

*(Repealed by Employment Act (No 1 of 2007))*



LAWS OF KENYA

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**THE EMPLOYMENT ACT**

**Cap. 226**

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**THE EMPLOYMENT ACT,  
CAP. 226**

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**THE EMPLOYMENT ACT**

**CHAPTER 226**

*Commencement Date: 1976-05-03*

**An Act of Parliament to consolidate, with amendments, the law relating to employment, and for matters incidental thereto and connected therewith**

**Short title and application.**

**1.** (1) This Act may be cited as the Employment Act.

(2) The provisions of this Act shall not apply to -

(a) the armed forces or the reserve as respectively defined in the Armed Forces Act (Cap 199);

(b) the Kenya Police, the Kenya Prisons Service or the Administration Police Force;

(c) the National Youth Service; or

(d) such person or class of persons, such trade or industry, or such public body, as the Minister may, by order, exempt from all or any of those provisions of this Act,

but subject to the foregoing shall be binding on the Government.

**Interpretation.**

**2.** In this Act, except where the context otherwise requires -

"authorized officer" means any labour officer and such other person as shall be appointed by the Minister under this section to be an authorized officer for the purposes of this Act;

"Board" means the Labour Advisory Board established under section 3;

"casual employee" means an individual the terms of whose engagement provide for his payment at the end of each day and who is not engaged for a longer period than twenty-four hours at a time:

"child" means an individual, male or female, who has not attained the age of sixteen years;

"contract of service" means an agreement, whether oral or in writing, and whether expressed or implied, to employ or to serve as an employee for any period of time, and includes a contract of apprenticeship and indentured learnership but does not include a foreign contract of service to which Part III of this Act applies;

"employee" means an individual employed for wages or salary and includes an apprentice and an indentured learner;

"employer" means any person, or public body or any firm, corporation or company, who or which has entered into a contract of service to employ any individual, and includes the agent, foreman, manager or factor of such person, public body, firm, corporation or company;

"juvenile" means a child or young person;

"labour inspector" means a person appointed to the public service as a senior labour inspector, a labour inspector, an industrial relations assistant or a wages inspector;

"labour officer" means a person appointed to the public service as the Labour Commissioner, a deputy labour commissioner, an assistant labour commissioner, the Chief Industrial Relations Officer, the Deputy Chief Industrial Relations Officer, a senior labour officer, an industrial relations officer or a labour officer;

"medical officer" means –

(a) a medical practitioner registered under the Medical Practitioners and Dentists Act;

(b) a person licensed under section 13 of the Medical Practitioners and Dentists Act;

(c) the medical officer of health of any local authority for the purposes of the Public Health Act;

"piece work" means any work the pay for which is estimated by the amount of work performed irrespective of the time occupied in its performance;

"task" means such amount of work as can, in the opinion of an authorized officer, be performed by an employee in an ordinary working day;

"woman" means a female of the age of eighteen years or above;

"young person" means an individual, male or female, who has attained the age of sixteen years but has not attained the age of eighteen years.

### **Labour Advisory Board.**

3. (1) There shall be a Labour Advisory Board whose duty it shall be to advise the Minister upon such matters connected with employment and labour as the Board think fit, and upon any questions referred to the Board by the Minister.

(2) The members of the Board shall be appointed by the Minister, and the Minister shall appoint a member to be chairman thereof and shall appoint an officer of the Labour Department to be secretary thereof.

(3) The following provisions shall have effect with respect to the constitution and proceedings of the Board –

(a) the Minister may at any time cancel the appointment of a member of the Board; and, unless his appointment is so cancelled, each member of the Board shall hold office for three years;

(b) if the chairman of the Board ceases to be a member of the Board, he shall also cease to be chairman of the Board;

(c) any member of the Board, including the chairman, may, by notice in writing addressed to the Minister, resign his membership, and the chairman may, by the like notice, resign his office as such;

(d) a member of the Board who ceases to be a member or who ceases to be a chairman shall be eligible for reappointment;

(e) there shall be paid out of moneys provided by Parliament to the members of the Board, including the chairman, in respect of their office as such, such reasonable allowances in respect of expenses properly incurred in the performance of their duties as may be determined by the Minister with the consent of Minister for the time being responsible for finance;

(f) the quorum of the Board and the arrangements relating to its meetings shall, subject to any directions given by the Minister, be such as the Board may determine.

