspension plus the payment of compensation equal to six months wages.

55.4. If the worker leaves the work before referring the dispute to the competent authority or before the competent authority makes its decision, no wage is to be paid to him for the days during which he left the work.

55.5. If the competent authority is not convinced with the reasons of termination of the contract of service under section 53, the competent authority shall make its decision that the contract of service is to continue in force, and the worker shall start his work and shall be paid all his entitlements for the period during which he was suspended. If the decision is the termination of the contract of service under section 53, the employer may terminate the contract of service and shall pay the worker not less than three quarters of the gratuity entitled to in addition to his other entitlements, except his wage for the period of notice.

#### Reduction of the number of workers for economic and technological reasons

56.1. The employer may apply to the competent authority for the reduction of the number of workers or to shut down the place of work for economic or technological reasons.

56.2. The competent authority shall submit the application to the competent commission to consider it

56.3. The competent authority shall make its decision on such application within a period of three weeks from the date of receiving the same in the light of the recommendation of the commission mentioned in subsection (6)

56.4. If the Governor (walli) approves it, the employer may make the reduction according to the Governor's decision. The employer has the right to make the reduction according to what was specified in his application if he did not receive the direction of reduction from the Governor after the expiry of four weeks from the date of receiving the application by the Governor; provided that no harm shall ensue to the reduced workers in relation to their rights.

56.5. If the employer reduced the number of workers without regard to the procedure specified in this section or if that reduction was made in contravention of the Commissioner's decision, or before his decision or before presenting his application, the following steps shall take place:

- a. The worker shall be returned to his work together with payment of full wage for the period during which he was suspended; or
- b. Payment of all entitlements of the worker including his wage for the period of suspension plus the payment of compensation equal to six months wages.

56.6. The competent authority shall constitute three commissions, the concerned state's organs are represented by the numbers which are prescribed as well as the employers and employees organisations in equal manner to consider and direct the applications concerning reduction of the number of workers or shutting down the place of work according to this Act and the regulations made hereunder.

#### Termination of the Contract of Service with notice by the worker

57. The worker, in cases other than those specified in section 53 may terminate the contract of service by notice according to the provision of sub-section (2) and (3) of section 50.

Termination of Service when the worker is on a journey or voyage connected with his employer's business

58. If the worker is engaged in a land or sea journey connected with his employer's business and the period of service contract expires or that the worker notifies the employer of the termination of the contract of service for the purpose of completing such journey, the employer may extend the period of service for another period not exceeding one month, starting from the date of the expiry of the contract of service. In such a case the worker shall be entitled to the quarter of the wage in addition to the wage agreed to in the contract of service, for any additional period of service.

Certificate of Service

59. The employer shall give the worker whose service has expired or terminated a certificate containing the name of the employer, the work he was performing, the period he spent in his service, and his wage without mentioning the reasons which lead to the expiry or termination of the contract of service.

## PART IX: AFTER SERVICE BENEFITS

Calculation of the gratuity

60.1. Subject to the provision of the Social Insurance Act 1990 or any other beneficial scheme, the worker who completed a period of not less than three years of continuous service shall be entitled to a gratuity for the period of his service to be calculated as follows:

- a. If he has completed a period of not less than three years, and not more than ten years he is entitled to one month's basic salary in respect of each year of service;
- b. If he has completed more than ten years, he shall be entitled to one month and half of the basic salary and if he has completed more than fifteen years, he shall be entitled to one and three quarters of a month's basic salary in respect of each additional year of service; provided that the gratuity shall not exceed thirty six months' basic salary .

60.2. The gratuities are calculated on the last month's basic salary

60.3. The gratuity of the production worker shall be calculated on the average of the actual income during the last three years.

Termination of Contract of Service by the worker

61.1. The worker who has completed a period of not less than three years of continuous service, and terminates the contract of service under section 57 shall be entitled to a gratuity calculated as follows:

- a. If he has completed five years he shall be entitled to the quarter of the gratuity;
- b. If he has completed five years but less than fifteen years he shall be entitled to half the gratuity;
- c. If he has completed fifteen years but less than twenty years in continuous service, he shall be entitled to the three quarters of the gratuity;
- d. If he has completed twenty years or more he shall be entitled to the full gratuity.

61.2. "Gratuity" in this section means the gratuity entitled under the provision of section 60.

Gratuity of the Seasonal Worker

62.1. Every worker doing each year a seasonal work for a period of not less than three months shall be entitled to a gratuity if the total of the days of the actual service with the same employer is not less than three years.

62.2. The gratuity is calculated according to the provisions of section 60 taking into consideration that the season is a complete year.

62.3. For the purposes of this section, the monthly salary shall be calculated on the basis of the actual income from the same employer during the last three years divided by thirty-six months.

