

LABOUR ACT

Act No. 651 of 2003

Section 1-Scope of Application.

This Act applies to all workers and to all employers except the Armed Forces, the Police Service, the Prison Service and the Security and Intelligence Agencies specified under the Security and Intelligence Agencies Act 1996 (Act 526).

Section 2-Establishment of Public Employment Centres and Registration of Private Employment Agencies.

(1) The Minister shall by Executive Instrument establish Public Employment Centres for the discharge of the functions stated in section 3.

(2) A Centre established under subsection (1) is answerable to the Minister.

Section 3-Functions of the Centres.

Each Centre shall

(a) assist unemployed and employed persons to find suitable employment and assist employers to find suitable workers from among such persons;

(b) take appropriate measures to

(i) facilitate occupational mobility with a view to adjusting the supply of labour to employment opportunities in the various occupations;

(ii) facilitate geographical mobility with a view to assisting the movement of unemployed and employed persons to areas with suitable employment opportunities; and

(iii) facilitate temporary transfers of unemployed and employed persons from one place to another as a means of meeting temporary local maladjustment in the supply of or demand for unemployed persons;

(c) assist in social and economic planning by providing labour market information to stakeholders to ensure a favourable employment situation;

(d) provide vocational guidance facilities to young persons;

(e) provide arrangements for the registration, employment, training and retraining of persons with disability; and

(f) provide arrangements for the registration of employed and unemployed persons

(i) with recognised technical, vocational or professional qualifications or those without these qualifications but have had experience of a level higher than that of an artisan;

(ii) who are of the level of supervisors or foremen;

- (iii) with experience at administrative, managerial or senior executive levels; and
- (iv) who have received training at the tertiary level.

Section 4-Registration of Unemployed Persons.

- (1) An unemployed person may make an application in the prescribed form to the appropriate Centre for registration in the appropriate register.
- (2) On receipt of the application, the officer in charge of the Centre shall enter the particulars of the application in the appropriate register and issue to the applicant a certificate of registration in the prescribed form.

Section 5-Employment through Centres or Agencies.

An employer may employ any worker either through a Centre or a Private Employment Agency.

Section 6-Employment Data.

- (1) The Chief Labour Officer or an officer authorised by the Chief Labour Officer shall, submit to every employer a questionnaire relating to employment of workers by the employer within the respective Centre.
- (2) The employer shall complete and return the questionnaire to the Chief Labour Officer or the authorised officer within fourteen days after the expiry of every three month.
- (3) Where an employer fails or refuses to complete and return the questionnaire as required under subsection (2) the Chief Labour Officer shall direct the employer to do so within a specified time, and the employer shall comply with the direction.

Section 7-Private Employment Agencies.

- (1) A person shall not establish or operate a Private Employment Agency unless that person is a corporate body, has applied to, and has been granted a licence by the Minister.
- (2) A licence granted by the Minister under subsection (1) shall, subject to the terms and conditions stipulated in the licence, be valid for a period of twelve months.
- (3) The licence of an Agency may be renewed for a period of twelve months upon application made to the Minister.
- (4) There shall be paid by an Agency for the issue or renewal of the licence such fee as the Minister may by legislative instrument prescribe.
- (5) An Agency may recruit workers for employment in a country outside Ghana if it is authorised to do so under its licence and if there exists an agreement between the Government and that other country.
- (6) An Agency shall submit to the Minister not later than fourteen days after the end of

every three months returns in respect of workers recruited for employment, whether in Ghana or outside Ghana, during that period.

(7) An Agency shall refund fifty percent of the fees paid by a client to the Agency, if the Agency is unable to secure a job placement for the client after the expiration of three months.

(8) The Minister shall revoke the licence of any Agency that fails to comply with subsection (6).

Section 8-Rights of Employer.

Subject to this Act and any other enactment, the rights of an employer include the right to

- (a) employ a worker, discipline, transfer, promote and terminate the employment of the worker;
- (b) formulate policies, execute plans and programmes to set targets;
- (c) modify, extend or cease operations; and
- (d) determine the type of products to make or sell and the prices of its goods and services.

Section 9-Duties of Employers.

Without prejudice to the provisions of this Act and any other enactment for the time being in force, in any contract of employment or collective agreement, the duties of an employer include the duty to

- (a) provide work and appropriate raw materials, machinery, equipment and tools;
- (b) pay the agreed remuneration at the time and place agreed on in the contract of employment or collective agreement or by custom without any deduction except deduction permitted by law or agreed between the employer and the worker;
- (c) take all practicable steps to ensure that the worker is free from risk of personal injury or damage to his or her health during and in the course of the worker's employment or while lawfully on the employer's premises;
- (d) develop the human resources by way of training and retraining of the workers;
- (e) provide and ensure the operation of an adequate procedure for discipline of the workers;
- (f) furnish the worker with a copy of the worker's contract of employment;
- (g) keep open the channels of communication with the workers; and
- (h) protect the interests of the workers.