**Payment, disposal and recovery of wages, allowances, etc.**

**4.** (1) Subject to this Act, the entire amount of the wages earned by or payable to an employee in respect of work done by him in pursuance of a contract of service shall be paid to him directly in the currency of Kenya:

Provided that if an employee so requests in writing, or if the provisions of an agreement made between a trade union and an employer or organization of employers which relates to terms and conditions of employment applicable to him so provide, payment may be made -

(a) into an account at a bank, or building society, in his name whether alone or jointly with any other individual; or

(b) by cheque, postal order or money order; and

(c) in the absence of an employee, to a person other than the employee, if the person is duly authorized by him in writing to receive the wages on his behalf.

(2) Payment of wages shall be made on a working day, and during working hours, at or near to the place of employment or at such other place as may be agreed to between the employer and the employee.

(3) Payment of wages shall not be made in any place wherein intoxicating liquor is sold or readily available for supply, except in the case of employees employed to work therein.

(4) No person shall give or promise to any individual any advance of money or any valuable consideration upon a condition expressed or implied that the individual or any dependant of his shall enter upon any employment.

(5) If, in a contract of service or collective agreement, provision is made for the payment of any allowance in kind to an employee with his consent, the payment may with such consent be made if, and only if, the allowance -

(a) is for the personal use and benefit of the employee himself; and

(b) does not consist of or include any intoxicating spirit or noxious drug.

(6) Notwithstanding the provisions of any law for the time being in force, whenever an attachment has been issued against the property of an employer in execution of a decree against him, the proceeds realized in pursuance of that execution shall not be paid by the court to a decree-holder until a decree obtained against the employer in respect of the wages of his employees has been satisfied to the extent of a sum not exceeding four months' wages of those employees:

Provided that nothing in this subsection shall prevent an employee from recovering any balance due on the last mentioned decree, after such satisfaction as aforesaid, by ordinary process of law.

(7) If an employer advances to an employee a sum in excess of the amount of one month's wages of the employee or, in the case of an employee employed under a written contract of service, a sum in excess of the amount of two months' wages of that employee, the excess shall not be recoverable in a court of law.

(8) A person who -

(a) subject to section 6, wilfully fails to make payment of or to tender the wages earned by or payable to an employee in accordance with subsection (1); or

(b) contravenes any of the provisions of subsections (2), (3), (4) and (5),

shall be guilty of an offence.

(9) No employer shall limit or attempt to limit the right of an employee to dispose of his wages in a manner which he deems fit, nor by any contract of service or otherwise seek to compel an employee to dispose of his wages or a portion thereof in a particular place or for a particular purpose in which the employer has a beneficial interest whether direct or indirect.

### **When wages due.**

**5.** (1) In the case of a contract entered into under which entitled -

(a) when a task has not been completed, at the option of his employer to be paid by his employer at the end of the day in proportion to the amount of the task which has been performed, or to complete the task on the following day, in which case he shall be entitled to be paid on the completion of the task;

(b) in the case of piece work, to be paid by his employer at the end of each month in proportion to the amount of work which he has performed during the month or on the completion of the work. whichever date is the earlier.

(2) Subject to subsection (1), the times when wages shall be deemed to be due shall be as follows -

(a) in the case of a casual employee, at the end of the day;

(b) in the case of an employee employed for a period of more than a day but not exceeding one month, at the end of that period;

(c) in the case of an employee employed for a period exceeding one month, at the end of each month or part thereof;

(d) in the case of an employee employed for an indefinite period or on a journey, at the expiration of each month or of such period, whichever date is the earlier, and on the completion of the journey, respectively :

Provided that the provisions of this section shall not affect an order or award of the Industrial Court, or an agreement between an employee and his employer the relevant terms of which are more favourable to the employee than the provisions of this section.

(3) Where an employee is summarily dismissed for lawful cause, he shall be paid on dismissal all moneys, allowances and benefits due to him up to the date of his dismissal.