62.4. The provision of this section shall be applied to the first season after the commencement of this Act.

#### Additional of the period of the previous service

63. The employer may, at the request of the worker who is re-appointed, add the previous service of that worker to his succeeding service and shall be considered continuous service if the worker refunded the gratuity which he had received at the end of his first service, or he has agreed with the employer on manner of refunding the gratuity without satisfying his obligation to refund the same.

### PART VIII: MISCELLANEOUS PROVISIONS

#### Work Regulations and Penalties

64. 1. Every employer shall make basic regulations and penalties regulations to be fixed in a conspicuous place in the place of work; provided that the basic work regulations shall include at least the hours of work and its time.

64.2. The employer shall deposit the basic work regulations with the Commissioner. The penalties regulations shall not be valid unless they are approved by the Minister.

64.3. The Minister may make standard penalties regulations according to the nature of every work for the employers to be as a guide in drafting their regulations.

64.4. The money obtained from fines shall be spent as for the benefit of the workers according to such terms and conditions as the Minister may prescribe.

#### Keeping of Workers' Records

65. Every employer shall keep a record for each worker containing particulars about wages, deductions, annual leave, sick leaves, their dates and numbers and other conditions stipulated in the contract of service and any other detailed regulations made under this Act; provided that the keeping of such particulars shall be at least for one year after the termination of the contract of service. The employer shall produce any of such particulars to the competent authority whenever he so requests.

#### Validity of Contract of Service with the successor

66. If another person replaces the employer who contracted with the worker for the reason of selling the enterprise or transferring it to a company or partnership or by the reason of transferring the ownership by means of inheritance, or gift or will, or by reasons of transferring the power of supervision and administration, in these cases the worker's contract of service shall be valid with such other person.

#### Prohibition of enforcing certain contract

67. The Court shall not enforce any contract under which the worker undertakes to pay the employer whole or part of any amounts, which the employer has paid or agreed to pay in connection with employment of such worker.

### Payments payable on the death of the worker

68.1. In the event of the death of the worker, his family members shall be entitled to the wages, gratuities or other payments which the deceased was entitled to under the provision of this Act at the time of his death.

68.2. The employer shall pay such wages, gratuities or other payments to a competent family court.

68.3. The family court distributes the wages, gratuities or other payments mentioned in subsection (2) to inheritors of the deceased.

### Inspection

69.1. For the achievement of the purposes of this Act, the competent labour office or any person authorized by the competent authority may enter during working hours into any place whenever he has the reason to believe that there is work in that place, in which one worker or more are employed and he may ask the employer or any responsible person on his behalf to give any information for the implementation of the provisions of this Act. The employer or the responsible person or the worker shall give such information whenever possible.

69.2. The competent authority may call the employer or any person acting on his behalf or the worker at the labour office for the purpose of settling any matter for the implementation of the provision of this Act.

69.3. The competent authority shall not disclose any information given to him according to the provision of this section, except in cases which necessitate the disclosure of such information for the purpose of performing his obligations.

It is prohibited to any person carrying out an inspection according to subsection (1) to carry out such inspection if he has an interest or may benefit from a private relation.

### The National and Federal Labour Relation Council

70.1.1. Council shall be established to be called "the National Labour Relations Council" by an order made by the Minister.

70.1.2. Council shall be established to be called "the Federal Labour Relations Council" by an order made by the competent authority

70.1.3. The two Councils, in addition to what is provided for in this Act, shall be responsible for the following:

- a. To give advice and consultation in matters referred to it by the Minister or the Governor ;
- b. To help the Minister or the Governor in the framing of the general policy for labour relations, and in the supervision of the implementation of such policy;
- c. To help the Minister in regulating, developing, consolidating labour relation and improving the relation between the employer and workers to create favourable conditions for work and production.
- d. To make studies and submit recommendations in the field of labour relations, to the Minister or the Governor for their decision.

70.2. The governor shall submit periodic reports on the performance of them Labour Relations Council in his state to the Minster in the framing of the general policy for labour relations

### Priority of entitlement of the workers

71. Payments due under the provision of this Act for the workers and those claiming under them shall have priority over any other debts after the judicial fees.

#### Exemption from the Judicial fees

72. 1. In all stages of litigation, suits raised by the worker or members of his family, or the trade unions, in respect of disputes connected with the provisions of this Act shall be exempted from judicial fees.

72.2. In the case that the judgement is not in favour of the worker the Court may order the worker to pay all or part of such fees.

#### Lapse of right by prescription

73. The right of the worker to raise a claim in respect of the acquired entitlement, according to the provisions of this Act shall lapse:

- a. in case of claims for gratuity, after the expiry of five years from the termination of the contract of service;
- b. in case of claims for wages or the other entitlements after the expiry of one year from the termination of the contract of service.

#### Conditions of Service and better Benefits

74. The Act shall not be interpreted in such a way so as to prevent the employer from making conditions more beneficial to the worker than the conditions of service and benefits prescribed by this Act.