Section 10-Rights of a Worker.

The rights of a worker include the right to

- (a) work under satisfactory, safe and healthy conditions;
- (b) receive equal pay for equal work without distinction of any kind;
- (c) have rest, leisure and reasonable limitation of working hours and period of holidays with pay as well as remuneration for public holidays;
- (d) form or join a trade union;
- (e) be trained and retrained for the development of his or her skills; and
- (f) receive information relevant to his or her work.

Section 11-Duties of Workers.

Without prejudice to the provisions of this Act, the duties of a worker in any contract of employment or collective agreement, include the duty to

- (a) work conscientiously in the lawfully chosen occupation;
- (b) report for work regularly and punctually;
- (c) enhance productivity;
- (d) exercise due care in the execution of assigned work;
- (e) obey lawful instructions regarding the organisation and execution of his or her work;
- (f) take all reasonable care for the safety and health of fellow workers;
- (g) protect the interests of the employer; and
- (h) take proper care of the property of the employer entrusted to the worker or under the immediate control of the worker.

Section 12-Contract of Employment.

(1) The employment of a worker by an employer for a period of six months or more or for a number of working days equivalent to six months or more within a year shall be secured by a written contract of employment.

(2) A contract of employment shall express in clear terms the rights and obligations of the parties.

Section 13-Written Statement of Particulars of Contract of Employment.

Subject to the terms and conditions of a contract of employment between an employer and a worker, the employer shall within two months after the commencement of the employment furnish the worker with written statement of the particulars of the main terms

of the contract of employment in the form set out in Schedule I to this Act signed by the employer and the worker.

Section 14-Prohibition of Restrictive Conditions of Employment.

An employer shall not in respect of any person seeking employment, or of persons already in his employment

(a) require that person to form or join a trade union or to refrain from forming or joining a trade union of his or her choice;

(b) require that person to participate or refrain from participating in the lawful activities of a trade union;

(c) refuse to employ the person because of that person's membership of a trade union;

(d) promise the person any benefit or advantage for not participating in trade union activities; or

(e) discriminate against the person on grounds of gender, race, colour, ethnic origin, religion, creed, social or economic status, disability or politics.

Section 15-Grounds for Termination of Employment.

A contract of employment may be terminated,

(a) by mutual agreement between the employer and the worker;

(b) by the worker on grounds of ill-treatment or sexual harassment;

(c) by the employer on the death of the worker before the expiration of the period of employment;

(d) by the employer if the worker is found on medical examination to be unfit for employment;

(e) by the employer because of the inability of the worker to carry out his or her work due to

(i) sickness or accident; or

(ii) the incompetence of the worker; or

(iii) proven misconduct of the worker.

Section 16-Types of Contract of Employment.

Where by a contract of employment a worker is entitled to be paid,

(a) remuneration at a monthly rate, the contract is a contract from month to month;

(b) remuneration at a weekly rate, the contract is a contract from week to week; or

(c) remuneration at a rate other than monthly or weekly rate, the contract is a contract determinable at will.

Section 17-Notice of Termination of Employment.

(1) A contract of employment may be terminated at anytime by either party giving to the other party,

(a) in the case of a contract of three years or more, one month's notice or one month's pay in lieu of notice;

(b) in the case of a contract of less than three years, two weeks' notice or two weeks' pay in lieu of notice; or

(c) in the case of contract from week to week, seven days' notice.

(2) A contract of employment determinable at will by either party may be terminated at the close of any day without notice.

(3) A notice required to be given under this section shall be in writing.

(4) The day on which the notice is given shall be included in the period of the notice.

Section 18-Remuneration on Termination of Employment.

(1) When a contract of employment is terminated in the manner stated in section 15, the employer shall pay to the worker,

(a) any remuneration earned by the worker before the termination;

(b) any deferred pay due to the worker before the termination;

(c) any compensation due to the worker in respect of sickness or accident; and

(d) in the case of foreign contract, the expenses and necessities for the journey and repatriation expenses in respect of the worker and accompanying members of his or her family in addition to any or all of the payments specified in paragraphs (a), (b) and (c) of this subsection.

(2) The employer shall pay to the worker not later than the date of expiration of the notice all remuneration due to the worker as at that date.