(4) Upon the termination of every contract of service -

(a) by effluxion of time, it shall be the duty of the employer and not of the employee to ensure that the employee is paid such of the entire amount of the wages earned by or payable to him and of the allowances due to him as have not hitherto been paid;

(b) by dismissal, the employer shall, within seven days, deliver to a labour officer in the district in which the employee was working a written report specifying the circumstances leading to, and the reasons for, the dismissal and stating the period of notice and the amount of wages in lieu thereof to which the employee would, but for the dismissal, have been entitled; and the report shall specify the amount of wages and other allowance earned by him since the date of his dismissal,

(5) No wages shall be payable to an employee in respect of a period during which he is detained in custody or serving a sentence of imprisonment imposed under any law.

#### **Deduction from wages.**

**6.** (1) Notwithstanding subsection (1) of section 4, an employer may deduct from the wages of his employee -

(a) any amount due from the employee as a contribution to any provident fund or superannuation scheme or any other scheme approved by the Labour Commissioner to which the employee has agreed to contribute;

(b) a reasonable amount for any damage done to, or loss of, any property lawfully in the possession or custody of the employer occasioned by the wilful default of the employee;

(c) an amount not exceeding one day's wages in respect of each working day for the whole of which the employee, without leave or other lawful cause, absents himself



from the premises of the employer or other place proper and appointed for the performance of his work;

(d) an amount equal to the amount of any shortage of money arising through the negligence or dishonesty of the employee whose contract of service provides specifically for his being entrusted with the receipt, custody and payment of money;

(e) any amount paid to the employee in error as wages in excess of the amount of wages due to him;

(f) any amount the deduction of which is authorized by any written law for the time being in force;

(g) any amount in which the employer has no beneficial interest, whether direct or indirect, and which the employee has requested the employer in writing to deduct from his wages;

(h) an amount due and payable by the employee under and in accordance with the terms of an agreement in writing, by way of repayment or part repayment of a loan of money made to him by the employer, not exceeding fifty per cent of the wages payable to that employee after the deduction of all such other amounts as may be due from him under this section;

(i) such other amounts as the Minister may prescribe.

(2) No deduction shall be made by an employer from the wages payable to an employee as an advance of wages in consideration of, or as a reward for, the provision of employment for that employee, or for retaining the employee in employment.

(3) Without prejudice to any right of recovery of any debt due, and notwithstanding the provisions of any other written law, the total amount of all deductions which, under the provisions of subsection (1), may be made by an employer from the wages of his employee at any one time shall not exceed one-half of such wages or such additional or other amount as may be prescribed by the Minister either generally or in relation to any specified employer or employee or class of employers or employees or any trade or industry.

### **Leave with full pay.**

**7.** (1) Every employee shall be entitled -

(a) after every twelve consecutive months of service with his employer to not less than twenty-one working days of leave with full pay;

(b) where employment is terminated after the completion of two or more consecutive months of service during any twelve months' leave-earning period, to not less than one and three-quarter days of leave with full pay, in respect of each completed month of service in that period, to be taken consecutively.

(2) A woman employee shall be entitled to two months maternity leave with full pay:

Provided that a woman who has taken two months maternity leave shall forfeit her

annual leave in that year.

(3) After two consecutive months of service with his employer an employee shall be entitled to sick leave of not less than seven days with full pay, and thereafter to seek leave of seven days with half pay, in each period of twelve consecutive months of service, subject to production by the employee of a certificate of incapacity to work signed by a duly qualified medical practitioner or a person acting on the practitioner's behalf in charge of a dispensary or medical aid centre.

(4) The leave referred to in subsection (1) shall be additional to all public holidays, weekly rest days and any sick leave, whether fixed by law or agreement, in respect of which an employee is not required to work.

(5) For the purposes of this section "full pay" includes wages and salary at the basic rate excluding any deductions from wages made by virtue of section 6.

**Weekly rest day.**

**8.** Every employee shall be entitled to at least one rest day in every period of seven days.

**Housing.**

**9.** Every employer shall at all times, at his own expense provide reasonable housing accommodation for each of his employees either at or near to the place of employment, or shall pay to the employee such sufficient sum, as rent, in addition to his wages or salary, as will enable the employee to obtain reasonable accommodation:

Provided that if, by reason of the conditions of employment, and wages payable, any person is placed at a disadvantage by the application of this section, the Minister may by notice in the Gazette, exclude the application of this section to that person and that person shall instead be dealt with as shall be specified in the notice.

