

# **Labour Act**

## **Part I. General provisions as to protection of wages, contracts of employment and terms and conditions of employment**

Protection of wages

### **Section 1. Manner of payment**

(1) Subject to this section-

(a) the wages of a worker shall in all contracts be made payable in legal tender and not otherwise; and

(b) if in any contract the whole or any part of the wages of a worker is made payable in any other manner the contract shall be illegal, null and void.

(2) An employer may provide food, a dwelling place or any other allowance or privilege as a part of a worker's remuneration if the food, dwelling place, allowance or privilege is prescribed by law, by a collective agreement or by an arbitration award because it is customary or desirable in view of the nature of the industry or occupation in which the worker is engaged; but in no case shall an employer give to any worker any intoxicating liquor or noxious drug by way of remuneration.

(3) Except where otherwise expressly permitted by this Act, wages payable in money shall be paid only in legal tender or, with the prior consent in writing of the worker concerned, by cheque or postal order and payment or purported payment in any other form shall be illegal, null and void.

### **Section 2. Agreement as to place and manner of spending wages illegal**

No employer shall impose in any contract for the employment of any worker any terms as to the place at which, or the manner in which, or the person with whom any wages paid to the worker are to be expended; and every contract between an employer and a worker containing any such terms shall be illegal, null and void.

### **Section 3. Wages not to be paid on certain premises**

Wages shall not be paid to a worker in premises used for the sale of intoxicating liquor or for the retail sale of goods, except in the case of a worker employed on the premises.

### **Section 4. Advances**

(1) No employer may make to a worker an advance of wages in excess of one month's wages.

(2) Where an advance in respect of wages has been paid to a worker the minimum period for the recovery of the advance by the employer shall be three months.

(3) No advance in respect of wages shall be paid to a worker who is liable to repay any part of such an advance paid to him previously, except in cases of necessity as so approved by the employer.

(4) No employer shall make any deduction by way of discount, interest or any similar charge on account of any advance of wages paid to a worker in anticipation of the regular period of payment of the wages.

(5) The State Authority may by order declare that this section shall not apply to any particular kind of advance paid to any particular class of worker or to all workers.

### **Section 5. Deductions (including deductions for over-payment of wages)**

(1) Except where it is expressly permitted by this Act or any other law, no employer shall make any deduction or make any agreement or contract with a worker for any deduction from the wages to be paid by the employer to the worker, or for any payment to the employer by the worker, for or in respect of any fines:

Provided that, with the prior consent in writing of an authorized labour officer, a reasonable deduction may be made in respect of injury or loss caused to the employer by the willful misconduct or neglect of the worker.

(2) An employer may with the consent of a worker make deductions from the wages of the worker and pay to the appropriate person any contributions to provident or pension funds or other schemes agreed to by the worker and approved by the State Authority.

(3) Upon the registration and recognition of any of the trade union specified in Part A of Schedule 3 to the Trade Unions Act, the employer shall-

(a) make deductions from the wages of all workers eligible to be members of the union for the purpose

of paying contributions to the trade union so recognised; and

(b) pay any sum so deducted to the union,

but a worker may contract out of the system, in writing, and where he has done so, no deductions shall be made from his wages in respect of contributions mentioned in paragraph (a) of this section.

(4) No deductions shall be made from the wages and salaries of persons who are eligible members of any of the trade unions specified in Part B of the Schedule 3 to the Trade Unions Act except the person concerned has accepted, in writing, to make voluntary contributions to the trade union.

(5) Deductions may be made from the wages of a worker in respect of overpayment of wages, but only in respect of any such overpayment made during the three months immediately preceding the month in which the overpayment was discovered.

(6) An employer shall, when making a payment to a trade union under paragraph (b) of subsection (3) of this section, include with such payment a list of the employees from whom deductions were made pursuant to paragraph (c) of the said subsection.

(7) Notwithstanding any other provision of this Act, the total amount of deductions that may be made from the wages of a worker in any one month shall not exceed one-third of the wages of the worker for that month.

## **Section 6. Authority of employer to open shop**

(1) The Minister may, after consultation with the State Authority, give approval to an employer to establish a shop for the sale of provisions to his workers, but no worker shall be compelled by any contract or agreement, written or oral, to purchase provisions at any shop so established.

(2) No employer shall in any place of employment establish a shop for the sale of provisions to his workers (or permit such a shop to be established or kept) otherwise than in accordance with subsection (1) of this section.

Contracts of employment

## **Section 7. Written particulars of terms of employment**

(1) Not later than three months after the beginning of a worker's period of employment with an employer, the employer shall give to the worker a written statement specifying-

(a) the name of the employer or group of employers, and where appropriate, of the undertaking by which the worker is employed;

(b) the name and address of the worker and the place and date of his engagement;

(c) the nature of the employment;

(d) if the contract is for a fixed term, the date when the contract expires;

(e) the appropriate period of notice to be given by the party wishing to terminate the contract, due regard being had to section 11 of this Act;

(f) the rates of wages and method of calculation thereof and the manner and periodicity of payment of wages;

(g) any terms and conditions relating to-

(i) hours of work, or

(ii) holidays and holiday pay, or (iii) incapacity for work due to sickness or injury, including any provisions for sick pay; and

(h) any special conditions of the contract.

(2) If after the date to which the said statement relates there is a change in the terms to be included or referred to in the statement the employer-

(a) shall, not more than one month after the change, inform the worker of the nature of the change by a written statement; and

(b) if he does not leave a copy of the statement with the worker, shall preserve the statement and ensure that the worker has reasonable opportunities of reading it in the course of his employment, or that it is made reasonably accessible to the worker in some other way.

(3) A statement under subsection (1) or (2) of this section may, for all or any of the particulars to be given by the statement, refer the worker to some other document which the worker has reasonable opportunities of reading in the course of his employment or which is made reasonably accessible to the worker in some other way.

(4) If the employer, in referring in the said statement to any such document, indicates to the worker that future changes in the terms particularized in the document will be entered in the document (or recorded by some other means for the information of persons referred to in the document), the employer need not under subsection (2) of this section inform the worker of any such change which is duly entered or recorded not more than one month after the change is made.

(5) If, not more than six months after the termination of a worker's period of employment, a further period of employment is begun with the same employer and the terms of employment are the same, no statement need be given under subsection

(1) of this section in respect of the second period of employment, so however that this subsection shall be without prejudice to the operation of subsection (2) of this section if there is a change in the terms of employment.

(6) The provisions of this section in respect of written statements shall not apply if-

(a) a worker has a written contract of employment which covers each of the particulars mentioned in subsection (1) of this section; and

(b) he has a copy of that written contract.

### **Section 8. Medical examination**

(1) Every worker who enters into a contract shall be medically examined by a registered medical practitioner at the expense of the employer.

(2) The State Authority may by order exempt for the requirement of medical examination workers entering into contracts for-

(a) employment in agricultural undertakings not employing more than a limited number of workers (the limit being specified in the order); or

(b) employment in the vicinity of the workers' homes-

(i) in agricultural work, or

(ii) in non-agricultural work which the State Authority is satisfied is not of a dangerous character or likely to be injurious to the health of the workers.

### **Section 9. Contracts: general**

(1) No contract shall be deemed to be binding on the family or dependants of a worker unless it contains an express provision to that effect.

(2) An employer shall be responsible for the performance of any contract made by any person acting on his behalf.

(3) Except in the case of a contract of apprenticeship, no person under the age of sixteen years shall be capable of entering into a contract of employment under this Act.

(4) No contract shall provide for the payment of wages at intervals exceeding one month unless the written consent of the State Authority has been previously obtained.

(5) No worker shall be bound by virtue of any contract under this Act to answer for the debt, default or miscarriage of any other person.

(6) No contract shall-

(a) make it a condition of employment that a worker shall or shall not join a trade union or shall or shall not relinquish membership of a trade union; or

(b) cause the dismissal of, or otherwise prejudice, a worker-

(i) by reason of trade union membership, or

(ii) because of trade union activities outside working hours or, with the consent of the employer, within working hours, or

(iii) by reason of the fact that he has lost or been deprived of membership of a trade union or has refused or been unable to become, or for any other reason is not, a member of a trade union.

(7) A contract shall be terminated-

(a) by the expiry of the period for which it was made; or

(b) by the death of the worker before the expiry of that period; or

(c) by notice in accordance with section 11 of this Act or in any other way in which a contract is legally terminable or held to be terminated.

(8) The termination of a contract by the death of a worker shall be without prejudice to the legal claims of his personal representatives or dependants.

## **Section 10. Transfer to other employment**

(1) The transfer of any contract from one employer to another shall be subject to the consent of the worker and the endorsement of the transfer upon the contract by an authorized labour officer.

(2) Before endorsing the transfer upon the contract, the officer in question-

(a) shall ascertain that the worker has freely consented to the transfer and that his consent has not been obtained by coercion or undue influence or as a result of misrepresentation or mistake; and

(b) if by the transfer the worker will-

(i) change his form of employment from one which is the subject of an exemption order made under section 8 (2) of this Act, or

(ii) be subject to such a change of conditions as in the officer's opinion renders such a course advisable, may require the worker to be medically examined or re-examine

d, as the case may be.

### **Section 11. Termination of contracts by notice**

(1) Either party to a contract of employment may terminate the contract on the expiration of notice given by him to the other party of his intention to do so.

(2) The notice to be given for the purposes of subsection (1) of this section shall be-

(a) one day, where the contract has continued for a period of three months or less;

(b) one week, where the contract has continued for more than three months but less than two years;

(c) two weeks, where the contract has continued for a period of two years but less than five years; and

(d) one month, where the contract has continued for five years or more.

(3) Any notice for a period of one week or more shall be in writing.

(4) The periods of notice specified in subsection (2) of this section exclude the day on which notice is given.

(5) Nothing in this section affects any right of either party to a contract to treat the contract as terminable without notice by reason of such conduct by the other party as would have enabled him so to treat it before the making of this Act.

(6) Nothing in this section shall prevent either party to a contract from waiving his right to notice on any occasion, or from accepting a payment in lieu of notice.

(7) All wages payable in money shall be paid on or before the expiry of any period of notice.

(8) If an employer gives notice to terminate the contract of employment of a worker who has been continuously employed for three months or more, the employer shall not be liable under this section to make any payment in respect of a period during which the worker is absent from work with the leave of the employer granted at the request of the worker.

(9) In the calculation of a payment in lieu of notice, only that part of the wages which a worker receives in money, exclusive of overtime and other allowances, shall be taken into account.

### **Section 12. Common employment not a defence**

(1) It shall not be a defence to an employer who is sued in respect of personal injuries caused by the negligence of a person employed by him, that person was, at the time the injuries were caused, in common employment with the person injured.

(2) Any provisions contained in a contract of service or apprenticeship, or in an agreement collateral thereto (including a contract or agreement entered into before the commencement of this section) shall be void in so far as it would have the effect of excluding or limiting any liability of the employer in respect of personal injuries caused to the person employed or apprenticed by the negligence of persons in common employment with him.

(3) For the purposes of this section, the expression "personal injuries" includes any disease and any impairment of a person's physical or mental condition arising out of his employment, and "injury" and cognate expressions shall be construed accordingly.

Terms and conditions of employment

### **Section 13. Hours of work and overtime**

(1) Normal hours of work in any undertaking shall be those fixed-

(a) by mutual agreement; or

(b) by collective bargaining within the organization or industry concerned; or

(c) by an industrial wages board (established by or under an enactment providing for the establishment of such boards) where there is no machinery for collective bargaining.

(2) Hours which a worker is required to work in excess of the normal hours fixed under subsection (1) of this section shall constitute overtime.

(3) Where a worker is at work for six hours or more a day, his work shall be interrupted (to the extent which is necessary having regard to its character and duration and to working conditions in general) by allowing one or more suitably spaced rest-intervals of not less than one hour on the aggregate:

Provided that-

(a) exceptions may be made to the rule in this subsection where unforeseen circumstances render them necessary; and

(b) where it is found unavoidable in view of the nature of the work and the working conditions in general, time-off for a meal at the worksite or in the immediate vicinity may be substituted for the rest-interval.