(3) Where no notice is required, the payment of all remuneration due shall be made not later than the next working day after the termination.

(4) Notwithstanding section 17(1), either party to a contract of employment may terminate the contract without notice if that party pays to the other party a sum equal to the amount of remuneration which would have accrued to the worker during the period of the notice.

Section 19-Exception

The provisions of sections 15, 16, 17 and 18 are not applicable where in a collective agreement there are express provisions with respect to the terms and conditions for termination of the contract of employment which are more beneficial to the worker.

Section 20-Leave Entitlement.

(1) In any undertaking every worker is entitled to not less than fifteen working days leave with full pay in any calendar year of continuous service.

(2) The expression "full pay" means the worker's normal remuneration, without overtime payment, including the cash equivalent of any remuneration in kind.

Section 21-Continuous Service.

(1) Continuity of service shall not be regarded as interrupted by mere change of ownership or management of the undertaking.

(2) Where the work is not regularly maintained throughout the year, the requirement of continuous service shall be deemed to have been met if the worker has worked for not less than two hundred days in the particular year.

Section 22-Interruption of Work by Public Holidays, Sickness of Worker.

Public holidays and absence from duty due to sickness certified by a medical practitioner, and pregnancy and confinement, shall not affect the annual leave entitlement of a worker.

Section 23-Interruption of Work by Voluntary Communal Work, Civic Duties and Special Leave.

A period during which a worker is absent from his or her normal duties with the permission of the employer on account of the worker's participation in voluntary communal work, the discharge of civic duties or the granting of special leave with or without pay, shall not be counted as part of the worker's annual leave.

Section 24-Sick Leave not Part of Annual Leave.

A period of absence from work allowed owing to sickness, which is certified by a medical practitioner, and which occurs after the commencement of and during annual leave shall not be computed as part of the leave.

Section 25-Leave to be Uninterrupted.

(1) Every worker is entitled to enjoy an unbroken period of leave but an employer, in cases of urgent necessity, may in accordance with this section, require a worker to interrupt his or her leave and return to work.

(2) Where a worker is required by the employer to interrupt his or her leave in the circumstances specified in subsection (1) the worker shall not forfeit the right to the remainder of the leave but shall take the leave anytime thereafter.

(3) Where a worker takes his or her annual leave at the end of a calendar year, the leave may continue except as provided in sub-section (1) without interruption, into the following year.

Section 26-Employer to bear Cost of Leave Interruption.

Any employer who requires a worker to interrupt his or her annual leave in the circumstances stated in section 25, shall make up to the worker any reasonable expense incurred on account of the interruption, and also resumption of the leave by the worker.

Section 27-Record of Employment, Leave.

(1) A worker shall, as much as may be possible, be given notice of the date of commencement of his or her annual leave, at least, thirty days before the worker takes the leave.

(2) Every employer is required to keep a record showing the following particulars,

(a) the date of employment of each worker employed by the employer and the duration of the annual leave to which the worker is entitled;

(b) the dates on which the annual leave is taken by each worker; and

(c) the remuneration received by each worker in respect of the annual leave.

Section 28-Worker May Take Leave in Two Equal Parts

Without prejudice to the provisions of this Sub-Part, a worker may be permitted to take his or her annual leave in two approximate equal parts.

Section 29-Leave Entitlement to be Restored to Suspended Worker on Reinstatement.

Where a worker, suspended from the service of his or her employer prior to disciplinary or criminal proceedings being taken against him or her is reinstated, the worker shall be entitled to take the leave he or she would have had if he or she had not been suspended.

Section 30-Termination of Employment not to Affect Leave Entitlement Earned.

(1) Where the employment of a worker is terminated, the worker is entitled to annual leave in proportion to the period of service in the calendar year.

(2) The worker shall not be deprived of any other grants or awards to which the worker is entitled including payment in lieu of notice of termination.

(3) Subsections (1) and (2) do not apply to cases where the employer has the right to dismiss a worker without notice.

Section 31-Agreement to Forgo Leave to be Void.

Any agreement to relinquish the entitlement to annual leave or to forgo such leave is void.

Section 32-Sub-Part not Applicable to Family Concerns.

This Sub-Part does not apply to a person employed in an undertaking in which only members of the family of the employer are employed.

Section 33-Maximum Hours of Work.

The hours of work of a worker shall be a maximum of eight hours a day or forty hours a week except in cases expressly provided for in this Act.

Section 34-Different Hours of Work.