### PART X1: INDUSTRIAL SAFETY

#### Application

75. The provisions of this Chapter shall be applied to the factories and other industrial operations in set out in Schedule No. 1 attached hereto.

#### Registration of factories

76.1. Every factory and every industry in any factory shall be registered in accordance with the provisions of this Act.

76.2. Every owner of an existing factory shall submit to the competent authority within one month of the date of commencement of this Act an application in the form set out in Schedule No. (2) hereto.

76.3. The factory shall be granted a registration Certificate in the form set out in Schedule No. (3) hereto.

#### Records of factories

77. As from the date of coming into force of this Act the competent authority shall keep registers of factories including all the particulars, which he thinks necessary for every factory.

#### The Licence

78.1. No factory shall be erected or an extension to a factory is built except after obtaining a license therefor from the competent authority.



78.2. The competent authority may close any factory or extension thereof if the same is being run without a licence.

78.3. The provisions of sub-section (1) shall apply to every alteration in any existing factory, the extension thereof, conversion of any existing premises into a factory or the installation or addition of new machinery.

78.4. Any thing which affects a factory internally or externally or which results in the addition of a new activity of the power or the alteration of the sections of the factory shall be deemed to be an alteration.

#### Requirements of Licence

79. 1. No license for erecting any factory or for carrying out any alteration therein shall be issued except after it is proved to the Commissioner that all the necessary requirements for erecting and running the factory have been satisfied.

79.2. The Minister shall specify, by an order to be published in the Gazette, the general requirements, which shall be satisfied in every factory.

79.3. The Commissioner shall specify the special requirements, which shall be satisfied in every factory.

#### Presentation of Applications for Licence

80. An application for obtaining a licence shall be presented to the competent authority in the form set out in Schedule No. (4) hereto and shall be accompanied by the site plans, drawing particulars of the machinery to be installed and the positions thereof, the raw materials to be used, the various building designs and all papers and documents required by the competent authority in according with the regulations and decisions made under the provisions of this or any other Act.

#### Inspection fees

81. The applicant shall be notified with the receipt of his application and shall be required to pay the inspection fees prescribed by the regulations.

#### Approval of an application

82.1. The applicant shall be notified after inspection of the approval or rejection of his application.

82.2. In the case of approval of erecting a factory, the applicant shall be notified with the requirements necessary to be complied with the factory and the period for satisfying them. The applicant shall notify the competent authority with this acceptance and satisfying such requirements. The competent authority shall, on ensuring that the said requirements have been satisfied, issue the required licence.

82.3. The licence holder shall obtain the final approval of the existing buildings from the Commissioner on the buildings being completed.

#### Relinquishment of application

83. On the expiry of one year from the date at which the period specified for satisfying the requirements, without the applicant notifying the competent authority with the same, the applicant shall be deemed to have relinquished his application.

#### Rejection of application and appeal

84.1. The decision of the competent authority refusing the issue of a licence shall state the reasons therefor.

84.2. An appeal against the decision of refusal shall lie to the Minister within a period not exceeding fifteen days of the date of notification of the applicant therewith.

#### Particulars required from the licence holder

85. Every licence holder shall present to the competent authority within a period not exceeding one year, a proper statement specifying therein the number of workers, the conditions of the work, the means of work, protection measures and any other particulars required by the Commissioner.

#### Assignment and transfer of a licence in case of death

86.1. The licence holder may assign his licence to any other person; provided that the assignee shall present an application, within fifteen days of the date of the assignment agreement, for transferring the said licence to his name, accompanied by the assignment agreement.

86.2. In the case of the death of a licence holder, the persons in whom the factory vests shall notify the competent authority, within fifteen days of the date of death, with their names and the name of their authorized agent in accordance with the provisions of this Act and shall carry out the procedure necessary for the transfer of the licence thereto within six months of the date of death.

#### Appointment of the industrial Safety Inspection

87.1. For the purpose of implementation of the provisions of this Act, the competent authority shall appoint industrial safety inspectors.

87.2. The competent authority shall have supervision over all factories and other industrial operations set out in Schedule No. 1 attached hereto.

#### Powers of Industrial Safety Inspections

88. 1. For the purpose of this Act and the Regulations made thereunder, an Industrial Safety Inspector shall have the power to enter the factory premises during working hours, by day or at night in order to inspect, inquire into accidents, examine the equipment and materials, and take samples thereof or to verify any other particulars, he thinks necessary.

88.2. The factory owner, his agent, or his deputy shall furnish the Industrial Safety Inspector with all the particulars and information he requires.

#### The Central Advisory Committee for Industrial Safety

89. 1. There shall be established a committee to be known as "The Central Advisory Committee for Industrial Safety" which shall have regional committees under it in such districts as may be specified by the Minister.

89.2. The Minister shall specify the functions and powers of the central Committee and of the regional committees under it.