(4) In subsection (3) of this section, "rest-interval" means an interruption of work, of which the length is fixed beforehand and during which the worker is free to dispose of his time and is not required to remain at the place of work.

(5) Where, by reason of its connection with a mechanical process or as a result of other circumstances, the work involves continuous strain or is particularly trying in other ways, the worker shall be allowed the requisite number of suitably adjusted and spaced breaks in the work.

(6) In subsection (5) of this section, "break in the work" means a short intermission in the work fixed beforehand which is ordered with a view to allowing the worker to detach himself from his work and which is not to be counted as a rest-interval or time-off under subsection (3) of this section.

(7) In every period of seven days a worker shall be entitled to one day of rest which shall not be less than twenty-four consecutive hours; if any reduction takes place in the weekly rest-period-

(a) corresponding time-off from work shall be allowed as soon as possible (and in any case not later than fourteen days thereafter); or

(b) wages at overtime rates shall be paid in lieu thereof.

#### **Section 14. Provision of transport**

(1) Where a worker is required to travel sixteen kilometres or more from his normal place of work to another worksite he shall be entitled to free transport or an allowance in lieu thereof.

(2) Where the employer provides a vehicle or vessel for the purposes of subsection (1) of this section, he shall ensure that the vehicle or vessel is suitable, is in good sanitary condition and is not overcrowded.

#### **Section 15. Periodicity of payment of wages**

Wages shall become due and payable at the end of each period for which the contract is expressed to subsist, that is to say, daily, weekly or at such other period as may be agreed upon:

Provided that, where the period is more than one month, the wages shall become due and payable at intervals not exceeding one month.

#### **Section 16. Sick leave**

Subject to the Workmen's Compensation Act, a worker shall be entitled to be paid wages up to twelve working days in any one calendar year during absence from work caused by temporary illness certified by a registered medical practitioner:

Provided that this section shall not apply unless-

(a) the contract remains in existence during the period of absence and the worker is ready and willing to perform his part of the contract save for the incapacity produced by the illness; and

(b) the worker, if so requested by the employer, consents to be examined by a qualified medical practitioner nominated by the employer.

### **Section 17. Duty of employer to provide work**

(1) Except where a collective agreement provides otherwise, every employer shall, unless a worker has broken his contract, provide work suitable to the worker's capacity on every day (except rest days and public holidays) on which the worker presents himself and is fit for work; and, if the employer fails to provide work as aforesaid, he shall pay to the worker in respect of each day on which he has so failed wages at the same rate as would be payable if the worker had performed a day's work:

Provided that-

(a) where, owing to a temporary emergency or other circumstances beyond the employer's control (the period of which shall not exceed one week or such longer period as an authorized labour officer may allow in any particular case), the employer is unable to provide work, the worker shall be entitled to those wages only on the first day of the period in question; and

(b) this subsection shall not apply where the worker is suspended from work as a punishment for a breach of discipline or any other offence.

(2) Where a worker is employed in any agricultural undertaking on a plantation on a contract of service under which he earns wages calculated by reference to the number of days' work performed in each month of his service, the employer shall provide the worker with work suitable to his capacity on not less than twenty-four days in each month during the whole of which he is so employed; and, if the employer fails to provide work as aforesaid on any of those twenty-four days on which the worker presents himself and is fit for work, he shall pay to the worker in respect of each such day wages at the same rates as would be payable if the worker had performed a day's work:

Provided that, in computing twenty-four days for the purposes of this subsection, account shall not be taken of more than six days in any one week.

(3) Any dispute between an employer and a worker as to the worker's fitness for work under subsection (1) or (2) of this section may be referred to an authorized labour officer, who may take such medical or other advice as he thinks appropriate and whose decision shall be final.

### **Section 18. Annual holidays with pay**

(1) Every worker shall be entitled after twelve months continuous service to a holiday with full pay of

(a) at least six working days; or

(b) in the case of persons under the age of sixteen years (including apprentices), at least twelve working days.

(2) The holiday mentioned in subsection (1) of this section may be deferred by agreement between the employer and the worker:

Provided that the holiday-earning period shall not thereby be increased beyond twenty-four months continuous service.

(3) It shall be unlawful for an employer to pay wages in lieu of the holiday mentioned in subsection (1) of this section to a worker whose contract has not terminated.

(4) A person who ceases to be employed after having completed-

(a) less than twelve but not less than six months in the continuous employment of an employer; or

(b) not less than six months in the continuous employment of an employer since last qualified for a holiday under subsection (1) of this section, shall be paid with respect to that period of employment an amount bearing the same proportion to full pay for one week at his normal rate as that period bears to twelve months.

### **Section 19. Calculation of leave pay and sickness benefits**

In the calculation of leave pay and sickness benefits only that part of his wages which a worker receives in money (excluding overtime and other allowances) shall be taken into account.

### **Section 20. Redundancy**

(1) In the event of redundancy-

(a) the employer shall inform the trade union or workers' representative concerned of the reasons for and the extent of the anticipated redundancy;

(b) the principle of "last in, first out" shall be adopted in the discharge of the particular category of workers affected, subject to all factors of relative merit, including skill, ability and reliability; and

(c) the employer shall use his best endeavours to negotiate redundancy payments to any discharged workers who are not protected by regulations made under subsection (2) of this section.

(2) The Minister may make regulations providing, generally or in particular cases, for the compulsory payment of redundancy allowances on the termination of a worker's employment because of his redundancy.

(3) In this section "redundancy" means an involuntary and permanent loss of employment caused by an excess of manpower.

General

### **Section 21. Offences**

(1) Any employer who-

(a) enters into any agreement or contract or gives any remuneration for employment contrary to this Part or declared by this Part to be illegal or unlawful; or

(b) makes any deduction from the wages of any worker or receives any payment from any worker contrary to this Part; or

(c) contravenes section 6 (2), 7, 13 (3), (5) or (7), 14 or 18 (3) of this Act,

shall be guilty of an offence and liable on conviction to a fine not exceeding N800 or, for a second or subsequent offence, to a fine not exceeding N500.

(2) Where an employer is charged with an offence under subsection (1) of this section-

(a) he shall be entitled, upon information duly laid by him, to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge; and

(b) if, after the commission of the offence has been proved, the employer proves to the satisfaction of the court that he has used due diligence to enforce this Part and that the other person has committed the offence without the employer's knowledge, consent or connivance, the other person shall be convicted of the offence and the

employer shall be exempted from any liability.

(3) Where it is made to appear to the satisfaction of the Minister at the time of the discovery of an apparent offence under subsection (1) of this section-

(a) that the employer in question has used due diligence to enforce this Part;

(b) by what person the offence had been committed; and

(c) that the offence has been committed without the knowledge, connivance or consent of the employer, the Minister shall proceed against the person whom he believes to be the actual offender in the first instance without first proceeding against the employer.

### **Section 22. Exemptions**

(1) Nothing in this Part shall apply to a worker who is the father, mother, husband, wife, son or daughter of the employer.

(2) Nothing in this Part of this Act shall apply to any body of persons working on any agreement of co-operation.

## **Part II. Recruiting**

Recruiters and recruiting generally

### **Section 23. Prohibition of recruiting except under permit or licence**

(1) Subject to this section and section 48 of this Act, no person or association shall recruit any citizen for employment as a worker in Nigeria or elsewhere except in pursuance of an employer's permit or recruiter's licence.

(2) Where a worker-

(a) is employed by an undertaking for which it is proposed that he should recruit other workers;

(b) is formally commissioned in writing by his employer to recruit other workers for the undertaking;

(c) does not receive any remuneration or other advantage from the recruiting; and

(d) does not make advances of wages to the workers he recruits, the Minister may waive the need for a permit or licence under subsection (1) of this section and issue to the worker certificate to recruit citizens for service as workers in Nigeria, subject to

such conditions (which shall be endorsed on the certificate) as the Minister thinks fit.

(3) If any worker to whom a certificate has been issued under subsection (2) of this section is convicted of an offence under section 46 or 47 of this Act, the Minister may forthwith cancel the certificate.

#### **Section 24. Employer's permit**

(1) If any person is desirous of recruiting-

(a) for himself or any other person; or

(b) for any association of employers; or

(c) for a public authority; or

(d) for the government of any country outside Nigeria, the services of any citizen as a worker in Nigeria or elsewhere, he may apply in writing to the Minister giving the particulars specified in subsection (2) of this section.

(2) The particulars referred to in subsection (1) of this section are-

(a) the number of workers required;

(b) the place where the work is to be performed;

(c) the nature of the work;

(d) the wages to be paid;

(e) the duration of the proposed contract; and

(f) whether or not it is desired to obtain the workers through a recruiter.

(3) Where the work is to be performed outside Nigeria, the Minister may require the production of a letter of recommendation from the government of the place where the work is to be performed certifying that the applicant is a fit and proper person to be granted a permit.

(4) Upon receipt of an application under subsection (1) of this section and, if required, a letter of recommendation under subsection (3) of this section, the Minister may grant to the applicant a permit to engage personally or through a recruiter the number of workers required (or a smaller number) within such area as may be specified in the permit.

(5) The particulars of every permit granted under this section shall be published in the Federal Gazette, and no such permit shall remain in force for a longer period than six

months from the date of issue.

(6) It shall be an implied term of every permit granted under this section that the workers recruited shall be grouped at the place of employment under suitable ethnical conditions.

(7) Except in the case of workers recruited for the service of a public authority, the Minister shall-

(a) before granting a permit under this section, require security in such amount as he may think fit (either by way of deposit or otherwise) to be given by the employer or his agent or both-

(i) for the payment of the wages and travelling expenses of the workers about to be recruited;

(ii) for the payment of any expenses which may be incurred by the Federal Government in respect of the workers or their families; and

(iii) for the payment of any fine which may be imposed upon the employer under this Part of this Act; and

(b) endorse upon the permit full particulars of the security given.

### **Section 25. Recruiter's licence**

(1) The Minister may license fit and proper persons to recruit citizens in Nigeria for the purpose of-

(a) employment as workers outside Nigeria; or

(b) employment as workers in Nigeria:

Provided that any person who has been granted a licence to recruit citizens for employment outside Nigeria may also be granted a licence to recruit citizens for employment inside Nigeria.

(2) A licence granted under this section shall be valid for a period of twelve months from the date of issue, and notification of the grant shall be published in the Federal Gazette.

(3) The grant of a licence under this section may be made subject to such conditions and restrictions as the Minister may think fit; and any such conditions or restrictions shall be endorsed upon the licence.

(4) Every applicant for a licence under this section shall, if so required by the Minister, furnish such financial or other security for his proper conduct as may be required.

(5) The Minister may at any time-

(a) suspend a licence granted under this section pending the result of any investigation into any alleged irregularity; and

(b) withdraw the licence if the licensee has been convicted of any offence under this or any other law or has otherwise so conducted himself as in the opinion of the Minister to be no longer a fit and proper person to undertake recruiting operations.

(6) Where a licence is suspended or withdrawn under subsection (5) of this section, notification of the suspension or withdrawal shall be published in the Federal Gazette.

### **Section 26. Restrictions on recruiting**

(1) No recruiting operations shall be conducted in any area in which recruiting is prohibited by the Minister by order or in a labour health area.

(2) No recruiter shall recruit workers for service with any person-

(a) unless that person is in possession of a valid permit granted under section 24 of this Act; or

(b) in excess of the number of workers authorized to be recruited by the permit; or

(c) from any area or place which is not specified in the permit.

(3) No public officer shall-

(a) act as a recruiting agent; or

(b) exercise pressure upon possible recruits; or

(c) receive from any source whatsoever any special remuneration or other special inducement for assistance in recruiting.

### **Section 27. Recruiting: miscellaneous provisions**

(1) Every recruiter shall keep in the prescribed form records from which the regularity of every recruiting operation and of his own conduct can be verified and shall produce the records for inspection on demand by an authorized labour officer.

(2) No person shall assist a recruiter in a subordinate capacity in the actual recruiting operation unless he has been approved in writing by the Minister and has been furnished with written authority by the recruiter; and, where a recruiter's assistant

commits an offence under this Part of this Act, both the assistant and the recruiter shall be deemed to have committed the offence and shall each be liable on conviction to the penalty therefor.