The rules of any undertaking or its branch may prescribe hours of work different from eight hours a day on one or more days in the week, subject to the following,

(a) where shorter hours of work are fixed, the hours of work on the other days of the week may be proportionately longer than eight hours but shall not exceed nine hours a day or a total of forty hours a week;

(b) where longer hours of work are fixed the average number of hours of work reckoned over a period of four weeks or less shall not exceed eight hours a day or forty hours a week; or

(c) in the case of an undertaking the work of which is of a seasonal nature, where longer hours of work are fixed, the average number of hours of work over a period of one year shall not exceed eight hours a day except that the hours of work which may be fixed under this paragraph shall not exceed ten hours a day.

Section 35-Paid Overtime.

(1) Subject to subsections (2) and (3), where a worker in an undertaking works after the hours of work fixed by the rules of that undertaking, the additional hours done shall be regarded as overtime work.

(2) A worker in any such undertaking may not be required to do overtime work unless that undertaking has fixed rates of pay for overtime work.

(3) A worker shall not be compelled to do overtime work except for undertakings or enterprises

(a) the very nature of which requires overtime in order to be viable; or

(b) which are subject to emergencies that require that workers engage in overtime work in order to prevent or avoid threat to life and property.

Section 36-Shifts.

Workers may be employed in shifts, but the average number of hours reckoned over a period of four weeks or less shall not exceed eight hours a day or forty hours a week if there is an established time-table for the shifts.

Section 37-Manual Labourers.

(1) The Minister may prescribe shorter hours of work for workers in jobs declared to be manual labour and in jobs likely to be injurious to health.

(2) Work for which shorter hours are prescribed under section (1) shall be deemed to be equivalent to work done on the basis of eight hours a day for the purposes of all rights which may flow from the employment.

Section 38-Unpaid Overtime

Notwithstanding section 35, a worker may be required to work beyond the fixed hours of work without additional pay in certain exceptional circumstances including an accident threatening human lives or the very existence of the undertaking.

Section 39-Commencement and Closing of Work.

The time of commencement and closing of a worker's hours of work in any undertaking shall be fixed by the rules of the undertaking concerned subject to the following:

(a) in the case of operations underground, work commences when the worker enters the cage or lift to go down and ends when the worker leaves it at the surface; and

(b) in the case of operations underground, where the work place is reached by going down a gallery, the hours of work is reckoned from the time when the worker enters the gallery to the time when he or she leaves it at the surface.

Section 40-Undertakings to which this Sub-Part Applies.

In any undertaking

(a) where the normal hours of work are continuous, a worker is entitled to at least thirty minutes break in the course of the work, but the break forms part of the normal hours of work; and

(b) where the normal hours of work are, in two parts, the break should not be of less than one hour duration and does not form part of the normal hours of work.

Section 41-Daily Rest Period.

(1) Without prejudice to section 40, a worker shall be granted a daily continuous rest of at least twelve hours duration between two consecutive working days.

(2) The daily rest of the worker in an undertaking operating on a seasonal basis may be of less than ten hours but of not more than twelve hours' duration over a period of at least sixty consecutive days in the calendar year.

Section 42-Weekly Rest Period.

A worker shall, in addition to the rest periods provided in sections 40 and 41, be given a rest period of forty-eight consecutive hours, in every seven days of normal working hours, and the rest period may, for preference, start from Saturday and end on the Sunday following and shall wherever possible, be granted to all of the workers of the undertaking.

Section 43-Rest Periods not to Include Public Holidays.

The rest periods specified in this Sub-Part do not include public holidays.

Section 44-Exceptions.

This Sub-Part and sections 33 and 34 do not apply to task workers or domestic workers in private homes.

Section 45-Registration of Persons with Disability.

(1) A person with disability may apply to the Centre for registration.

(2) The Centre shall upon registration of a person with disability, issue the person a certificate of registration in a form determined by the Chief Labour Officer.

Section 46-Special Incentives.

(1) Special incentives shall be provided to an employer who employs persons with disability.

(2) Special incentives shall be given to a person with disability engaged in a business or enterprise.

(3) The special incentives shall be determined by the Minister.

Section 47-Notification of Employment of Persons with Disability.

An employer who employs a person with disability shall notify the nearest Centre of the employment and where the employer fails to do so, the Chief Labour Officer shall direct the employer to comply.

Section 48-Particulars of Contract of Employment.

A contract of employment with a person with disability shall include the particulars of the job or post, the working hours, amount of remuneration, transport facilities, and any special privileges which that person shall be accorded by virtue of the employment.

Section 49-Persons with Disability in Public Service Posts.