89.3. The committee may constitute subcommittees in the states and it may authorise any of its functions to such subcommittees

#### Appointment of Industrial Safety Officers

90.1. Every factory owner employing not less than 30 and not exceeding 150 employees, shall appoint a part-time Industrial Safety Officer, and if the number of workers employed in the factory exceeds 150 he shall appoint a full-time Industrial Safety Officer.

90.2. The Commissioner may specify the qualifications of Industrial Safety officers.

#### Industrial Safety Committee

91.1. There shall be established in every factory the number of workers wherein is 500 or more, an Industrial Safety Committee which shall be constituted of the factory managers as Chairman, heads of productive sections in the factory and two representatives of the workers trade union as members and the Industrial Safety officers shall be the referendary thereof.

91.2. The Industrial Safety Committee shall be responsible for planning the industrial safety policy in the factory and supervising the implementation thereof in accordance with the provisions of this Act and decisions made thereunder. The Committees shall notify the competent authority and the employer with everything relating to industrial safety conditions within the factory and its recommendations in this respect.

91.3. The Industrial Committee shall hold a meeting on the occurrence of a serious accident or within a week of the discovery of any occupational disease.

#### Reporting Accidents

92. When any accident occurs in any factory within the course of the daily work or as a result thereof:

- a. Causes death of any worker; or
- b. Causes fire or explosion; or
- c. Causes a serious accident; or
- d. Disables any worker from performing his work for one or more days, the factory owner shall report the same at the end of the day on which the accident occurs in the Form set out in Schedule No. (5) hereto.

#### Medical Complexes

93.1. The governor, in consultation with the Minister of Health in the state, may order the establishment of medical complexes in industrial areas for medical treatment and supervision of workers in factories.

93.2. The Order referred to in sub-section (1) shall specify the establishment costs, financing the services, the functions and powers of the complexes. It may also include the rules and requirements which ensure the efficient carrying out of the duties thereof.

#### Notification of workers with occupational dangers

94. Every factory owner shall bring to the notice of his workers the occupational dangers and the protection means therefrom and shall take such precautions as may be necessary for the protection of his workers against industrial accidents or from occupational diseases.

#### Training of workers

95. No factory owner shall assign any work to a worker unless he has received sufficient training therein or unless such work is performed under the supervision of a person or persons of experience in such field of work.

#### Duties of workers

96.1. No worker employed in any factory shall perform any work of such nature as may expose him or others to danger. He shall have the benefit of all means of protection provided for him.

96.2. No worker shall intentionally damage or misuse materials, machinery, and other property of the factory

#### Stopping factories and industrial operations

97.1. The Commissioner may prohibit the operation of any factory if, he is of the opinion that:

- a. Any part of the passages, works or machinery used in any factory is in such a condition or so constructed or positioned that it cannot be used without risk of bodily injury or injury to the health of workers therein, unless the same is repaired, altered or moved so that such risk is removed;
- b. Any industrial operation in the course of completion or anything being made in any factory is in such state as may cause bodily injury or injury to the health of workers therein, unless the factory owner has taken the necessary measures for the removal of the danger.

97.2. The competent authority may prohibit the manufacture, modification, or finishing of any machinery or any other thing which is manufactured, modified or finished locally if it is feared that it may cause bodily injury to the health or workers in any factory or place of work.

#### Responsibility of the factory owner

98. Where any contravention of the provisions of this Act has been committed in any factory, the owner of such factory shall be deemed responsible for committing such contravention unless he proves otherwise; provided that where such contravention has been caused by the breach of any person employed in the factory of any of his duties, the owner of the factory shall not be responsible for such contravention in respect of such breach unless it is proved that he failed to take all reasonable means to prevent such breach.

## PART XII: TRADE DISPUTE AND STAGES OF SETTLEMENT OF DISPUTES

### Application of this chapter

99. This provisions of this chapter shall apply to every trade dispute which arises between one or more employers and all their workmen or officials or any group thereof whether members of a trade union or not; provides that an employer shall not negotiate with any group of employees whenever they are represented by a lawful trade union save through such an organization.

### Immunity of Trade Unions from actions in tort

100. 1. No action shall be entertained against a trade union or against any of its members or officials whether such action is instituted by workmen or employers on behalf of themselves or all other members of a trade union in respect of tort act alleged to have been committed by or on behalf of a trade union.

100.2. Nothing in the provisions of sub-section (1) shall absolve from any civil or criminal liability which may be incurred in accordance with the laws in force in respect of any act committed by a member or official of the trade unions or federations in violation of the rights and property of trade unions or federations.

### Conspiracy in relation to a trade dispute

101.1. No action shall be entertained in respect of any act done pursuant to an agreement between two or more persons if done in contemplation or instigation of a trade dispute.

100.2. Any activity which constituted an offense against state security, integrity or basic rules in accordance with the laws in force shall be an exception to sub-section (1).

100.3. For the purposes of this section an "offense" means any act which exposes the offender to penalty of imprisonment whether absolutely or at the discretion of the Court.

Permanent official of the Government subject to penalty.