(3) A recruiter who is the agent or assistant of another recruiter-

(a) shall receive a fixed salary; or

(b) with the written approval of the Minister, may receive remuneration calculated at a rate per capita of workers recruited, the rate being specified in the approval.

(4) No recruiter shall recruit any young person:

Provided that the Minister may in writing authorize the recruitment of young persons whose apparent age exceeds sixteen years with the consent of the parents or guardian for employment in an occupation appearing to the Minister not to be injurious to their moral or physical development, subject to such safeguards relating to their welfare as may be stated in the authorization.

(5) No advance in excess of a total sum of ten naira shall be paid to any recruited worker in respect of wages prior to his employment, and any advance which is made shall be subject to such conditions as the Minister may direct either generally or in respect of any particular case.

(6) In any case where a recruited worker is not engaged at or near the place of recruiting, the Minister may in his discretion require, either generally or in any specific recruiting operation, the issue to the worker of a document in writing containing particulars of-

(a) the identity of the worker;

(b) the prospective conditions of employment; and

(c) any advance of wages made to the worker; and containing such other particulars as the Minister may consider necessary.

(7) The recruiting of the head of a family shall not be deemed to involve the recruiting of any member of his family.

(8) Where a worker's family accompanies him to his place of employment under section 34 or 44 of this Act, he and the members of his family shall not be separated except at the express request of the persons concerned.

## **Section 28. Health**

(1) Every recruited worker shall be medically examined under section 8 of this Act.

(2) Where a worker has been recruited for employment at a distance from the place of recruiting or has been recruited for employment outside Nigeria, the medical examination shall take place as near as may be convenient to the place of recruiting or, in the case of workers recruited for employment outside Nigeria, at the last place of departure from Nigeria.

(3) The Minister may empower an authorized labour officer before whom recruited workers are brought under section 33 or 39 of this Act to permit the departure prior to medical examination of any such worker in whose case the officer is satisfied that-

(a) it was and is impossible for the medical examination to take place near to the place of recruiting or at the place of departure;

(b) the worker appears fit for the journey and the prospective employment; and

(c) the worker will be medically examined on arrival at the place of employment or as soon as possible thereafter.

(4) The Minister may in his discretion (and particularly when the journey of any recruited workers is of such a duration and takes place under such conditions that the health of the workers is likely to be affected) require any recruited workers to be examined both before departure and after arrival at the place of employment.

(5) The Minister shall ensure that all necessary measures are taken for the acclimatization and adaptation of recruited workers and for their immunization against disease, and may issue such directions in that behalf as he may think fit, either generally or in respect of any particular recruiting operation.

## **Section 29. Transport**

(1) The recruiter or employer shall provide transport to the place of employment, except in so far as an authorized labour officer may in any particular case certify that the provision of transport is impossible for the whole or any part of the journey.

(2) The Minister shall issue such directions as he may consider necessary to ensure that-

(a) the vehicles and vessels used for the transport of recruited workers are suitable for the purpose;

(b) when it is necessary to break the journey for the night, suitable accommodation is provided;

(c) in the case of long journeys all necessary arrangements are made for medical assistance for the recruited workers and for their welfare;

(d) where recruited workers have to make long journeys on foot to the place of employment-

(i) the length of the daily journey is compatible with the health and strength of the recruited workers, and

(ii) if the extent of the movement of labour renders it necessary, rest camps or rest houses are provided at suitable points on the main routes and are kept in proper sanitary condition and have the necessary facilities for medical attention; and

(e) adequate protection (which may include the provision of separate accommodation) is afforded during the journey to members of the family of a recruited worker accompanying him under section 34 or 44 of this Act.

(3) Where recruited workers have to make long journeys in groups to the place of employment, they shall be conveyed by a responsible person approved by an authorized labour officer.

(4) The Minister may make regulations prescribing the conditions under which recruited workers may be transported by road, sea or air and, without prejudice to the generality of the foregoing, any such regulations may make provision for compliance with Nigerian immigration laws and for the recovery of any expenses incurred by the Federal Government in repatriating any worker.

### **Section 30. Expenses and maintenance**

(1) The expenses of the journey of recruited workers to the place of employment, including all expenses incurred for their welfare during the journey, shall be borne by the recruiter or the employer.

(2) The recruiter shall furnish recruited workers with everything necessary for their welfare during the journey to the place of employment, including particularly, as local circumstances may require, adequate and suitable supplies of food, drinking water, fuel, cooking utensils, clothing and blankets.

(3) The Minister may issue directions, either generally or in respect of any particular recruiting operation, for the proper implementation of subsection (2) of this section.

(4) The Minister may by order apply all or any of the provisions of this section or any directions issued there under, either generally or in any particular case, to the recruitment of workers under a certificate issued pursuant to section 23 of this Act and to the worker-recruiter and employer concerned.

### **Section 31. Repatriation**

(1) Any recruited worker who-

(a) becomes incapacitated by sickness or accident during the journey to the place of employment; or

(b) is found on medical examination to be unfit for employment; or

(c) for a reason for which he is not responsible, is not engaged after being recruited; or

(d) is found by an authorized labour officer to have been recruited by misrepresentation or mistake, shall be repatriated at the expense of the recruiter or employer.

(2) Where the family of a recruited worker accompanies him under section 34 or 44 of this Act, sections 27 (6) and 28 of this Act (and any requirements or directions thereunder) shall apply to the family as nearly as may be; and, if the worker-

(a) is repatriated under subsection (1) of this section; or

(b) dies during the journey to the place of employment, the family shall be repatriated at the expense of the recruiter or employer.

### **Section 32. Capitation fee**

32. Upon the completion of any agreement for a contract of work by a recruited worker, there shall be paid to an authorized labour officer for the Federal Government by the employer or his agent in respect of the worker a capitation fee of such sum as may be fixed, either generally or in respect of any particular recruiting operation, by the Minister by order.

Recruiting for employment in Nigeria

### **Section 33. Procedural requirements**

(1) No citizen recruited for employment in Nigeria shall be employed until he has-

(a) been medically examined under section 8 of this section and passed fit to perform the work for which he has been recruited; and

(b) been brought before an authorized labour officer and certified as properly and duly recruited in accordance with this Part of this Act.

(2) An authorized labour officer shall, before issuing a certificate under subsection (1) (b) of this section, satisfy himself that the contract conforms with Part I of this Act and that the recruited worker-

- (a) understands and agrees to the terms upon which he is to be employed;
- (b) has not been subjected to illegal pressure or recruited by misrepresentation or mistake;
- (c) has been recruited in accordance with this Part of this Act;
- (d) is accompanied by such members of his family as he wishes to take with him under section 34 of this Act;
- (e) subject to section 27 (4) of this Act, is of or above the age of eighteen years; and
- (f) has been medically examined and passed fit to perform the work for which he has been recruited.

### **Section 34. Right to be accompanied by family**

(1) Any citizen who is recruited for service in Nigeria may be accompanied to his place of employment and attended during his employment there by such members of his family (not exceeding two wives and such of his children as are under the age of sixteen years) as he wishes to take with him

(2) No person shall induce or attempt to induce any recruited worker not to require to be accompanied by members of his family under subsection (1) of this section, or prevent or attempt to prevent those members from so accompanying the worker.

(3) Notwithstanding subsection (1) of this section, the Minister may by order, either generally or in respect of any particular recruiting operation, limit the number of wives and children who may accompany a recruited worker.

### **Section 35. Deferment of wages**

(1) The Minister may in his discretion allow the payment of wages due to a recruited worker who is engaged for employment within Nigeria to be deferred until the completion of his contract:

Provided that not more than one-half of each month's wages shall be so deferred.

(2) Where an employer is authorised to defer the wages of a worker under subsection (1) of this section-

(a) the Minister may require the employer either to deposit a sum of money by way of security, or to enter into it bond in such form as the Minister thinks fit for the due payment of the deferred wages; and

(b) on completion of the contract the amount of the deferred wages shall be paid to the worker at such place and in such manner as the Minister may direct.

Recruiting for employment outside Nigeria

### **Section 36. Power of prohibition**

The National Council of Ministers may by order prohibit the recruitment or engagement of citizens for employment outside Nigeria in any territory named in the order.

### **Section 37. International agreements**

Where there is in existence a treaty, convention or other international agreement between Nigeria and any other country relating to the recruitment of citizens for employment outside Nigeria, the National Council of Ministers may by order give the force of law to all or any of the provisions of the agreement in place of or in addition to sections 38 to 44 of this Act or any particular provisions of those sections.

### **Section 38. Duration of contract and return passages**

(1) The period of a foreign contract shall be in accordance with the terms of any agreement entered into between Nigeria and any other country for the purpose of the recruitment in Nigeria of Nigerian workers for service in the country concerned, and subject thereto, a foreign contract shall not be for a longer period than-

(a) one year, if the worker is not accompanied by his family; or

(b) two years, if the worker is accompanied by his family.

(2) Within thirty days after the expiration of a foreign contract, the employer to whom the employer's permit was granted under section 24 of this Act (or the agent of that employer) shall offer to provide the worker with a return passage for himself and his family, if any, to the place of recruitment, together with proper accommodation and maintenance on the journey.

(3) If, while a worker under a foreign contract is on a journey or voyage-

(a) the period expressed in his contract for the duration of the contract expires; or

(b) he gives notice to terminate the contract, the employer may prolong the contract for a period not exceeding one month for the purpose of completing the journey or voyage.

### **Section 39. Procedure prior to leaving Nigeria**

(1) No citizen shall leave Nigeria under a foreign contract to serve as a worker outside Nigeria unless he has been-

(a) medically examined under section 8 of this Act and passed fit to perform the work for which he was engaged; and

(b) brought before an authorized labour officer and certified by that officer as duly recruited in accordance with this Part of this Act.

(2) Before issuing a certificate under subsection (1) (b) of this section, an authorized labour officer shall satisfy himself that-

(a) a valid contract for employment of the citizen has been duly entered into in accordance with section 40 of this Act;

(b) the citizen has obtained-

(i) the consent in writing of the local government authority within whose jurisdiction he ordinarily resides signified before an administrative officer, and a certificate in writing from the administrative officer to that effect, or

(ii) if the citizen does not ordinarily reside within the jurisdiction of a local government authority, the consent in writing of an administrative officer;

(c) the citizen has not been subjected to illegal pressure or recruited by misrepresentation or mistake;

(d) the citizen has been recruited in accordance with this Part of this Act;

(e) the citizen is of or above the proper age for recruitment in accordance with section 27 (4) of this Act; and

(f) the citizen has been medically examined under section 8 of this Act and passed fit to perform the work for which he has been recruited.

(3) An administrative officer shall not give a certificate or his consent under subsection (2) (b) of this section unless he is reasonably satisfied with regard to the citizen concerned-

(a) that the citizen is not abandoning wives, children or other relatives dependent upon him for maintenance and that due provision has been made for the maintenance during the citizen's absence of any persons dependent upon him; and

(b) that the citizen's absence from Nigeria is not obviously inconsistent with engagements into which he has previously entered or with obligations imposed by law, custom or usage.