Persons with disability who enter the public service shall be appointed on the same terms as persons without disability, irrespective of whether they are allowed to work fewer hours; and shall be classified in accordance with their previous period of qualifying service for the purposes of promotion and other public service awards.

Section 50-Employment not to Cease upon Disablement.

The employment of a person who suffers disability after the employment, shall not cease if his or her residual capacity for work is such that he or she can be found employment in the same or some other corresponding job in the same undertaking, but if no such corresponding job can be found, the employment may be terminated by notice.

Section 51-Length of Notice of Termination.

The length of notice of termination required to be given in the case of a person with disability shall not be shorter than one month.

Section 52-Transfer of Persons with Disability.

(1) Subject to subsection (2), a person with disability in employment may be transferred to another job within the same undertaking if the other job can be regarded in the light of all relevant circumstances as a corresponding job.

(2) The relevant circumstances mentioned in subsection (1) in relation to a person with disability include

- (a) the person's qualifications;
- (b) the person's physical condition;
- (c) the person's place of residence; and

(d) whether the transfer may worsen the conditions in which the person entered the employment.

Section 53-Training.

Where it is necessary to train or retrain a person with disability to overcome any aspect of his or her disability in order to cope with any aspect of the person's employment, the employer may provide or arrange at the employer's expense the training or retraining for the person.

Section 54-Part to be Read as one with Other Relevant Enactment.

This Part shall be read as one with any enactment on the employment of persons with disability and where there is a conflict, the provisions of this Part shall prevail.

Section 55-Night Work or Overtime by Pregnant Women.

(1) Unless with her consent, an employer shall not

(a) assign or employ a pregnant woman worker to do any night work between the hours of ten o'clock in the evening and seven o'clock in the morning;

(b) engage for overtime a pregnant woman worker or a mother of a child of less than eight months old.

(2) The pregnant woman worker or the mother may present a written complaint to the National Labour Commission established under section 135 against an employer who contravenes subsection (1).

(3) The Commission shall investigate the complaint and its decision on the matter shall subject to any other law be final.

Section 56-Prohibition of Assignment of Pregnant Women.

(1) An employer shall not assign, whether permanently or temporarily, a pregnant woman worker to a post outside her place of residence after the completion of the fourth month of pregnancy, if the assignment, in the opinion of a medical practitioner or midwife, is detrimental to her health.

(2) The pregnant woman worker may present a written complaint to the Commission against the employer who contravenes subsection (1).

(3) The Commission shall investigate the complaint and its decision on the matter shall, subject to any other law, be final.

Section 57-Maternity, Annual and Sick Leave.

(1) A woman worker, on production of a medical certificate issued by a medical practitioner or a midwife indicating the expected date of her confinement, is entitled to a period of maternity leave of at least twelve weeks in addition to any period of annual leave she is entitled after her period of confinement.

(2) A woman worker on maternity leave is entitled to be paid her full remuneration and other benefits to which she is otherwise entitled.

(3) The period of maternity leave may be extended for at least two additional weeks where the confinement is abnormal or where in the course of the same confinement two or more babies are born.

(4) Where an illness, medically certified by a medical practitioner, is due to her pregnancy, the woman worker is entitled to additional leave as certified by the medical practitioner.

(5) Where an illness, medically certified by a medical practitioner, is due to her confinement the woman worker is entitled to an extension of the leave after confinement as certified by the medical practitioner.

(6) A nursing mother is entitled to interrupt her work for an hour during her working hours to nurse her baby.

(7) Interruptions of work by a nursing mother for the purpose of nursing her baby shall be treated as working hours and paid for accordingly.

(8) An employer shall not dismiss a woman worker because of her absence from work on maternity leave.

(9) In this Part

(a) "night work" in relation to women, means work at any time within a period of eleven consecutive hours that includes the seven consecutive hours occurring between ten o'clock in the evening and seven o'clock in the morning but in industrial undertakings which are influenced by the seasons, the work may be reduced to ten hours in sixty days of the year;

(b) "nursing mother" means a woman with a child suckling at her breast for a period of not more than one year.

Section 58-Prohibition of Employment of Young Persons in Hazardous Work.

(1) A young person shall not be engaged in any type of employment or work likely to expose the person to physical or moral hazard.

(2) The Minister may, by legislative instrument, determine the type of employment that is likely to expose a young person to physical or moral hazard.

(3) An employer shall not employ a young person in an underground mine work.

(4) A person who contravenes subsection (1) or (3) commits an offence and is liable on summary conviction to a fine not exceeding 100 penalty units.

Section 59-Health of Young Persons.

(1) An employer shall not employ a young person on any work unless a medical practitioner has certified that the young person is in good health and is medically fit for the work.