102. Nothing in this Act shall be construed as exempting from disciplinary measures any permanent official of the Government who breaks his duties in contemplation of a trade dispute.

Immunity from actions for inducing breach of contract

103. No action shall be instituted in the civil courts against any employer or employee because of his doing any act in contemplation or furtherance of a trade dispute.

Intimidation and annoyance

104. Nobody shall compel any person to do or refrain from doing any act which such person has a legal right to do or refrain from doing the same, through:

- a. The use of violence, provocation, insulting such person and his wife or children or damaging his property;
- b. Following such person about from place to place;
- c. Concerning any tools, clothes, or property owned or used by such person or depriving him of their use;
- d. Watching or annoying any person at his home or any other place wherein he resides or on any road leading to such home or place.

### PART XIII: STAGES OF SETTLEMENT OF DISPUTES

#### Negotiations

105.1. In case of a trade dispute arising the parties to the dispute shall, within a period not exceeding two weeks enter into amicable negotiations for settlement of such dispute; provided that period of negotiations shall not exceed three weeks after the date of commencement of negotiations; and provided further that subject to agreement of the parties the period of negotiations may be extended for an other two weeks

105.2. The competent authority or any person acting on his behalf may attend at negotiations of any trade dispute. He shall not take part in negotiations save by agreement of the negotiators.

105.3. An agreement shall be drawn in three copies signed by the parties. Each party shall keep a copy and the third copy shall be sent to the competent authority within 15 days after the date of signature.

#### Mediation

106.1. In case of failure of the parties to the dispute to reach an agreement for settlement of the dispute under section 105, each party may, by himself or through his representative, apply to the competent authority, to endeavor to settle the dispute amicably

106.2. An application shall specify the names of the parties to the dispute or their representatives, their addresses, the subject and circumstances of the dispute, and the names of the negotiators; provided that the number of representatives of each party shall not exceed three persons

106.3. Whenever one of the parties to the dispute applies for intervention of the competent authority the other party shall be bound by his intervention.

106.4. If neither of the parties to the dispute applies for mediation, the competent authority may make a decision to refer the dispute for mediation without obtaining their consent. The two parties shall be bound by such decision.

The attendance of representatives of Minister of Finance at the mediation and negotiation sittings

107. When any public institution and corporation in which the government owns more than 50% is party to a trade dispute, the Minister of Finance appoints a representative for him to attend the mediation and negotiation sittings

#### Condition of Application

108. If the application is submitted by the employer it shall be signed by him or by his authorised agent. If it is submitted by the workmen, it shall be submitted by the president of the trade union to which they belong subject to approval of the executive committee of the trade union or half the number of the workmen or officials if they have no trade union.

#### Function of the Competent Authority

109. The competent authority shall, within a period not exceeding three weeks after the date on which he receives an application, endeavour to settle a dispute amicably guided by the information and documents presented by the parties to the dispute.

#### Amicable settlement of a dispute

110. If a dispute is amicably settled the agreement reached shall be signed by the competent authority and the representatives of the parties. A copy shall be given to each of them and the third copy shall be kept by the competent authority. The agreements shall be binding on the parties during the period of its continuance in force.

#### The period of continuance in force of an agreement

111. The agreement shall provide for the period of its continuance in force; provided that it shall not exceed three years unless the agreement deals with fixing of wages and working hours in which case such period may extend to a period not exceeding five years.

#### Reference of the dispute to Arbitration

112. If the competent authority becomes unable to settle a dispute amicably within the period referred to in section 109 it shall refer the dispute to an arbitration tribunal without the approval of the parties to the dispute; for determination whenever it deems it necessary.

#### Constitution of the Arbitration Tribunal

113.1. The competent authority shall, by a decision made by him, constitute an arbitration tribunal as follows:

- a. A judge whose grade is not less than Province judge, to be nominated by the Chief Justice in the state as Chairman;
- b. In case of private sector an employer who has no connection with the dispute to be nominated by the employer; in case of public sector a representative of Minister of finances as Member;
- c. a representative of a trade union which has no direct connection with the subject of the dispute to be nominated by the trade union party to the dispute as member;
- d. a representative of the Ministry of Manpower as member;
- e. a person experienced in industrial relations as member .

113.2. Subject to subsection (1) and in cases where any public institution and corporation in which the government own more than 50% of its shares party to a trade dispute concerning the conditions of service of workers, the Minister of Finance appoints a representative in arbitration tribunal and in cases of federal public institution and corporation the competent governor appoints a representative for him in arbitration tribunal

#### The first session of the Arbitration tribunal and quorum

114.1. The Chairman of an arbitration tribunal shall, within a period not exceeding one week from the date of reference of the dispute to arbitration, fix a date for hearing thereof.