#### **Section 40. Special terms and conditions of contract**

(1) Every foreign contract shall, in addition to any terms or conditions required to be inserted by any other provision of this Act, contain terms or conditions-

(a) providing for workers to have one day free of work in each week;

(b) providing for a daily ration of food to be provided free;

(c) providing for-

(i) rations and half pay to be given from the date of recruitment to the date of departure from Nigeria, and full pay and rations thereafter, and

(ii) full pay and rations to be given on the return journey up to disembarkation in Nigeria, and rations and half pay to be given from the point of disembarkation to the place of recruitment;

(d) providing for one half (or such other proportion as may be specified in the contract) of his wages to be paid monthly to the worker direct in lawful currency, and for the remaining portion to be remitted to an authorized labour officer in the area in which the worker was recruited for payment to the worker on his return to his home;

(e) giving particulars of the clothing, blankets, cooking utensils, fuel and housing accommodation to be furnished by the employer free of charge;

(f) giving particulars of the medical attention and housing accommodation to be provided by the employer free of charge;

(g) giving particulars of the transport to be provided free to the worker from and to the place of recruitment and the place of employment;

(h) giving particulars of the arrangements to be made with regard to the provision of rations and the matters mentioned in paragraphs (e), (f) and (g) of this subsection to members of families authorized to accompany workers;

(i) giving particulars of the terms and conditions of repatriation of workers and their families and of the procedure to be followed in case of a refusal of repatriation;

(j) giving particulars of the procedure to be followed in case of the death or desertion of or other casualty to the worker, with particular reference to-

(i) the payment of any wages due to him,

(ii) the distribution of any moneys in the hands of an authorized labour officer, and

(iii) the reporting of the death, desertion or other casualty to the proper authorities;

(k) giving particulars of the deductions which may be made from the wages of the worker and the worker's rights of appeal;

(l) giving particulars of the procedure to be followed for the dismissal of the worker for inefficiency arising from sickness or for any other reason, and of his rights under that procedure; and

(m) specifying the terms of re-engagement.

(2) Every foreign contract shall be made in triplicate and entered into in the presence of an authorized labour officer, who shall-

(a) upon the production to him of the employer's permit authorizing the engagement of the worker in question, cause the contract to be read over to the worker or, if the worker is unable to understand the language in which the contract is written, to be translated orally into a language which is understood by the worker; and

(b) if he is satisfied that the contract is fully understood and voluntarily entered into by the worker, certify by endorsement on the contract that he has carried out the provisions of this subsection and that the worker has been duly recruited under this Part of this Act; and

(c) enter on the employer's permit the number of workers engaged there under.

(3) The Minister shall ensure that a copy of every foreign contract is transmitted as soon as may be to the government of the territory in which the place of employment is situated.

(4) An authorized labour officer shall keep a register of-

(a) the name and place of abode of every worker entering into a foreign contract before him under subsection (2) of this section;

(b) the date and duration of the contract;

(c) the place of employment thereunder;

(d) the name of the employer and his agent, if any; and

(e) the nature of the employment, and the register (or a copy of any entry therein certified as a true copy by that or another authorized labour officer) shall be received in any court as evidence of the facts stated therein without further proof.

## **Section 41. Surrender of permits**

Where in relation to a foreign contract-

(a) the full number of workers authorized by the employer's permit has been engaged;  
or

(b) the period for which the permit was issued has expired,

the permit shall be surrendered to an authorized labour officer for transmission forthwith to the Minister.

### **Section 42. Embarkation check**

Where a foreign contract is entered into before an authorized labour officer under section 40 (2) of this Act-

(a) the employer or his agent shall supply the authorized labour officer with a list of all the workers engaged under the contract;

(b) the authorized labour officer shall transmit the list as soon as possible to the officer in charge of police at the port of embarkation; and

(c) the said officer in charge of police (or a police officer acting under his direction) shall-

(i) superintend the embarkation of the workers,

(ii) cause each worker to report himself so that his name may be checked with the list, and

(iii) on completion of the check, report to the authorized labour officer the fact of completion and such other matters in connection with the embarkation as he thinks necessary.

### **Section 43. Exemption from customs on repatriation**

The personal effects and tools belonging to workers (or members of their families) who-

(a) have left Nigeria in pursuance of a foreign contract; and

(b) are repatriated either by the employer or his agent or by the Federal Government, shall be exempt from customs duties.

### **Section 44. Right to be accompanied by family at employer's expense**

Where a worker is recruited for employment outside Nigeria, it shall be the duty of the employer to provide facilities at his own expense to enable the worker's family (not exceeding two wives and such of his children under the age of sixteen years as he wishes to accompany him) to accompany him to the place of employment and to remain there for the full duration of the contract:

Provided that, if the contract is for less than one year, provision may be made for the family to remain for less than the full duration of the contract.

Enforcement provisions

### **Section 45. Inducing recruiting by fraud, etc**

(1) No person shall by fraud, falsehood, intimidation, coercion or misrepresentation induce any worker to enter into a contract under this Part, and any contract entered into by reason of any such inducement shall be void, save that the employer or his agent shall be liable to pay wages due under the contract and to provide for the return to his place of abode of any worker engaged thereunder, together with any members of his family who have accompanied him.

(2) If the employer or his agent fails to pay the wages in question or to provide for the return of the worker and the members of his family in accordance with subsection (1) of this section, the wages shall be paid, and the expenses of the return shall be borne, by the Federal Government, and real be recovered by that Government from the employer or his agent by deduction from any deposit or security given under section 24 (7) of this Act or by civil proceedings.

### **Section 46. Neglect or ill-treatment**

(1) Any employer who neglects or ill-treats any worker whom he has contracted to employ in accordance with this Part of this Act shall be guilty of an offence, and on conviction shall be liable to a fine not exceeding N500 or to imprisonment for a period not exceeding one year, or to both.

(2) Where an employer or his agent is convicted of any offence under subsection (1) of this section, the convicting court shall report the case to the Minister, who may by notice in the Federal Gazette cancel any contract into which the employer or his agent may have entered in accordance with this Part of this Act.

(3) Any cancellation under subsection (2) of this section shall have effect from the date of the publication of the relevant notice.

(4) Every worker whose contract has been cancelled under subsection (2) of this section shall be maintained and conveyed to his place of abode (together with any

members of his family who have accompanied him) at the expense of the Federal Government, and all sums reasonably expended upon the maintenance and conveyance, together with any wages due to the worker under the cancelled contract, may be recovered from the employer or his agent by deduction from any deposit or security given under section 24 (7) of this Act or by civil proceedings.

(5) The cancellation of a contract under this section shall not prevent the taking of legal proceedings in respect of the contract under this or any other enactment.

#### **Section 47. Other offences**

(1) Any person who-

(a) recruits or attempts to recruit any citizen contrary to section 23 of this Act; or

(b) contravenes or fails to give effect to any special condition or restriction endorsed on an employer's permit granted under section 24 of this Act, or a recruiter's licence granted to him under section 25 of this Act; or

(c) being a holder of a recruiter's licence, recruits citizens for a person who is not a holder of an employer's permit; or

(d) induces or attempts to induce, or assists or offers to assist, any citizen to leave Nigeria in order to be employed as a worker outside Nigeria otherwise than under a contract which conforms with section 40 of this Act; or

(e) engages or offers or agrees to employ or to find employment for any citizen as a worker outside Nigeria except under a contract which conforms with section 40 of this Act; or

(f) fails to surrender to the Minister an employer's permit in the circumstances mentioned in paragraph (a) and (b) of section 41 of this Act; or

(g) contravenes section 26, 27, 29 or 30 of this Act (or any direction issued thereunder),

shall be guilty of an offence and on conviction shall be liable to a fine not exceeding N2,000 or to imprisonment for a period not exceeding five years, or to both.

(2) Any employer or employer's agent who fails to offer a return passage in compliance with section 38 (2) of this Act shall be guilty of an offence and on conviction shall be liable to a fine not exceeding N200; and any repatriation expenses incurred by the Federal Government as a result of the failure may be recovered by that Government from the employer or employer's agent by deduction from any deposit or security given under section 24 (7) of this Act or by civil proceedings.

## Application

### **Section 48. Application**

(1) This Part is additional to and not in derogation of Part 1 of this Act but shall not apply to the recruiting of citizens for service as workers in Nigeria if the recruiting-

(a) is undertaken by or on behalf of an employer who does not employ more than twenty-five workers; or

(b) is undertaken within a radius of forty kilometres from the place of employment, and is not undertaken by a professional recruiter, that is to say, a person who holds a recruiter's licence.

(2) The Minister may make regulations applying this Part of this Act (with such modifications, if any, as he thinks appropriate) to labour contractors that is to say, persons who undertake to provide another party with the services of workers while themselves remaining the employers of the workers in question.

## **Part III. Special Classes of Worker and Miscellaneous Special Provisions**

### Apprentices

#### **Section 49. Contracts of apprenticeship**

(1) The parent or, in the case of an orphan, the guardian of a young person above the age of twelve years and under the age of sixteen years may, with the consent of that person testified by his execution of a written contract of apprenticeship, apprentice that person to an employer to train him or have him trained systematically for a trade or employment in which art or skill is required, or as a domestic servant, for any term not exceeding five years.

(2) Where a young person above the age of twelve years and under the age of sixteen years is without known parents or a guardian, an authorized labour officer may authorize the apprenticeship of that person and appoint some fit and proper person to execute the written contract of apprenticeship and act generally as guardian of that young person.

(3) Any young person of the age of sixteen years or above not being under any contract of apprenticeship may apprentice himself for any term not exceeding five years to any trade or employment in which art or skill is required.

(4) The age of any person may, where no register of births is available, be enquired into and determined by the authorized labour officer before whom a contract of apprenticeship is attested in accordance with section 50 of this Act; and the age so determined shall be conclusive for the purposes of sections 49 to 53 of this Act.

(5) Every contract of apprenticeship may, with the consent of the parties, be assigned by the employer.

(6) A magistrate's court (or, in a State where a magistrate's court has no civil jurisdiction, a district court) shall have power and jurisdiction to hear and determine any question arising out of a contract of apprenticeship or any dispute between any of the parties to such a contract, whether arising from breach of the contract or otherwise, and for that purpose shall have all the powers conferred upon a magistrate's court or district court, as the case may be, by sections 80 to 85 of this Act.

### **Section 50. Attestation**

(1) Every contract of apprenticeship and every assignment thereof shall be in writing; and no such writing shall be valid unless attested by and made with the approval of an authorized labour officer certified in writing under his hand on the contract or assignment.

(2) Before attesting any contract of apprenticeship, an authorized labour officer shall-

(a) ascertain that the apprentice has consented to the contract and that his consent has not been obtained by coercion or undue influence or as the result of misrepresentation or mistake; and

(b) satisfy himself that-

(i) the apprentice has been medically examined and certified by a qualified medical practitioner to be physically and mentally fit to be employed and trained in the employment specified in the contract,

(ii) the parties to the contract have fully understood the terms of the contract before signing it or otherwise indicating consent,

(iii) provision has been made in the contract as to the manner in which any remuneration in cash or otherwise due to the apprentice shall be determined and as to the scale of increase in remuneration during the course of the apprenticeship,

(iv) provision has been made in the contract for payment of remuneration to the apprentice during illness and during holidays, if any,

(v) where the apprentice is unable by reason of his apprenticeship to return to his home at the end of each day, the contract contains adequate provision to ensure that the apprentice is supplied with food, clothing, accommodation and medical attention, and

(vi) the terms of the contract are in accordance with any regulations made under section 52 of this Act.

### **Section 51. Retention of apprentice after expiry of contract**

If any person with whom an apprentice has been placed, retains the apprentice in his service after the stipulated period of service has expired without any agreement between the parties for the payment of wages, the apprentice shall be entitled to recover from the person so retaining him wages at the ordinary current rate payable for service similar to that performed by the apprentice.

### **Section 52. Regulations**

The Minister may make regulations providing for-

(a) the form of contracts of apprenticeship, the terms and conditions upon which contracts of apprenticeship may be lawfully entered into and the duties and obligations of apprentices and their masters;

(b) the registration of contracts of apprenticeship with a specified officer;

(c) the number of apprentices who may be apprenticed during a specified period in any specified trade or employment;

(d) the technical and other qualifications of employers entitling them to take and train apprentices;

(e) the conditions governing the entry of persons over twelve and under sixteen years of age into apprenticeship;

(f) the mutual rights and obligations of employer and apprentice;

(g) the supervision to be established over apprenticeship, with a view to ensuring in particular that the regulations governing apprenticeship and the terms of any contract of apprenticeship are observed, that the training is satisfactory and that there is reasonable uniformity in the conditions of apprenticeship; and

(h) the holding of examinations of apprentices on the expiry of the period of apprenticeship and, where necessary, in the course of apprenticeship, determining the methods of organizing the examinations and the issue of certificates based on the

results thereof.