**Water.**

**10.** Every employer shall provide a sufficient supply of wholesome water for the use of his employees at the place of employment and, as the case may be, within a reasonable distance of any housing accommodation provided for them by him.

**Food.**

**11.** Every employer shall, where the provision of food has been expressly agreed to in or at the time of entering into a contract of service, ensure that every employee is properly fed and supplied with sufficient and proper cooking utensils and means of cooking, at the employer's expense:

Provided that the provisions of this section shall not be deemed to impose upon an employer any liability in respect of any employee during the time such employee is absent from his place of employment without the permission of the employer or without other lawful excuse.

**Medical attention.**

**12.** (1) Subject to subsection (2) every employer shall ensure the provision for his employees of proper medicines during illness and (if procurable) medical attendance during serious illness, and shall take all reasonable steps to ensure that the illness is brought to his notice as soon as reasonably practicable after the first occurrence thereof.

(2) It shall be a defence to a prosecution for an offence under subsection (1) if the employer shows that he did not know that the employee was ill and that he took all reasonable steps to ensure that the illness was so brought to his notice or that it would have been unreasonable, in all the circumstances of the case, to have required him to know that the employee was ill.

**Death of employees.**

**13.** (1) When the death of an employee, from any cause whatsoever, is brought to the notice, or comes to the knowledge, of his employer, the employer shall, as soon as practicable thereafter, give notice thereof in the prescribed form to the labour officer or, if there is no labour officer, to the district commissioner of the district in which the employee was employed.

(2) The employer shall pay to the labour officer or district commissioner, as the case may be, all wages due to the employee at the date of his death; and shall deliver to him all property belonging to the deceased employee for transmission to the person legally entitled thereto.

(3) Should any employee, during the course of his employment, be killed, or incapacitated by injury for a period exceeding three days, his employer shall, as soon as practicable, send to the labour officer or, if there is no labour officer, to a district commissioner a report in the prescribed form.

**Contracts of Service, General Provisions.**

**14.** (1) Every contract of service -

(a) for a period, or a number of working days which amount in the aggregate to the equivalent, of six months or more; or

(b) which provides for the performance of any specified work which could not reasonably be expected to be completed within a period, or a number of working days amounting in the aggregate to the equivalent of six months,

shall be in writing.

(2) For the purpose of signifying his consent to a written contract of service, an employee may either -

(a) sign his name thereon; or

(b) imprint thereon the impression of his thumb or one of his fingers, in the presence of a person other than his employer.

(3) Every employer who is a party to a written contract of service shall be the person responsible for causing the contract to be drawn up and consented to by the employee in accordance with subsection (2).

(4) The Minister may prescribe particulars to be contained in all written contracts of service and if any such particular is omitted from any such contract it shall nevertheless be deemed to have been included and to form part of the contract.

(5) Every contract of service not being a contract to perform some specific work, without reference to time or to undertake a journey shall, if made to be performed in Kenya, be deemed to be-

(i) where the contract is to pay wages daily, a contract terminable by either party at the close of any day without notice;

(ii) where the contract is to pay wages periodically at intervals of less than one month, a contract terminable by either party at the end of the period next following the giving of notice in writing;

(iii) where the contract is to pay wages or salary periodically at intervals of or exceeding one month a contract terminable by either party at the end of the period of twenty-eight days next following the giving of notice in writing:

Provided that this subsection shall not apply in the case of a contract of service whose terms provide for the giving of a period of notice of termination in writing greater than the period required by the provision of this subsection which would otherwise be applicable thereto.

#### **Contract expiring on journey may be prolonged.**

**15.** If the period expressed in any contract of service for the duration thereof expires, or if an employee seeks to determine any contract wherein no agreement is expressed respecting its duration, whilst the employee is engaged in any journey, the employer may, for the purpose of the completion of the journey, prolong the period of service for a sufficient period, but in no case exceeding one month, to enable the journey to be completed.