114.2. Presence of four members including the Chairman shall constitute a quorum of an arbitration tribunal.

#### The period for settlement of a dispute

115. An arbitration tribunal shall consider and decide a dispute referred thereto within a period not exceeding four weeks after the date of reference to arbitration and the Chairman of an arbitration tribunal may require the competent authority to extend the period for settlement of a dispute not exceeding four weeks

#### Powers of the Arbitration Tribunal

116. An arbitration tribunal shall have powers to summon witnesses, administer an oath to them, compel them to produce documents and books which it deems necessary to pursue, summon experts, move to the places of work and to take all necessary measures which enable it to determine the dispute without adhering to the means of proof applicable in the civil courts.

#### Appearance of Advocates and consultants

117. A party to a dispute may engage an advocate to represent him before an arbitration tribunal.

#### The laws to be applied by Arbitration Tribunal

118. An arbitration tribunal shall apply the laws in force, and may in so doing resort to custom and the principles of equity in accordance with the general economic and social conditions in the area.

#### Award

119. An arbitration tribunal shall make its awards according to the opinion of the majority. A dissenting opinion may be given and its reasons shown.

#### The Award shall be binding

120.1. An award of an arbitration tribunal shall be final and shall not be challenged in any way whatsoever.

120.2. The Chairman of an arbitration tribunal shall notify the parties to the dispute of the award and give them a copy thereof. He shall send a copy of the award with all the documents relating to the dispute to the Commissioner to be kept by him. He shall give extracts thereof to those concerned.

#### Residence expenses of the representatives of workmen and unions

121. In case an award is made in favour of workmen, officials or unions the arbitration tribunal shall bind the employer to pay the expenses it decides to meet the transportation and residence expenses borne by representative of workmen, officials or unions.

#### Rectification or amendment of an award

122. The competent authority or any of the parties to a dispute may request the arbitration tribunal to explain any matter of confusion or vagueness appearing in an award and make a decision in respect thereof. The arbitration tribunal shall make its decision after re-hearing the parties to the dispute or without doing so. The subsequent award it makes shall be deemed an amendment of its first award.

#### Remuneration of the Chairman and Members of an Arbitration Tribunal

123. The Minister shall determine the remuneration of the Chairman and members of an arbitration tribunal and the manner of their payment.

#### Stoppage of work or closure of place of work prohibited

124. Workmen and officials are prohibited from stoppage of work, whether total or partial and no employer shall close up the place of work whether totally or partially by reason of a trade dispute in the following cases:

- a. Before entering into negotiations;
- b. Immediately after any party applies for mediation;
- c. During mediation proceeding;
- d. Immediately after the decision of the Minister or the Commissioner to refer a dispute to arbitration;
- e. During arbitration proceedings;
- f. After making and summon the decision of the arbitration tribunal.

### PART XIV: FINAL PROVISION

#### Amendment of schedules

125. The Minister may, by an order published in the Gazette make any Amendment in schedules hereto.

#### Penalties

126.1. Without prejudice to any more severer penalty provided for in any other law, any person shall be punished with imprisonment for a term not exceeding six months or with fine or with both who: -

- a. Causes or takes steps to incorporate any wrong information in the worker's record of service with intention to defraud or causes or permits the delay of payment of the worker's entitlements depending on that record knowing of such fraud; or
- b. Provides or permits the introduction of any information or documents to the competent authority knowing that it is not correct.

126.2. It shall be deemed an offence if any contravention or abstention of the implementation of any of the provisions of this Act or the provisions of any order or regulations or rules made thereunder is punishable where a certain punishment is not provided for under this Act or any other law, with imprisonment for a term not exceeding six months or with both and in case of repetition of the contravention the fine may be to doubled.

126.3. The competent Court may order that a part of the fine be paid to the injured person.

#### Power to make regulations

127. The Minister may make the necessary regulations for implementation of the objects of this Act.

#### SCHEDULE No. 1



## FACTORIES AND INDUSTRIAL OPERATIONS

(See Section 75)

1. Factories
2. Electrical works.
3. Building operations which are carried out on a commercial basis or business conducted for the purpose of a commercial or industrial scheme. The same includes construction, demolishing, alteration, repairing, or maintenance of premises or preparations for laying the foundations of a building such as making of barricades or excavation and other construction works including paving and macadamizing roads.
4. Works and operations done in ships or streamers including any warehouse of the owners of such ships or steamers and docks supervisors, or for purposes wherein mechanical power is used such as the operations of loading or unloading, or supplying any ship with fuel in the docks or harbor and also all machinery used in such operations Machinery includes any gangway or ladder used by any person to load, unload, supply ships with fuel or otherwise.
5. Loading, unloading, laying and transport of goods operations or any other operations inside or outside the warehouse or place of storage thereof which are conducted on commercial basis or conducting business or for the purpose of a commercial or industrial scheme.
6. Agricultural and forestry works and the like.
7. Mining and quarries works.
8. Land, sea, river or air transport works.
9. Office, shops or places of amusement works and the like.
10. Occupational health works.