### **Section 53. Offences**

(1) Any person who removes or attempts to remove any apprentice who is above the age of twelve years and under the age of sixteen years from Nigeria without the authority in writing of the Minister shall be guilty of an offence and on conviction shall be liable to a fine not exceeding N500 or to imprisonment for a period not exceeding one year, or to both.

(2) Any person who employs an apprentice for more than six months on a contract which has not been attested under section 50 of this Act or induces or attempts to induce any apprentice to quit the service of his employer shall be guilty of an offence and on conviction shall be liable to a fine not exceeding N200 or to imprisonment for a period not exceeding six months, or to both.

Employment of women

### **Section 54. Maternity protection**

(1) In any public or private industrial or commercial undertaking or any branch thereof, or in any agricultural undertaking or any branch thereof, a woman-

(a) shall have the right to leave her work if she produces a medical certificate given by a registered medical practitioner stating that her confinement will probably take place within six weeks;

(b) shall not be permitted to work during the six weeks following her confinement;

(c) if she is absent from her work in pursuance of paragraph (a) or (b) of this subsection and had been continuously employed by her then employer for a period of six months or more immediately prior to her absence, shall be paid not less than fifty per cent of the wages she would have earned if she had not been absent; and

(d) shall in any case, if she is nursing her child, be allowed half an hour twice a day during her working hours for that purpose.

(2) Subsection (1) (c) of this section shall have effect notwithstanding any law relating to the fixing and payment of a minimum wage.

(3) No employer shall be liable, in his capacity as an employer, to pay any medical expenses incurred by a woman during or on account of her pregnancy or confinement.

(4) Where a woman-

(a) is absent from her work in pursuance of subsection (1) (a) or (b) of this section; or

(b) remains absent from her work for a longer period as a result of illness certified by a registered medical practitioner to arise out of her pregnancy or confinement and to render her unfit for work, then, until her absence has exceeded such a period (if any) as may be prescribed, no employer shall give her notice of dismissal during her absence or notice of dismissal expiring during her absence.

(5) In subsection (1) (d) of this section, "child" includes both a legitimate and an illegitimate child.

### **Section 55. Night work**

(1) Subject to this section, no woman shall be: employed on night work in a public or private industrial undertaking or in any branch thereof, or in any agricultural undertaking or any branch thereof.

(2) Subsection (1) of this section shall not apply to women employed as nurses, in any public or private industrial undertaking or in any agricultural undertaking, nor to women holding responsible positions of management who are not ordinarily engaged in manual labour; and in any proceedings brought under or in connection with the said subsection (1) of this section, it shall be a good defence if it is shown to the satisfaction of the court trying the proceedings that-

(a) the night work in question was due to an interruption of work which it was impossible to foresee and which is not of a recurring character; or

(b) the night work in question had to do with raw material or materials in course of treatment which are subject to rapid deterioration, and it was necessary to preserve such materials from certain loss.

(3) In this section, "night" means-

(a) as respects industrial undertakings, a period of at least eleven (or, where an order under subsection

(4) below applies, ten) consecutive hours including the interval between ten o'clock in the evening and five o'clock in the morning; and

(b) as respect agricultural undertakings, a period of at least nine consecutive hours including the interval between nine o'clock in the evening and four o'clock in the morning.

(4) The Minister may by order permit the eleven-hour period mentioned in subsection (3) (a) of this section to be reduced to ten hours on not more than sixty days in any

one year in respect of any industrial undertaking if he is satisfied that the undertaking is influenced by the seasons of the year or that the reduction is necessary because of special circumstances.

(5) The Minister may by order exclude from the application of this section, those women covered by a collective agreement in force which permits night work for women, but before making such an order the Minister shall satisfy himself that adequate provision exists for the transportation and protection of the women concerned.

### **Section 56. Underground work**

(1) Subject to subsection (2) of this section, no woman shall be employed on underground work in any mine.

(2) Subsection (1) of this section shall not apply to-

(a) women holding positions of management who do not perform manual labour; or

(b) women employed in health and welfare services; or

(c) women who in course of their studies spend a period of training in underground parts of a mine; or

(d) any other women who may occasionally have to enter the underground parts of a mine for the purposes of a non-manual occupation.

### **Section 57. Regulations**

The Minister may make regulations prohibiting or restricting, subject to such conditions as may be specified in the regulations, the employment of women in any particular type or types of industrial or other undertakings or in any process or work carried on by such undertakings.

### **Section 58. Offences**

(1) Any person, who, being the proprietor, owner or manager of any industrial, commercial or agricultural undertaking, contravenes any provision of section 54 of this Act shall be guilty of an offence and on conviction shall be liable to a fine not exceeding N200 or to imprisonment for a period not exceeding three months, or to both.

(2) Any person who employs a woman in contravention of section 55 (1) or 56 (1) of this Act shall be guilty of an offence and on conviction shall be liable to a fine not exceeding N100 or to imprisonment for a period not exceeding one month, or to both.

## Young persons

### **Section 59. General**

(1) No child shall-

(a) be employed or work in any capacity except where he is employed by a member of his family on light work of an agricultural, horticultural or domestic character approved by the Minister; or

(b) be required in any case to lift, carry or move anything so heavy as to be likely to injure his physical development.

(2) No young person under the age of fifteen years shall be employed or work in any industrial undertaking:

Provided that this subsection shall not apply to work done by young persons in technical schools or similar institutions if the work is approved and supervised by the Ministry of Education (or corresponding department of government) of a State.

(3) A young person under the age of fourteen years may be employed only-

(a) on a daily wage;

(b) on a day-to-day basis; and

(c) so long as he returns each night to the place of residence of his parents or guardian or a person approved by his parents or guardian:

Provided that, save as may be otherwise provided by any regulations made under section 65 of this Act, this subsection shall not apply to a young person employed in domestic service.

(4) No young person under the age of sixteen years shall be employed in circumstances in which it is not reasonably possible for him to return each day to the place of residence of his parent or guardian except-

(a) with the approval of an authorized labour officer; and

(b) on a written contract (which, notwithstanding any law to the contrary, shall not be voidable on the ground of incapacity to contract due to infancy) conforming with Part I of this Act:

Provided that, save as may be otherwise provided by any regulations made under section 65 of this Act, this subsection shall not apply to a young person employed in domestic service.

(5) No young person under the age of sixteen years shall be employed-

(a) to work underground; or

(b) on machine work; or

(c) on a public holiday.

(6) No young person shall be employed in any employment which is injurious to his health, dangerous or immoral; and, where an employer is notified in writing by the Minister (either generally or in any particular case) that the kind of work upon which a young person is employed is injurious to the young person's health, dangerous, immoral or otherwise unsuitable, the employer shall discontinue the employment, without prejudice to the right of the young person to be paid such wages as he may have earned up to the date of discontinuance.

(7) No person shall continue to employ any young person under the age of sixteen years after receiving notice either orally or in writing from the parent or guardian of the young person that the young person is employed against the wishes of the parent or guardian:

Provided that this subsection shall not apply to a young person employed under a written contract entered into with the approval of an authorized labour officer.

(8) No young person under the age of sixteen years shall be required to work for a longer period than four consecutive hours or permitted to work for more than eight working hours in any one day:

Provided that, save as may be otherwise provided by any regulations made under section 65 of this Act, this subsection shall not apply to a young person employed in domestic service.

## **Section 60. Night work**

(1) Subject to this section, no young person shall be employed during the night.

(2) Young persons over the age of sixteen years may be employed during the night in the following industrial undertakings or activities which by reason of the nature of the process are required to be carried on continuously day and night, that is to say-

(a) in the manufacture of iron and steel, in processes in which reverberatory or regeneratory furnaces are used and in the galvanizing of sheet metal or wire (except the pickling process);

(b) glass works;

(c) manufacture of paper;

(d) manufacture of raw sugar; and

(e) gold mining reduction work.

(3) Young persons over the age of sixteen may be employed during the night in cases of emergency which-

(a) could not have been controlled or foreseen;

(b) are not of a periodical character; and

(c) interfere with the normal working of an industrial undertaking.

(4) In this section, "night" means a period of at least twelve consecutive hours, including-

(a) in the case of young persons under the age of sixteen years, the interval between ten o'clock in the evening and six o'clock in the morning; and

(b) in the case of young persons over the age of sixteen years but under the age of eighteen years, a prescribed interval of at least seven consecutive hours falling between ten o'clock in the evening and seven o'clock in the morning.

(5) For the purposes of subsection (4) (b) of this section, the Minister may prescribe different intervals for different areas, industries, undertakings or branches of industries or undertakings, but shall consult the employers' and workers' associations or organizations concerned before prescribing an interval beginning after eleven o'clock in the evening.

## **Section 61. Shipping**

(1) No young person under the age of fifteen years shall be employed in any vessel, except where-

(a) the vessel is a school or training vessel and the work on which the young person is employed is-

(i) work of a kind approved by the Minister, and

(ii) supervised by a public officer or by a public department; or

(b) only members of the young person's family are employed.

(2) No young person shall be employed in a vessel as a trimmer or stoker:

Provided that, where a trimmer or stoker is required in a place in which only young persons are available, young persons of and over the age of sixteen years may be employed in that capacity, so however that two such young persons shall be engaged and employed in the place of each trimmer or stoker required.

(3) No young person shall be employed in any vessel other than a vessel in which only persons of his family are employed unless he is in possession of a certificate signed by a registered medical practitioner to the effect that he is fit for the employment or work; and, where such a certificate is issued, then-

(a) subject to paragraph

(b) of this subsection, the certificate shall be valid for one year from the date of issue, or, if it would otherwise expire in the course of a voyage, until the end of the voyage in question; and

(b) the certificate may at any time be revoked by a qualified medical practitioner if he is satisfied that the young person is no longer fit for the employment or work.

(4) There shall be included in every agreement with the crew of a vessel a list of young persons who are members of the crew, together with particulars of the dates of their births; and, in the case of a vessel in which there is no such agreement, the master shall keep a register (which shall at all times be open to inspection by an authorized labour officer or customs officer) of such young persons as may be employed in the vessel with particulars of the dates of their births and the dates on which they became or ceased to be members of the crew.

(5) In this section-

"customs officer" means any person employed in the Department of Customs and Excise, or for the time being performing duties in relation to customs and excise;

"vessel" includes floating craft of every description except ships of war.

## **Section 62. Register of young persons in industrial undertakings**

Every employer of young persons in an industrial undertaking shall keep a register of all young persons in his employment with particulars of their ages, the date of employment and the conditions and nature of their employment and such other particulars as may be prescribed, and shall produce the register for inspection when required by an authorized labour officer.

## **Section 63. Regulations**

The Minister may make regulations-

- (a) exempting any occupation which forms part of an industrial undertaking from all or any of the provisions of sections 59 to 62 of this Act or any regulations made under this section;
- (b) providing for the registration and identification of young persons;
- (c) prescribing the records to be kept and the returns to be made by employers of young persons;
- (d) further restricting the employment of young persons in specified occupations;
- (e) prescribing additional conditions upon which young persons may be engaged or employed; and
- (f) making further provision for the care of young persons by employers.

#### **Section 64. Offences**

( 1) Any person who employs a young person in contravention of sections 59 to 62 of this Act or any regulations made under section 63 of this Act, the proprietor, owner and manager of any undertaking in which a young person is so employed and any parent or guardian of a young person who permits the young person to be so employed shall be guilty of an offence and on conviction shall be liable to a fine not exceeding N100.

(2) If in the case of a charge for an offence under subsection (1) of this section it is alleged by the person conducting the prosecution that the person in respect of whom the offence was committed was under the age of twelve, fourteen, fifteen, sixteen or eighteen years at the date of commission of the alleged offence, the magistrate or other person presiding at the hearing shall, after such enquiry as he may think necessary and after hearing any evidence that may be tendered by any party to the proceedings, determine the age of the young person; and any such determination shall be final.

Domestic service

#### **Section 65. Regulations**

The Minister may make regulations providing for-

- (a) the engagement, repatriation or supervision of domestic servants;
- (b) the employment of women and domestic servants;
- (c) the housing accommodation and sanitary arrangement of domestic servants; and

(d) the conditions of domestic service generally.