#### **Payment of wages in lieu of notice.**

**16.** Either of the parties to a contract of service to which paragraph (ii) or (iii) of subsection (5), or the proviso thereto, of section 14 applies, may terminate the contract without notice upon payment to the other party of the wages or salary which would have been earned by that other party, or paid by him, as the case may be, in respect of the period of notice required to be given under the corresponding provision of that subsection.

#### **Redundancy.**

**16A.** (1) A contract of service shall not be terminated on account of redundancy unless the following conditions have been complied with -

- (a) the union of which the employee is a member and the Labour Officer in charge of the area where the employee is employed shall be notified of the reasons for, and the extent of, the intended redundancy;
- (b) the employer shall have due regard to seniority in time and to the skill, ability and reliability of each employee of the particular class of employees affected by the redundancy;
- (c) no employee shall be placed at a disadvantage for being or not being a member of the trade union;
- (d) any leave due to any employee who is declared redundant shall be paid off in cash;
- (e) an employee declared redundant shall be entitled to one month's notice or one month's wages in lieu of notice;
- (f) an employee declared redundant shall be entitled to severance pay at the rate of not less than 15 days pay for each completed year of service as severance pay.

(2) For purposes of this section -

"trade union" means a trade union registered under the Trade Union Act (Cap 233) and

"redundancy" has the meaning assigned to it in section 2 of the Trade Disputes Act (Cap 234).

**Summary dismissal.  
11 of 1983, Sch.**

**17.** Any of the following matters may amount to gross misconduct so as to justify the summary dismissal of an employee for lawful cause, but the enumeration of such matters shall not preclude an employer or an employee from respectively alleging or disputing whether the facts giving rise to the same, or whether any other matters not mentioned in this section, constitute justifiable or lawful grounds for the dismissal -

- (a) if, without leave or other lawful cause, an employee absents himself from the place proper and appointed for the performance of his work;
- (b) if, during working hours, by becoming or being intoxicated, an employee renders himself unwilling or incapable properly to perform his work;
- (c) if an employee willfully neglects to perform any work which it was his duty to have performed, or if he carelessly and improperly performs any work which from its nature it was his duty, under his contract, to have performed carefully and properly;
- (d) if an employee uses abusive or insulting language, or behaves in a manner insulting, to his employer or to a person placed in authority over him by his employer;

(e) if an employee knowingly fails, or refuses, to obey a lawful and proper command which it was within the scope of his duty to obey, issued by his employer or a person placed in authority over him by his employer.

(f) if, in the lawful exercise of any power of arrest given by or under any written law, an employee is arrested for a cognizable offence punishable by imprisonment and is not within ten days either released on bail or on bond or otherwise lawfully set at liberty;

(g) if an employee commits, or on reasonable and sufficient grounds is suspected of having committed a criminal offence against or to the substantial detriment of his employer or his employer's property.

**Certificate of service.**

**18.** (1) Every employee shall be given a certificate of service by his employer upon the termination of his employment unless the employment has continued for a period of less than four consecutive weeks, and every certificate shall contain -

(a) the name of the employer and his postal address;

(b) the name of the employee;

(c) the date when employment commenced;

(d) the nature and usual place of employment;

(e) the date when employment ceased; and

(f) such other particulars as may be prescribed.

(2) Subject to subsection (1), no employer is bound to give to an employee a testimonial, reference or certificate relating to the character or performance of an employee.

(3) An employer who willfully or by neglect fails to give an employee a certificate of service in accordance with subsection (1) or who in a certificate of service includes a statement which he knows to be false, shall be guilty of an offence.

**Application of Part.**

**19.** This Part shall apply in respect of every foreign contract of service, that is to say, a contract for service made within Kenya and to be performed in all or in part outside Kenya, and every contract for service with a foreign state, except a contract for service entered into with or by or on behalf of the Government.

**Form and attestation required.**

**20.** Every foreign contract of service shall be in the prescribed form, signed by the parties thereto and shall be attested by a labour officer.