### SCHEDULE No. 2

#### APPLICATION FOR REGISTRATION

Section 76 of Labour Act 1997

With respect to the registration of the factory under section 76 of the Labour Act. 1997.

1. Name of the factory owner.....
2. Address of the Factory.....
3. Site of the factory.....
4. Economic and Industrial activity.....
5. Type of machinery.....
6. Where boilers or pressure receptacles are used, there shall be stated therein:
  - a. Type.....
  - b. Date of manufacture.....
  - c. Pressure.....

1. Number of workers:
  - a. Men.....
  - b. Women.....
  - c. Infants:

(i) Males.....

ii. Females.....

Date.....Signature of the factory owner.....

### SCHEDULE No. 3

## FACTORY CERTIFICATE OF REGISTRATION

1. Name of the Factory.....
2. Name of the Factory owner.....
3. Address of the Factory.....
4. Site of the factory.....
5. Date of establishing the factory.....
6. Registration number of establishment of the factory.....
7. Date of issue.....

I certify that this factory has been duly registered by virtue of section 6 of the Industrial Safety Act. 1976.

Date..... (Signature)

Commissioner of Labour

## SCHEDULE No. 4

Application for license for building a factory or extensions in a factory in accordance with section 80 of the Labor Act. 1997.

1. Name of the factory owner.....
2. Name and address of the Factory.....
3. Economic and Industrial activity.....
4. Number of the Plot.....Block.....

Area.....

Site.....

5. Building materials used in:

- a. Floors.....
- b. Walls.....
- c. Roofs.....

1. The types of machinery used in the factory:

- a. Are they run by electricity?
- b. Are they run by diesel?
- c. Are they run by steam?
- d. Whether run manually?

1. Are steam boilers and pressure receptacles used; if so state their:

- a. Number.....
- b. Serial No.....
- c. Pressure.....
- d. Date of manufacture.....

1. Storage:

- a. Chemical substances;
- b. Organic substances;
- c. Other waste.

Workers employed.

Stages Men Women Infants Total

1st

2nd

3rd

Date..... Signature of Factory owner.....

#### SCHEDULE No. 5

#### REPORT OF AN ACCIDENT

In accordance with section 92 of the Labour Act. 1997.

1. Name of the factory owner.....
2. Address.....
3. Economic activity.....
4. Date of accident.....
5. Nature of accident.....
6. Duration of accident.....
7. If caused by a machine, give name and part causing the injury.....

.....

8. State whether the machine is operated by mechanical power at the time of accident.....
9. State briefly how the accident occurred.....
10. Particulars of injured person or persons:
  - a. Name.....
  - b. Sex.....
  - c. Age.....
  - d. Address.....
  - e. Pay.....
  - f. Appointment date.....

Date..... Signature of factory owner.....

#### SCHEDULE No. 6

#### OCCUPATIONAL DISEASES

#### TYPE OF DISEASE

#### OPERATION AND WORKS CAUSING IT

1. Lung disease caused by Inhalation of dust or sand (fibrosis).
  - (a) Silicosis: Any occupation involving exposure to silica dust or other substance which contains more than 5 percent of silica;

(b) Asbestosis: Any work in mining, quarrying, engraving, stone crushing, stone grinding, polishing of metals with sand or any other work involving the same exposure, or exposure to asbestos dust to an extent that causes such disease;

(c) Byssinosis: All industries and works wherein the workers are exposed to cotton dust to an extent that causes the disease such as spinning, ginning and weaving industries;

(d) Bagasosis: All industries and works wherein the workers are exposed to sugar cane dust to the extent that such disease is caused as working in sugar refineries.