Labour health areas

### **Section 66. Labour health areas**

Where the Minister is satisfied that an industrial or agricultural undertaking is situated in an area which, having regard to the existing medical and health conditions and facilities, water supplies and communications, is remote and isolated, he may by order declare the area a labour health area; and, during the period of employment of any worker in a labour health area, the employer shall provide such facilities and make such arrangements as may be specified by regulations made under section 67 of this Act, and shall otherwise comply with the requirements of any such regulations.

### **Section 67. Regulations**

The Minister, in respect of labour health areas or any particular labour health area, may make regulations for-

- (a) the planning and layout of towns and villages;

- (b) the construction of streets, lanes, buildings, markets, open places, drains, latrines, incinerators, wells and tanks;

- (c) the provision of housing accommodation for workers, the provision of sanitary arrangements for, and the inspection of, that accommodation, and the limitation of the number of persons or class of persons who may reside in any house;

- (d) the supply of water, food and fuel;

- (e) the examination of workers by medical officers, that is to say, registered medical practitioners in the service of a public authority or other registered medical practitioners authorized as medical officers by the Minister for the purposes of this paragraph;

- (f) the measures to be taken to prevent the introduction or spreading of infectious and contagious diseases;

- (g) the compulsory employment of qualified medical practitioners by employers;

- (h) the compulsory erection and proper staffing, control and equipping of hospitals by employers and, in default thereof, the recovery from employers of the cost of medical attendance provided by the Federal Government and of the erection and maintenance of any hospitals erected by that Government;

- (i) requiring employers to make arrangements with hospital authorities for the medical and surgical treatment of their workers (including, where necessary, accommodation

and food in hospital) and to provide any necessary transport for sick or injured workers;

(j) prescribing-

(i) the matters for which the arrangements mentioned in the preceding paragraph shall provide,

(ii) the officer by whom those arrangements are to be approved, and

(iii) the charges which may be made by the hospital authority and the period (not exceeding six weeks) for which the employer shall be liable for those charges;

(k) the keeping of medical attendance registers;

(l) the furnishing of returns of-

(i) the numbers of workers employed either above or below ground and the nature of their employment,

(ii) casualties by way of injury, disease or death, and

(iii) such other matters as the Minister may consider necessary to ensure that the health and welfare of workers are properly attended to;

(m) prescribing fees to be paid for any matter or thing to be done under the regulations;

(n) prescribing-

(i) penalties for offences under the regulations not exceeding a fine of N1,500

or imprisonment for a period of two years, or both, and

(ii) additional penalties for continuing offences not exceeding in the aggregate a fine of N1,500 or imprisonment for a period of two years, or both; and

(o) where any structure is built, renewed, reconstructed or altered in contravention of the regulations-

(i) providing for the service of notice of the contravention on the offending person,

(ii) enabling a specified officer or authority, in default of remedial action being taken in consequence of the notice, to enter the relevant premises and take such remedial action as he considers necessary, and

(iii) providing for the recovery of any expenses incurred by the officer or authority in doing so.

Registration, employment exchanges, etc.

### **Section 68. Registration of employers**

(1) The Minister may make regulations for the registration of employers.

(2) Regulations made under this section may-

(a) provide for the registration of employers (or specific classes of employers) generally or in specific areas to be prescribed in the regulations;

(b) prescribe the manner of, and conditions for, registration and the person by whom and the manner in which the register is to be maintained;

(c) prescribe the circumstances in which employers may be refused registration or struck off the register;

(d) without prejudice to the generality of paragraph (c) of this subsection, provide for employers to be refused registration or to be struck off the register, as the case may be, if they fail to comply with conditions specified in the regulations;

(e) prohibit the employment of citizens as workers by unregistered employers;

(f) impose penalties for contraventions of the regulations not exceeding a fine of N1,500 or imprisonment for a period of two years, or both; and

(g) contain such incidental or related provisions as the Minister thinks necessary or expedient.

### **Section 69. Labour schemes**

(1) Where the Minister has agreed with the representatives of the employers' and workers' organisations within an industry or area as to the desirability of establishing a scheme for labour within that industry or area he may make an order, if he thinks fit, in respect of the industry or area in question.

(2) Where an order is made under subsection (1) of this section in respect of an industry or area-

(a) it shall be the duty of every employer who is engaged in the industry or ordinarily has a place of business in the area, as the case may be, to apply for registration in accordance with any regulations made under subsection (5) of this section;

(b) every industrial worker under the age of fifty-five years who is employed in the industry or, as the case may be, is ordinarily resident in the area shall be liable to compulsory registration under those regulations if an order is made in respect of him under paragraph (c) of this subsection;

(c) the Minister may by order require any class or classes of industrial workers to whom paragraph (b) of this subsection applies to present themselves for registration in such manner, at such place and within such times as may be specified in the order; and

(d) the Minister may by order forbid such employers as are mentioned in paragraph (a) of this subsection (or any specified class thereof)-

(i) to carry on business in the industry or area, as the case may be, unless they are registered accordingly, or

(ii) to employ industrial workers (or any specified class thereof) in the industry or area, as the case may be, unless the workers are registered accordingly.

(3) An authorized labour officer, where he is satisfied that an employer who has not applied for registration in pursuance of subsection (2) (a) of this section is a person who ought to have done so, may by notice in writing call upon the employer to apply accordingly.

(4) For the purposes of subsection (2) (b) of this section, an industrial worker-

(a) shall be presumed to be under the age of fifty-five years unless he satisfies an authorized labour officer to the contrary; and

(b) if he is present in an area to which an order made under subsection (1) of this section applies, shall be presumed to be ordinarily resident in that area unless he satisfies an authorized labour officer that he is residing there for some temporary purpose only.

(5) The Minister may make regulations for the purposes of this section-

(a) establishing offices for the registration of employers and industrial workers;

(b) prescribing forms of application for registration and certificates of registration, and such other forms as may be needed for the purposes of the regulations;

(c) providing for the issue of certificates of registration and their replacement if lost or destroyed;

- (d) prescribing the particulars to be furnished on application for registration and on registration;
- (e) prescribing the duties of registered persons and others in respect of certificates of registration; and
- (f) prescribing fees and providing generally for registration under this section.

### **Section 70. Employment exchanges**

The Minister may make regulations-

- (a) authorizing the establishment of registration offices, to be known as employment exchanges, at which industrial workers may attend for registration and make application for employment and to which employers may notify vacancies;
- (b) providing for the issue of certificates of registration and identity to registered industrial workers and the replacement, on payment of such fee as may be prescribed, of any such certificates when lost or destroyed;
- (c) prescribing the particulars to be furnished on registration;
- (d) providing for the taking of photographs and fingerprints of registered industrial workers as a means of identification;
- (e) regulating or restricting the numbers of registered industrial workers employed, either generally or in specified businesses or undertakings;
- (f) prescribing the duties of registered persons and others in respect of certificates of registration and identity;
- (g) requiring employers in such occupations as may be specified to furnish returns of such matters relating to the employment of workers as may be specified; and
- (h) prescribing fees to be charged under the regulations.

### **Section 71. Fee-charging employment agencies**

- (1) No person shall establish or operate a fee-charging employment agency save with the written consent of the Minister.
- (2) The Minister may make regulations providing for the supervision and control of fee-charging employment agencies and prescribing the scale of fees which they may charge.
- (3) In this section, "fee-charging employment agency" means-

(a) an agency conducted by any person who acts as an intermediary for the purpose of procuring employment for a worker or supplying a worker to an employer with a view to deriving either directly or indirectly any pecuniary or other material advantage from either employer or worker; or

(b) an agency for conducting the placing services of any company, institution, agency or other organisation which, although the agency is not conducted with a view to obtaining any pecuniary or other material advantage, levies from either employer or worker for those services an entrance fee, a periodical contribution or any other charge, but excludes any organisation for the production of newspapers (or other publications) which are not produced wholly or mainly for the purpose of acting as intermediaries between employers and workers.

## **Section 72. Offences**

(1) Any person who with intent to deceive-

(a) gives any false particulars for the purposes of section 69 (1) to (4) of this Act or any regulations made under section 69 (5) or 70 of this Act; or

(b) forges a registration certificate of the kind provided for in any such regulations; or

(c) uses a forged certificate of that kind; or

(d) lends to or allows to be used by another person a certificate of that kind; or

(e) makes or has in his possession any document so closely resembling a certificate of that kind as to be calculated to deceive; or

(f) uses or displays a certificate of that kind which has not been issued to him,

shall be guilty of an offence and on conviction shall be liable to a fine not exceeding N1,000 or to imprisonment for a period not exceeding one year, or to both.

(2) Any employer or industrial worker who contravenes section 69 (2) of this Act, any employer who fails to comply with a notice under section 69 (3) of this Act and any person who contravenes section 71 (1) of this Act shall be guilty of an offence and on conviction shall be liable to a fine not exceeding N500 or to imprisonment for a period not exceeding six months, or to both:

Provided that, in any proceedings under this section for such a contravention or for a failure to comply with such a notice, it shall be a defence for the accused to prove that the contravention or failure was due to circumstances beyond his control.

(3) In any proceedings under this section in relation to an industry or area, it shall be presumed until the contrary is proved that the accused-

(a) if he is an employer, is engaged in the industry or ordinarily has a place of business in the area, as the case may be; and

(b) if he is an industrial worker, is under the age of fifty-five years and is engaged in the industry or ordinarily resident in the area, as the case may be.

Forced labour

### **Section 73. Prohibition of forced labour**

(1) Any person who requires any other person, or permits any other person to be required, to perform forced labour contrary to section 31 (1) (c) of the Constitution of the Federal Republic of Nigeria shall be guilty of an offence and on conviction shall be liable to a fine not exceeding N1,000 or to imprisonment for a period not exceeding two years, or to both.

(2) Any person who, being a public officer, puts any constraint upon the population under his charge or upon any members thereof to work for any private individual, association or company shall be guilty of an offence and on conviction shall be liable to a fine not exceeding N200 or to imprisonment for a period not exceeding six months, or to both.

### **Section 74. Labour required in emergencies and for communal obligations**

(1) The Minister may make regulations regulating the requisition of labour of the kind defined in section 31 (2) (c) and (d) (i) of the Constitution of the Federal Republic of Nigeria (that is to say, labour required in the event of any emergency or calamity threatening the life or well-being of the community, and labour that forms part of normal communal or other civil obligations).

(2) Regulations made under subsection (1) of this section-

(a) may specify for an offence under the regulations (including a failure or refusal, without reasonable cause, to render labour lawfully required thereunder) a fine not exceeding N200 or imprisonment for a period not exceeding six months, or both, and as a daily penalty a fine not exceeding N10 or imprisonment for a period not exceeding seven days, or both; and

(b) may add to, amend or repeal subsections (3) to (6) of this section.

(3) Subject to this section, the prescribed authority may require the inhabitants of any town or village subject to its jurisdiction to provide labour for any of the following purposes-

(a) the construction and maintenance of buildings used for communal purposes, including markets but excluding juju houses and places of worship;

(b) sanitary measures;

(c) the construction and maintenance of local roads and paths;

(d) the construction and maintenance of town or village fences;

(e) the construction and maintenance of communal wells; and

(f) other communal services of a similar kind in the direct interest of the inhabitants of the town or village.

(4) No labour shall be required under subsection (3) of this section unless-

(a) the inhabitants of the town or village or their direct representatives have been previously consulted by the prescribed authority with regard to the need for the proposed service; and

(b) a majority of the inhabitants or representatives, as the case may be, has agreed to the requiring of the labour.

(5) In subsections (3) and (4) of this section "town or village" excludes a township but includes any area (other than a township) declared by the Minister by order to be a town or village for the purposes of this section.

(6) Any person who does not wish to execute his share of any labour required under subsection (3) of this section may be excused from doing so on payment to the prescribed authority of such sum per day, while the labour is being done, as represents the current daily wage for unskilled labour.

(7) Nothing in this section shall be taken to authorize the exaction from any person of any work or service for which that person does not offer himself voluntarily where apart from this section the exaction of that work or service would be illegal.