(2) Where a person fails to comply with subsection (1) the person shall be ordered by the Minister to have the medical examination conducted.

Section 60-Registration of Young Persons.

(1) An employer in an industrial undertaking shall keep a register of young persons employed by him or her and their dates of birth or their apparent ages.

(2) The Chief Labour Officer shall direct an employer who fails to comply with subsection (1) to do so within a specified time, and the employer shall comply with the direction.

Section 61-Interpretation.

In this Part,

"industrial undertakings" include

(a) mines, quarries and other works for the extraction of minerals from the earth;

(b) undertakings in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed, including undertakings engaged in shipbuilding or in the generation,

transformation or transmission of electricity or motive power of any kind;

(c) undertakings engaged in building and civil engineering work, including constructional, repair, maintenance, alteration and demolition work.

Section 62-Fair Termination.

A termination of a worker's employment is fair if the contract of employment is terminated by the employer on any of the following grounds:

(a) that the worker is incompetent or lacks the qualification in relation to the work for which the worker is employed;

(b) the proven misconduct of the worker;

(c) redundancy under section 65;

(d) due to legal restriction imposed on the worker prohibiting the worker from performing the work for which he or she is employed.

Section 63-Unfair Termination of Employment.

(1) The employment of a worker shall not be unfairly terminated by the worker's employer.

(2) A worker's employment is terminated unfairly if the only reason for the termination is

(a) that the worker has joined, intends to join or has ceased to be a member of a trade union or intends to take part in the activities of a trade union;

(b) that the worker seeks office as, or is acting or has acted in the capacity of, a workers' representative;

(c) that the worker has filed a complaint or participated in proceedings against the employer involving alleged violation of this Act or any other enactment;

(d) the worker's gender, race, colour, ethnicity, origin, religion, creed, social, political or economic status;

(e) in the case of a woman worker, due to the pregnancy of the worker or the absence of the worker from work during maternity leave;

(f) in the case of a worker with a disability, due to the worker's disability;

(g) that the worker is temporarily ill or injured and this is certified by a recognised medical practitioner;

(h) that the worker does not possess the current level of qualification required in relation to the work for which the worker was employed which is different from the level of qualification required at the commencement of his or her employment; or

(i) that the worker refused or indicated an intention to refuse to do any work normally done by a worker who at the time was taking part in lawful strike unless the work is necessary to prevent actual danger to life, personal safety or health or the maintenance of plant and equipment.

(3) Without limiting the provisions of subsection (2), a worker's employment is deemed to be unfairly terminated if with or without notice to the employer, the worker terminates the contract of employment

(a) because of ill-treatment of the worker by the employer, having regard to the circumstances of the case; or

(b) because the employer has failed to take action on repeated complaints of sexual harassment of the worker at the work place.

(4) A termination may be unfair if the employer fails to prove that,

(a) the reason for the termination is fair; or

(b) the termination was made in accordance with a fair procedure or this Act.

Section 64-Remedies for Unfair Termination.

(1) A worker who claims that the employment of the worker has been unfairly terminated by the worker's employer may present a complaint to the Commission.

(2) If upon investigation of the complaint the Commission finds that the termination of the employment is unfair, it may

(a) order the employer to re-instate the worker from the date of the termination of employment;

(b) order the employer to re-employ the worker, either in the work for which the worker was employed before the termination or in other reasonably suitable work on the same terms and conditions enjoyed by the worker before the termination; or

(c) order the employer to pay compensation to the worker.

Section 65-Redundancy.

(1) When an employer contemplates the introduction of major changes in production, programme, organisation, structure or technology of an undertaking that are likely to entail terminations of employment of workers in the undertaking, the employer shall

(a) provide in writing to the Chief Labour Officer and the trade union concerned, not later than three months before the contemplated changes, all relevant information including the reasons for any termination, the number and categories of workers likely to be affected and the period within which any termination is to be carried out; and

(b) consult the trade union concerned on measures to be taken to avert or minimize the termination as well as measures to mitigate the adverse effects of any terminations on the

workers concerned such as finding alternative employment.

(2) Without prejudice to subsection (1), where an undertaking is closed down or undergoes an arrangement or amalgamation and the close down, arrangement or amalgamation causes

(a) severance of the legal relationship of worker and employer as it existed immediately before the close down, arrangement or amalgamation; and

(b) as a result of and in addition to the severance that worker becomes unemployed or suffers any diminution in the terms and conditions of employment,

the worker is entitled to be paid by the undertaking at which that worker was immediately employed prior to the close down, arrangement or amalgamation, compensation, in this section referred to as "redundancy pay".