2. Pulmonary dust disease. Inhalation of sand or dust accompanied by pulmonary tuberculosis; provided that the pulmonary dust disease is the original cause of the tuberculosis infection: Industries wherein the workers are exposed to sand or dust containing silica.
3. Poisoning by lead in the extract or compound thereof: Any occupation involving the use of or handling lead or lead compounds or substances containing lead. This includes:
  - a. Lead extract;
  - b. Work in metals containing lead or galvanized lead;
  - c. Manufacture of used lead alloy;
  - d. Making of any articles out of lead alloy or mixture thereof;
  - e. The use of lead in the manufacture of polygraph cylindrical instrument for making copies out of originals;
  - f. Manufacture of lead compounds;
  - g. Manufacture or repair of acid lead accumulators;
  - h. Preparation or use of glaze containing lead;
  - i. Lead filing or glass glue containing lead;
  - j. Any other occupation involving use of lead or its compounds.
1. Poisoning by arsenic and its complications such as neurotic tremors, kidney and liver physiological tremors, Dermatitis and other diseases and complications resulting from poisoning by arsenic: Any work involving the use or handling of arsenic, its compounds or substances containing it or any occupation involving exposure to fumes or vaporous of arsenic or its compounds or any substance containing it. This includes processes where arsenic or its compounds is generated or work in the manufacture of arsenic or its compounds.
2. Poisoning by chrome, ulceration and other disease resulting from work in chrome metal or its compounds: Any work involving preparation or generation, use or handling of chrome substance containing it.
3. Poisoning by Nickel; its compounds or derivatives: Any work involving preparation or generation, use or handling of Nickel or its compounds. This includes exposure to Nickel carbonyl gas.
4. Poisoning by manganese, its compounds or derivatives: Any work involving the use of or handling manganese, its compounds or substances containing it or any work involving exposure to manganese fumes, dust, its compounds or any substances containing it. This includes work in extraction, preparation, crushing or packing manganese or its compounds.
5. Corneal Ulceration, skin inflammation or Ulceration, malignant skin diseases caused by asphalt, mineral oil, paraffin oil, compounds, products or by products of the above mentioned substances: Any occupation involving extraction use, generation or work in such substances, their compounds or derivatives or exposure to their fumes or dust.
6. Dermatitis, skin inflammation or ulceration resulting from dusts or liquids: Cement works, building by cement or exposure thereto, sieving and mixing of cement. Work in or the use of sieving or mixing of turpentine and its derivatives, glazing of carnet or synthetic paint. Work in the production of or using of alkaline salts, and work involving products or any other work from which such diseases may arise.
7. Fibrosis of the lense cornea resulting from exposure to excessive heat or glaze: Any work which involves continuous exposure to glaze or radiation emitted from melting glass, hot metals, melting metals or exposure to excessive heat or glaze that may lead to fibrosis of the eye or defective vision.

8. Poisoning by carbon Monoxide: Any work involving exposure to carbon monoxide. This includes processes of its preparation, use or generation and that which is produced in garages, brick and lime burning.
9. Poisoning by carbon Dioxide: Any work involving preparation generation or handling of carbon dioxide or exposure to the fumes or vapours pours containing it.
10. Poisoning by mercury or its compound, derivatives or ad-mixtures: Any work involving the use the of or handling mercury or its compounds or any substance containing it or any work involving exposure to mercury dust, vapour compounds or a substance containing it. This includes handling of mercury as a raw material, mercury industries or its compounds, the manufacture of measuring and laboratory instruments, raw material necessary for making hot mercury glazy, the use of mercury sprayers in the manufacture of electrical lamps. The manufacture of explosives containing mercury.
11. Poisoning by phosphorous or its compound or resulting ad-mixtures: Any work involving the use of or handling phosphorous or its compounds or a substance containing it or any occupation involving exposure to phosphorous fumes, dust of its compounds or any substance containing it.
12. Poisoning by sulphur or its gaseous compounds or resulting ad-mixtures: Any work involving the use or handling of sulphur or its compounds or any substances containing it or any work involving exposure to sulphur, fumes or its compounds or any substance containing it, including any gascous or non-gascous exposure to sulphur.
13. Poisoning by benzene or similar substances or derivatives of nitrogen, ammonia and pathological admixtures: Any work involving the extraction, use handling, touching, preparation, discharge or benefit by benzene or similar substances and derivatives of nitrogen (azote) and ammonia or exposure to its fumes or dust.
14. Poisoning by derivatives of hydrocarbons (type A): Any work involving extraction or use of hydrocarbon salts (Type A) or similar substances or derivatives.
15. Poisonong by Carbong Tetrachloride: Any work involving extraction use or handling of carbon tetrachloride or any work involving exposure to fumes or vapours containing it. This includes work in painting, varnishinh and synthetic fabrics.
16. Poisoning by Carbon Disulphide: Any work involving extraction, preparation, use or handling of carbon disulphide or the exposure to its fumes or to vapours containing it.
17. Poisoning by methy Bromide: Any work involving use or handling of methl bromide or exposure to its fumes or vapours. This includes fumigation, insecticides and dock workers who are exposed to this gas.
18. Poisoning by Sulphuric Acid: Any work involving preparation or handling of sulphuric acid or exposure to its fumes or to vapours containing it. This includes battery workers, glass factories and laboratory workers.
19. Onset of systems caused by: (a) Radium or its active compounds (Radium): (b) Ionizings: Any work involving exposure to radium or any radioactive substance. Rays or ionized radium e.g. workers in radio-isotope-treatment, workers in X-rays and those exposed to ionized radiations.
20. Depression, sickness, affection of bones, muscles or joints caused by compressed air: Any work involving exposure to air compressed by artificial methods to an extent that causes such disease.
21. Anthrax: Any work involving handling of anthrax infected animals or handling the shipping or transportation of carcasses, skin, hides, horns, hooves, including unloading and transport of such by-products.
22. Anxiety Scelerosis compensation neurosis: Any work and industries involving symptoms arising from such hazards.
23. Poisoning by Sulphur Dioxide: Any work involving the use, handling or preparation of sulphur dioxide or exposure to its fumes or vapours containing it. This includes car repairing workshop, pesticides and artificial fertilizers.