## **Part IV. Supplemental**

Records and returns

### **Section 75. Records**

(1) It shall be the duty of every employer to keep such records of wages and conditions of employment as are necessary to show that this Act is being complied with.

(2) Without prejudice to the generality of subsection (1) of this section, every employer shall keep in respect of each of his workers to whom a statement has been given under section 7 of this Act, a record showing-

- (a) the name and address of the worker;
- (b) his town (or other place) of origin;
- (c) the date of his birth;
- (d) the name and address of his next of kin;
- (e) the date and place of his engagement;
- (f) his National Provident Fund number; and
- (g) the date of cessation of employment.

(3) Records kept pursuant to subsections (1) and (2) of this section shall be retained for three years after the time to which they refer.

(4) Any employer who-

(a) knowingly and with intent to avoid compliance with any provision of this Act, omits to keep any or any sufficient record of any particular wages or conditions of employment, or

(b) fails to comply with subsection (2) or (3) of this section,

shall be guilty of an offence and on conviction shall be liable to a fine not exceeding N200.

## **Section 76. Returns**

(1) The Minister may require returns and statistics, whether periodical or otherwise, to be furnished by employers as to the number of persons employed by them in any particular class of employment and as to the rates of remuneration and other conditions in that or any other class of employment.

(2) Any employer who fails to furnish any returns or statistics which he is required to furnish under subsection (1) of this section shall be guilty of an offence and on conviction shall be liable to a fine not exceeding N200.

**Section 77. Authorized labour offices**

(1) The Minister may by writing under his hand authorize-

(a) any public officer serving in a ministry or department for which the Minister is responsible; and

(b) with the consent of the State Authority, any officer in the public service of a State, to be an authorized labour officer for the purposes of this Act

(2) An authorization under subsection (1) of this section may-

(a) as regards the officer authorized, be made by name or by office;

(b) relate to the whole of the Federation or any specified part or parts thereof; and

(c) relate to the whole of this Act or any specified provision or provisions thereof.

(3) No authorized labour officer, except in so far as is necessary for the purposes of a complaint or prosecution under this Act, shall publish or disclose to any person the details of any manufacturing, commercial or working process which may come to his knowledge in the course of his duties.

(4) An authorized labour officer shall treat as absolutely confidential the source of any complaint alleging a contravention of this Act, and where he visits an employer's premises in consequence of such a complaint, shall give no indication to the employer or the employer's representative that the visit was made in consequence of the complaint.

**Section 78. Powers of authorized labour officers**

(1) In addition to any other powers conferred by this Act, an authorized labour officer may for the purpose of facilitating or ensuring the proper operation of this Act-

(a) enter, inspect and examine by day or night any labour encampment, farm, factory or other land or workplace whatsoever (and every part thereof) if he has reasonable cause to believe that any worker is employed therein or thereon;

(b) enter, inspect and examine by day any premises provided by an employer in which he has reasonable cause to believe that workers are living;

(c) enter, inspect and examine any hospital building, sanitary convenience, messroom or water supply provided for or used by workers;

(d) take with him a police officer if he has reasonable cause to apprehend any serious obstruction in the execution of his functions;

(e) require the production of any registers, certificates, notices or other documents kept in pursuance of this Act and inspect, examine and copy any of them;

(f) make such examination and enquiry as may be necessary to ascertain whether the provisions of this Act are being complied with, so far as respects any labour encampment, farm, factory or other land or workplace whatsoever and any person employed therein or thereon;

(g) inspect and examine all food provided for the use of workers and take samples thereof, so however that-

(i) any sample taken in pursuance of this paragraph shall be taken in duplicate in the presence of the employer of the workers (or, if the employer is not readily available, in the presence of a foreman or other responsible person) and shall be labelled and sealed in the presence of the employer, foreman or other responsible person, and

(ii) one sample so labelled and sealed shall be left with the employer, foreman or other responsible person;

(h) take or remove for the purpose of analysis samples of materials and substances used or handled by workers from premises not covered by the Factories Act, subject to the employer or his representative being notified and given an opportunity to be present when the samples are taken;

(i) interrogate, either alone or in the presence of another person as he thinks fit, with respect to matters to which this Act relates, any person whom he finds in or on any labour encampment, farm, factory or other workplace whatsoever or whom he has reasonable cause to believe to have been within the preceding three months employed in or on any labour encampment, farm, factory or other land or workplace whatsoever, so however that no person shall be forced to answer any question tending to incriminate himself;

(j) with the consent in writing of the Minister and subject to any powers conferred by the Constitution of the Federal Republic of Nigeria on the Attorney-General or Director of Public Prosecutions of the Federation or a State, prosecute, conduct or defend before a magistrate's court, a district court or a court given jurisdiction under section 80 (2) of this Act in his own name (or, where he is acting under section 83 (5) of this Act, in the name of the complainant) any complaint or other proceeding arising under this Act or otherwise in the exercise of his functions as an authorized labour officer;

(k) direct any person who has in his opinion contravened any provision of this Act, to remedy the contravention within a specified and reasonable period; and

(l) direct the posting of a notice in any premises if he is satisfied that it is necessary or expedient for the proper implementation of this Act.

(2) Any person directed to take remedial action under subsection (1) (k) of this section may, if he is dissatisfied with the direction, within fourteen days or within any period stated in the direction, whichever is the less, appeal in writing to the Minister, who may refer the case for advice to any person or persons considered by him to be suitable and whose decision shall be final.

(3) Any person who-

(a) obstructs an authorized labour officer in the exercise of his functions under this section or any other provision of this Act; or

(b) fails to comply with a direction under subsection (1) (k) of this section (no appeal having been made under subsection (2) of this section or any such appeal having been disposed of); or

(c) fails to comply with a direction under subsection (1) (l) of this section,

shall be guilty of an offence and on conviction shall be liable to a fine not exceeding N1,000 or to imprisonment for a period not exceeding two years, or to both.

### **Section 79. Delegation of functions**

(1) Subject to this section, the Minister may delegate any of his functions under this Act-

(a) to a public officer serving in a ministry or department for which the Minister is responsible; or

(b) as regards a State, to the Minister in the Government of the State responsible for labour matters or, with the consent of the State Authority, to an officer in the public service of the State.

(2) Subsection (1) of this section does not apply to the power of delegation conferred by that subsection or to any power to make regulations or orders.

(3) A delegation under subsection (1) of this section may be made subject to such conditions and limitations, if any, as the Minister thinks fit.

(4) The delegation of a function under subsection (1) of this section shall not prevent the Minister from continuing to exercise the function himself if he sees fit.

## Settlement of disputes

### **Section 80. Jurisdiction**

(1) A magistrate's court (or, in a State where a magistrate's court has no civil jurisdiction, a district court) shall have jurisdiction to hear complaints under section 81 of this Act.

(2) Without prejudice to the jurisdiction to hear complaints conferred by subsection (1) of this section, the Chief Judge of a State with the concurrence of the State Authority may by order confer jurisdiction to hear such complaints on area courts or customary courts in the State or part of the State.

### **Section 81. Labour complaints**

(1) Where-

(a) an employer or worker neglects or refuses to fulfil a contract; or

(b) any question, difference or dispute arises as to the rights or liabilities of a party to a contract or touching any misconduct, neglect, ill-treatment or injury to the person or property of a party to a contract,

any party to the contract feeling himself aggrieved may make complaint to a court having jurisdiction, which may thereupon issue a summons to the party complained against (the aggrieved party, the court, the party complained against and the complaint being hereafter in this section and in sections 82 to 85 of this Act referred to as "the complainant", "the court", "the respondent" and "the complaint" respectively).

(2) If the complainant claims an amount beyond the civil jurisdiction of the court, the court shall forward the complaint to the nearest court having jurisdiction.

(3) The court may exercise jurisdiction in the complaint if the respondent is in its area of jurisdiction at the time the complaint is made, whether or not the grounds of the complaint arose within that area.

(4) If at any time after the laying of the complaint it appears to the court by information on oath that the respondent is about to abscond, the court may cause him to be arrested and detained in custody unless he finds security to appear and answer the complaint and to abide by the decision of the court thereon.

(5) Where the court is of the opinion that the complaint could more properly or conveniently be dealt with by civil proceedings, it may, at any time before giving its final decision on the complaint, order that the remedy, if any, for the matters

complained of shall be by an action brought in accordance with the law relating to civil proceedings and not by proceedings under this section.

(6) This section shall not apply to a trade dispute, that is to say, any dispute or difference between employers and workers (or between workers and other workers) connected with-

(a) the employment or non-employment; or

(b) the terms of the employment; or

(c) the conditions of labour, of any person.

## **Section 82. Powers of the court**

(1) In dealing with the complaint; the court-

(a) may adjust and set off one against the other all such claims on the part of the complainant and the respondent arising out of or incidental to the relationship between them as the court may find to be subsisting, whether the claims are liquidated or unliquidated or for wages, damages or otherwise, and may direct the payment of such sum as it finds due by one party to the other;

(b) may direct fulfillment of the relevant contract and, in a case where damages might be awarded for any breach of contract, may in place of the whole or part of the damages which would otherwise have been awarded direct the party committing the breach to give security to the satisfaction of the court for the due performance of so much of the contract as remains unperformed;

(c) if the party receiving a direction under paragraph (b) of this subsection fails to find security and the court is satisfied that the failure is not due to the inability of that party to find it, may commit him to prison (for a period not exceeding three months) until he finds it;

(d) may rescind the contract upon such terms as to apportionment of wages or other sums due thereunder, and as to the payment of wages or damages or other sums due, as it thinks just; and

(e) where the court has criminal jurisdiction and it appears to the court that an employer or worker has been guilty of an offence under this Act, may in place of or in addition to exercising any of the powers conferred by paragraphs (a) to (d) of this subsection pass on the offender any sentence which is authorized by this Act and is within its criminal jurisdiction.

(2) Without prejudice to any other method of giving security which the court may consider appropriate in any particular case, a person may give security for the purposes of subsection (1) (b) of this section by making in or under the direction of the court a written or oral acknowledgment (to be known as a recognizance) of the undertaking or condition by which and the sum in which he is bound; and any such recognizance shall be made as nearly as possible in the same way as recognizances of bail and shall be liable to be forfeited and enforced in the same way as recognizances of bail.

### **Section 83. Procedure**

(1) Subject to this section and the other provisions of sections 81, 82, 84 and 85 of this Act, the law regulating the procedure in criminal cases (including the law respecting appeals, revisions and the levying of moneys ordered to be paid) shall apply to the complaint and any orders for the payment of money made in consequence of the complaint, so however that-

(a) the court may order that the law regulating civil proceedings shall apply to the complaint and any such orders if in any case it considers that the interests of justice so require; and

(b) the law regulating civil proceedings shall so apply if the court has no criminal jurisdiction.

(2) Where in consequence of the complaint the court makes an order for the payment of any sum by a public authority, no execution shall be issued, but the court shall forward a copy of the order-

(a) if the public authority is the Federal Government, to the Minister for Finance and Economic Development;

(b) if the public authority is a State Government, to the Minister for Finance of that State; and

(c) in any other case, to the public authority concerned, and it shall thereupon be the duty of the Minister, person or public authority in question to ensure that the amount in the order is paid by the proper officer or department.

(3) The respondent, if immediately before the hearing of the complaint he is not in actual custody, shall not be compelled to enter the dock or other place usually assigned for persons under trial on a criminal charge or be otherwise treated as under arrest during the hearing of the complaint:

Provided that the court may cause the respondent to be arrested and detained in custody if it is satisfied that it is necessary to do so in order to secure the attendance of the respondent.

(4) At the hearing of the complaint the respondent shall be a competent but not a compellable witness.

(5) At the request of the complainant, an authorized labour officer who is entitled to act under section 78 (1) (j) of this Act may represent the complainant at the hearing of the complaint.

#### **Section 84. Compensation, and provision of food**

(1) Where the court-

(a) imposes any fine; or

(b) directs security by way of deposit to be given; or

(c) enforces payment of any sum secured by a recognizance,

it may direct that the fine, deposit or sum when recovered (or such part thereof as it thinks fit) shall be applied to compensate any employer or worker for wrong or damage sustained by him by reason of the act or thing in respect of which the fine was imposed or by reason of the non- performance of the relevant contract.