(3) In determining whether a worker has suffered any diminution in his or her terms and conditions of employment, account shall be taken of the past services and accumulated benefits, if any, of the worker in respect of the employment with the undertaking before the changes were carried out.

(4) The amount of redundancy pay and the terms and conditions of payment are matters which are subject to negotiation between the employer or a representative of the employer on the one hand and the worker or the trade union concerned on the other.

(5) Any dispute that concerns the redundancy pay and the terms and conditions of payment may be referred to the Commission by the aggrieved party for settlement, and the decision of the Commission shall subject to any other law be final.

Section 66-Exceptions.

The provisions of this Part do not apply to the following categories of workers:

(a) workers engaged under a contract of employment for specified period of time or specified work;

(b) worker serving a period of probation or qualifying period of employment of reasonable duration determined in advance; and

(c) workers engaged on a casual basis.

Section 67-Payment of Remuneration.

Subject to this Part, every contract of employment shall stipulate that the whole of the salary, wages and allowances of the worker shall be made payable in legal tender in addition to any non-cash remuneration and accordingly, a contract of employment that contains provisions to the contrary is void.

Section 68-Equal Pay for Equal Work.

Every worker shall receive equal pay for equal work without distinction of any kind.

Section 69-Prohibited Deductions.

(1) An employer shall not make any deduction by way of discount, interest or any similar charge on account of an advance of remuneration made to a worker in anticipation of the regular period of payment of remuneration.

(2) An employer shall not

(a) impose a pecuniary penalty upon a worker for any cause whatsoever; or

(b) deduct from remuneration due to a worker, any amount whatsoever, unless the deduction is permitted by section 70 or by any other law or is by way of repayment of an advance of remuneration lawfully made by the employer to the worker.

Section 70-Permitted Deductions.

(1) An employer may, with the consent of the worker, make any of the following deductions from the remuneration of the worker:

(a) any amount due from the worker in respect of contributions to any provident, pension, or other fund or scheme agreed to by the worker;

(b) any financial facility advanced by the employer to the worker at the written request of the worker or any facility guaranteed by the employer to the worker;

(c) any amount paid to the worker in error, as remuneration, in excess of what the worker is legitimately entitled to, from the employer;

(d) on the written authority of the worker, any amount due from the worker as membership fee or contribution to an organisation of which the worker is a member;

(e) for meeting any loss suffered by the employer as a result of the loss of, or damage to, any property or thing used in connection with, or produced by, the employer's business and which is under the control of the worker;

(f) any deduction in compliance with an order made by the Commission.

(2) No deduction shall be made under subsection (1)(f) unless the employer is satisfied,

(a) that the loss or damage has been caused by the worker and the worker is clearly shown to be responsible;

(b) that the amount to be deducted is fair and does not exceed the actual value of the loss or damage suffered by the employer or that the amount represents a fair estimate of the loss or damage suffered;

(c) that the worker has been given reasonable opportunity to show cause why the deductions should not be made; and

(d) that the rate of the deductions is such as to avoid hardship to the worker and his or her dependants.

(3) Where a worker, who is aggrieved by any deduction made by his or her employer under subsection (1), is unable to resolve the matter with the employer, the worker may present a complaint in writing to the Commission.

(4) The Commission shall investigate the complaint and its decision on the matter shall subject to any other law be final.

Section 71-Employer not to Compel Workers to use its Store.

Where an employer establishes a store for the sale of commodities to the workers or operates a service for them, the employer shall not coerce the workers to make use of the store or service.

Section 72-Paid Public Holidays.

Every worker is entitled to be paid his or her remuneration for public holidays.

Section 73-Right to Employ and Application of this Part.

(1) Subject to this Act, an employer may hire a worker on terms that suit the operations of the enterprise.

(2) Notwithstanding subsection (1), this Part does not apply to,

(a) piece workers;

(b) part-time workers;

(c) sharecroppers;

(d) apprentices;

(e) sea-going personnel in the fishing industry who are wage earners; and

(f) any person who works less than an average of twenty-four hours a week.

Section 74-Casual Worker.

(1) A contract of employment of a casual worker need not be in writing.

(2) A casual worker shall

(a) be given equal pay for work of equal value for each day worked in that organization;

(b) have access to any necessary medical facility made available to the workers generally by the employer;

(c) be entitled to be paid for overtime work by his or her employer in accordance with section 35; and

(d) be paid full minimum remuneration for each day on which the worker attends work, whether or not the weather prevents the worker from carrying on his or her normal work and whether it is possible or not, to arrange alternative work for the worker on such a day.