(2) Where it appears to the court that the complainant (being a worker) has not the means and is otherwise unable to obtain food for himself pending the determination of the complaint, it may, subject to subsection (3) of this section, cause the complainant to be supplied with necessary Food at the expense of the Federal Government.

(3) Where food is supplied to the complainant under subsection (2) of this section, the cost of the food shall be a debt due to the Federal Government from the complainant and may be deducted by the court from any moneys received by the court for or on behalf of the complainant, or shall otherwise be paid by the complainant.

#### **Section 85. Costs**

(1) Subject to this section, the process of the court for compelling the attendance of the respondent and all necessary witnesses shall be instituted at the expense of the Federal Government and without any fees of court.

(2) At the final determination of the complaint the court may make such order for the payment of costs by either party as it thinks proper in the circumstances.

(3) If at the hearing of the complaint, the court is of the opinion that the complaint is vexatious or frivolous it may, there and then and without any fresh action or proceeding, order that the complainant shall-

(a) pay a fine not exceeding N50 and defray the cost of the process and the witnesses; and

(b) in default of payment of the fine and costs, be liable to imprisonment for a period not exceeding one month.

Miscellaneous

### **Section 86. Application to public authorities**

The provisions of this Act, other than the penal provisions, shall apply to and be carried into effect by public authorities:

Provided that, in times of national emergency and in any other case where he is satisfied that it is in the public interest to do so, the Minister may by order exempt any public authority from all or any of the provisions of this Act for such a period as may be specified in the order.

### **Section 87. Contracts made abroad**

(1) Subject to this section, nothing in this Act shall prevent any employer, worker or other person to whom this Act applies from enforcing his rights or remedies in respect of any breach or non-performance of any lawful contract made outside Nigeria, and the rights of the parties under such a contract (both against each other and against third parties invading those rights) may be enforced in the same manner as other rights arising outside Nigeria may be enforced and as if this Act had not been made.

(2) Whenever a contract made outside Nigeria has been executed in conformity with this Act, it shall be enforced in the same manner as a contract entered into under this Act.

(3) A written contract made outside Nigeria which has been executed otherwise than in conformity with this Act shall not be enforced against a worker to whom this Act applies if he is unable to read and understand the language in which the contract is written.

(4) For the purposes of this section, a contract shall be deemed to be executed in conformity with this Act if it is signed by the names or marks of the parties and bears an attestation to the effect that the contract was read over and explained to the parties in the presence of the person attesting and was entered into by the parties

voluntarily and with full understanding of its meaning and effect.

(5) The attestation referred to in subsection (4) of this section may be made by any Nigerian official entitled to act under section 12 of the Oaths Act or by any judicial or other authority authorized by the law of the place where the contract was made to exercise the functions of a notary public or equivalent functions.

### **Section 88. Regulations**

(1) The Minister may make regulations-

(a) providing for the payment of compensation by employers to workers or domestic servants for injury arising out of and in the course of their employment in cases not coming within the provisions of any other enactment, and for the recovery of the compensation in question;

(b) requiring employers to report any accident involving the death of or injury to a worker or domestic servant, in cases not coming within the provisions of any other enactment;

(c) prescribing the conditions under which carriers may be employed and the limitation of loads to be carried by them;

(d) imposing upon persons who have accepted the services of any worker or domestic servant without paying wages therefore the obligation to provide for the maintenance of the worker or domestic servant during sickness or in old age;

(e) prescribing anything which is to be prescribed under this Act and is not otherwise provided for;

(f) prescribing fees to be paid for any matter or thing to be done under this Act; and

(g) containing such procedural or ancillary provisions as he considers necessary or convenient to facilitate the operation of this Act.

(2) Regulations made under subsection (1) of this section may specify for an offence under the regulations a fine not exceeding N500 or imprisonment for a period not exceeding one year, or both.

### **Section 89. Savings and exemptions**

(1) Nothing in this Act shall-

(a) operate to relieve any employer or worker of any duty or liability imposed upon him by any other enactment or to limit any power given to any public officer by any such enactment; or

(b) prevent any employer, worker or other person to whom this Act applies from being proceeded against according to law for any offence punishable under any law in force in Nigeria, so however that no person shall be punished twice for the same offence.

(2) Nothing in this Act shall apply to serving members of the Armed Forces of the Federation or the Nigeria Police Force.

(3) The Minister with the prior approval of the National Council of Ministers may by order exempt (subject to such conditions, if any, as he sees fit to impose) any class or classes of workers from the application of this Act or any specified provision thereof.

### **Section 90. Repeal, and transitional and saving provisions**

(1) The Labour Code Act is hereby repealed.

(2) The transitional and saving provisions in the Schedule to this Act (including any provisions made under paragraph 5 of that Schedule) shall have effect notwithstanding subsection (1) of this section or any other provision of this Act.

### **Section 91. Interpretation**

(1) In this Act, unless the context otherwise requires-

"administrative officer" means a divisional officer, a district officer or any officer exercising corresponding functions;

"agricultural undertaking" means any undertaking in which a worker is employed under a contract of employment for the purpose of agriculture, fisheries, horticulture, silviculture, the tending of domestic animals and poultry or the collection of the produce of any plants or trees, but does not include any such undertaking in which only members of the same family are employed;

"authorized labour officer" means an authorized labour officer authorized under section 77 of this Act;

"citizen" means citizen of Nigeria;

"chief or other indigenous authority" includes any chief or indigenous authority whose authority is customary or traditional;

"child" means a young person under the age of twelve years;

"collective agreement" means an agreement in writing regarding working conditions and terms of employment concluded between-

(a) an organization of workers or an organization representing workers (or association of such organizations) of the one part; and

(b) an organization of employers or an organization representing employers (or an association of such organizations) of the other part;

"collective bargaining" means the process of arriving or attempting to arrive at a collective agreement;

"contract" means contract of employment, and includes a contract of apprenticeship;

"contract of employment" means any agreement, whether oral or written, express or implied, whereby one person agrees to employ another as a worker and that other person agrees to serve the employer as a worker;

"domestic servant" means any house, stable or garden servant employed in or in connection with the domestic services of any private dwelling house, and includes servant employed as the driver of a privately owned or privately used motor car;

"employer" means any person who has entered into a contract of employment to employ any other person as a worker either for himself or for the service of any other person, and includes the agent, manager or factor of that first- mentioned person and the personal representatives of a deceased employer;

"employer's permit" means an employer's permit granted under section 24 of this Act;

"family" has the same meaning as in the First Schedule to the Workmen's Compensation Act;

"foreign contract" means a contract for the employment of a citizen outside Nigeria;

"function" includes power and duty;

"guardian" includes any person to whose care a young person has been committed (even temporarily) by a person having authority over the young person, and any person lawfully having charge of a young person who has no parents or whose parents are unknown;

"industrial undertaking" includes-

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

(b) industries in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished or in which materials are transformed, including shipbuilding and the generation and transformation of electricity or motive power of any kind;

(c) the construction, reconstruction, maintenance, repair, alteration or demolition of any building, railway, tramway, harbour, dock, canal, inland waterway, road, tunnel, bridge, viaduct, sewer, drain, well, telegraph or telephonic installation, electrical undertaking, gasworks, waterworks, or other works of construction, as well as the preparation for or the laying of the foundation of any such work or structure; and

(d) transport of passengers or goods by road, rail, air, sea or inland waterways, including the handling of goods at docks, quays, wharves, warehouses and airports, and including the carrying of coal or other materials by hand to or from lighters or ships,

but does not include any commercial or agricultural undertaking, any undertaking in which only members of the same family are employed or any customary occupation of a kind normally carried on at home;

"industrial worker" includes any artificer, journeyman, handicraftsman, canoeman, carrier, messenger, clerk, shop assistant, storekeeper, labourer, agricultural labourer, hotel or catering worker or apprentice and any person or class of persons gainfully employed or normally seeking a livelihood by gainful employment declared to be such by the Minister by order; "industry" includes trade;

"labour health area" means a labour health area declared under section 66 of this Act;

"Local Government" means a Local Government authority, the local authority of a township or any council or other authority (however styled) exercising statutory or customary powers of local administration in a State;

"mine" includes any place, excavation or working whereon, wherein or whereby any operation in connection with mining is carried on;

"Minister" means the Federal Minister for Employment, Labour and Productivity;

"public authority" means-

(a) the Federal Government; or

(b) a State Government; or

(c) a local government authority; or

(d) a statutory corporation, that is to say, a body corporate directly established by law in Nigeria, being a body which is expressly bound by law to comply with directions given by a Minister or by a corresponding authority; or

(e) a government- controlled company, that is to say, a limited liability company incorporated in Nigeria in which the Federal Government or a State Government has a controlling interest;

"public department" means a ministry or department of a public authority;

"public officer" means any person employed by a public authority;

"recruiter" means the holder of a recruiter's licence; "recruiter's licence" means a recruiter's licence granted under section 25 of this Act;

"recruiting" includes all operations undertaken with the object of obtaining or supplying the labour of persons who do not spontaneously offer their services at the place of employment, at a public emigration or employment office or at an office conducted by an employer's association and supervised by the Minister;

"State" means a State of the Federation;

"State Authority" means the Governor or Administrator of a State;

"wages" means remuneration or earnings (however designated or calculated) capable of being expressed in terms of money and fixed by mutual agreement or by law which are payable by virtue of a contract by an employer to a worker for work done or to be done or for services rendered or to be rendered;

"woman" means any member of the female sex whatever her age or status;

"worker" means any person who has entered into or works under a contract with an employer, whether the contract is for manual labour or clerical work or is expressed or implied or oral or written, and whether it is a contract of service or a contract personally to execute any work or labour, but does not include-

(a) any person employed otherwise than for the purposes of the employer's business, or

(b) persons exercising administrative, executive, technical or professional functions as public officers or otherwise, or

(c) members of the employer's family, or

(d) representatives, agents and commercial travellers in so far as their work is carried on outside the permanent workplace of the employer's establishment; or

(e) any person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, repaired or adapted for sale in his own home or on other premises not under the control or management of the person who gave out

the articles or the material; or

(f) any person employed in a vessel or aircraft to which the laws regulating merchant shipping or civil aviation apply;

"young person" means a person under the age of eighteen years.

(2) In this Act, unless the context otherwise requires, a reference to a numbered Part or section is a reference to the Part or section so numbered in this Act.

## **Section 92. Short title**

This Act may be cited as the Labour Act.

## **Schedule. Transitional and Saving Provisions**

1. Permits and licences granted under sections 65 and 70 respectively of the repealed Act shall, if they were in force immediately prior to the commencement of this Act, continue in force on the same terms and conditions but shall be subject to this Act; and accordingly no such term or condition shall prevail against any provision of this Act.

2. Contracts of employment which were in force immediately prior to the commencement of this Act shall remain in force on the same terms and conditions, but shall be subject to this Act; and no such term or condition shall prevail against any provision of this Act unless an authorized labour officer on the application of a party to the contract in question decides that the interests of the parties or the circumstances of the case require that the term or condition in question shall so prevail.

3. Where a fee-charging employment agency was in operation immediately before the commencement of this Act, section 71 (1) of this Act shall not apply to the agency-

(a) for a period of ninety days (or such longer period as the Minister may allow) after the commencement of this Act, or

(b) if the person operating the agency applies within that period for the Minister's consent under the said section 71 (1) of this Act, until the application has been disposed of.

4. Any subsidiary legislation made or deemed to have been made under the repealed Act which was in force immediately before the commencement of this Act shall remain in force, subject to any necessary modifications, as if it had been made under this Act, and may be added to, amended, revoked or varied accordingly.

5. Within the twelve months following the commencement of this Act the Minister may by order make any further transitional or saving provisions (not inconsistent with this Schedule) which appear to him to be necessary or desirable.

6. In this Schedule "the repealed Act" means the Labour Code Act i repealed by section 90 (1) of this Act.

Law is valid. An actualization checked 03.06.2021