Section 75-Temporary Worker.

(1) A temporary worker who is employed by the same employer for a continuous period of six months and more shall be treated under this Part as a permanent worker.

(2) Without prejudice to the terms and conditions of employment mutually agreed to by the parties, the provisions of this Act in respect of minimum wage, hours of work, rest period, paid public holidays, night work and sick leave are applicable to a contract of employment with a temporary worker.

Section 76-Remuneration of Temporary and Casual Workers.

(1) Subject to this section, the minimum remuneration of a temporary worker or a casual worker shall be determined as follows:

(a) where a temporary worker or a casual worker is required to work on week-days only, the minimum monthly remuneration is the amount represented by the worker's daily wage multiplied by twenty-seven;

(b) where a temporary worker or a casual worker is required to work every day in the week, the minimum monthly remuneration is the amount represented by three hundred and sixty-five times his daily wage divided by twelve.

(2) A temporary worker or a casual worker referred to in subsection (1)(a) is not entitled to $\frac{1}{27}$ of his or her minimum monthly remuneration as specified in that paragraph for each day the worker is absent from work during the month.

(3) A temporary worker or a casual worker referred to in subsection (1)(b) is not entitled to a twenty-eighth, twenty-ninth, thirtieth or thirty-first part of his or her minimum remuneration as specified in that paragraph for each day the worker is absent from work during the month, depending on whether the month consists of twenty-eight, twenty-nine, thirty or thirty-one days.

(4) An employer shall pay a temporary worker or a casual worker the full minimum remuneration for each day on which the worker attends work, whether or not wet weather prevents the worker from carrying on his or her normal work and whether it is possible or not, to arrange alternative work for the worker on such a day.

(5) A temporary worker or a casual worker is entitled to be paid for overtime work by his or her employer in accordance with section 35.

Section 77-Payment of Remuneration for Public Holidays.

(1) Every employer shall pay each temporary or casual worker in respect of every public holiday the full remuneration which would have been payable to the temporary or casual worker for a full day's work if that day had not been a public holiday.

(2) Where a temporary or casual worker attends and performs work of a full day or more on a public holiday, the employer shall pay the worker in addition, the remuneration which would have been payable to the temporary or casual worker for the work if that day had not been a public holiday.

(3) Where a temporary or casual worker attends and performs work for part only of a public holiday, the employer shall pay the worker in addition to the remuneration provided under subsection (1), the proportion of the remuneration for a full day's work on that day if that day had not been a public holiday, represented by the number of hours for which the temporary or casual worker has performed work.

(4) Any payment required to be made under subsection (1), (2) or (3) in respect of a public holiday shall be made after the public holiday in the same manner as the worker is normally paid.

(5) When an employer fails to comply with subsection (1), (2), (3) or (4), the temporary worker or the casual worker aggrieved by the non-compliance of the employer may present a written complaint to the Commission for determination and the parties shall abide by the decision of the Commission.

(6) The Commission may order the employer to pay, such sum as appears to the Commission to be due to the temporary worker or the casual worker on account of any remuneration payable to him or her under this section, and may in that order specify the time within which the payment shall be made.

Section 78-Interpretation.

In this Part

"temporary worker" means a worker who is employed for a continuous period of not less than one month and is not a permanent worker or employed for a work that is seasonal in character;

"casual worker" means a worker engaged on a work which is seasonal or intermittent and not for a continuous period of more than six months and whose remuneration is calculated on a daily basis.

Section 79-Freedom of Association.

(1) Every worker has the right to form or join a trade union of his or her choice for the promotion and protection of the worker's economic and social interests.

(2) Notwithstanding subsection (1), a worker whose function is normally considered as

(a) policy making;

(b) decision making;

(c) managerial;

(d) holding a position of trust;

(e) performing duties that are of highly confidential nature; or

(f) an agent of a shareholder of an undertaking, may not form or join trade unions.

(3) Subject to subsection (4), the classes of workers referred to in subsection (2) shall be determined by agreement between the employer and the workers or trade unions.

(4) In determining whether a worker falls within the class of workers referred to in subsection (2), the parties shall consider the organisational structure and job descriptions or functions of the worker concerned.

Section 81-Organisational Rights.

Every trade union or employers' organisation has the right to

(a) draw up its constitution and rules, elect its officers and representatives;

(b) organise its administration and activities and formulate its own programmes;

(c) take part in the formulation, and become a member of any federation of trade unions or employers' organisation and participate in its lawful activities; and

(d) affiliate to and participate in the activities of, or join an international workers' or employers' organisations.