**Requirements before attestation.**

**21.** A foreign contract of service shall not be attested unless the labour officer is satisfied -

- (a) that the employee's consent to the contract has been obtained;
- (b) of the absence of any fraud, coercion or undue influence, and any mistake of fact or misrepresentation which might have induced the employee to enter into the contract;
- (c) that the contract is in the prescribed form;
- (d) that the terms and conditions of employment contained in the contract comply with the provisions of this Act and have been understood by the employee;
- (e) that the employee is medically fit for the performance of his duties under the contract; and
- (f) that the employee is not bound to serve under any other contract of service during the period provided in the foreign contract.

**Security in foreign contract of service.**

**22.** When the employer who enters into a foreign contract of service does not reside or carry on Business within Kenya he shall, or where the employer resides in Kenya he may be required by the person attesting the contract to give security by bond in the prescribed form or to the like effect with one or more sureties resident in Kenya and approved of by the person attesting the contract for the due performance of the contract in such sums as such person considers reasonable.

**Office to induce person to proceed abroad under informal contract.**

**23.** A person who - ,

- (a) employs or engages, or knowingly aids in the employment or engagement of, any person with the intention that when so employed or engaged that person shall proceed outside the limits of Kenya; or
- (b) induces or attempts to induce an employee to proceed outside the limits of Kenya,

shall, unless he has, under this Act, duly entered into a foreign contract of service with that person or employee, as the case may be, be guilty of an offence and liable to a fine not exceeding two thousand shillings and in default of payment to imprisonment for a term not exceeding twelve months.

**Application and interpretation of Part.**

**24.** (1) Nothing in this Part shall apply to an industrial undertaking in which only members of the same family are employed, unless the employment, by its nature or the circumstances in which it is carried on, is dangerous to the life, health

or morals of the persons employed therein, or to any technical school or institution which is for the time being approved and supervised by a public authority.

(2) In this Part, except where the context otherwise requires -

"employment" means employment in any labour exercised for the purpose of gain, whether the gain be to a woman or juvenile, as the case may be, or to another person; and if a woman or juvenile is found in an industrial undertaking or a mine at any time when work is going on or machinery is in motion therein, except during an interval for meals or rest, she or he shall, until the contrary is proved, be deemed for the purpose of this Part to have been then in employment therein;

"industrial undertaking" has, with respect to employment, the following meaning -

(a) mines, quarries and other works for the extraction of any substance from or from under the surface of the earth;

(b) a factory within the meaning of the Factories Act (Cap 514);

(c) the construction, reconstruction, maintenance, repair, alteration or demolition of any building, railway, tramway, harbour, dock, pier, canal, inland waterway, road, tunnel, bridge, viaduct, sewer, drain, well, telegraphic or telephone installation, electrical undertaking, gas work, water work or other work of construction, as well as the preparation for or laying of the foundations of any such work or structure;

(d) transport of passengers or goods by road, rail or inland waterway, including the handling of goods at docks, quays, wharves and warehouses, but excluding transport by hand:

Provided that -

(i) the Minister, if he sees fit so to do, having regard to the nature of the work involved in any employment carried on in any industrial undertaking, may by order declare that the employment shall be excluded from the provisions of this Part relating to industrial undertakings, and thereupon the employment shall be deemed not to be employment in an industrial undertaking for the purposes of this Part.

(ii) an undertaking of which a part only is an industrial undertaking shall not for that reason alone be deemed to be an industrial undertaking;

"mine" includes an undertaking, whether public or private, for the extraction of any substance from or from under the surface of the earth.

### **No child to be employed in an industrial undertaking**

**25.** (1) No person shall employ a child, whether gainfully or otherwise, in an industrial undertaking.

(2) The provisions of this section shall not apply to the employment of a child in an industrial undertaking under a deed of apprenticeship or indentured learnership lawfully entered into under the provisions of the Industrial Training Act (Cap 237).



**Children not to be employed otherwise than under verbal contracts.**

**26.** Subject to the provisions of the Industrial Training Act (Cap 237) relating to contracts of apprenticeship or indentured learnership, a person who employs a child, or causes a child to be employed, or being the parent or guardian or other person having for the time being the charge of or control over a child, allows the child to be employed, otherwise than under a verbal contract of service shall be guilty of an offence.

**Restriction employment of children attendance on machinery, etc.**

**27.** (1) No child, other than one serving under a contract of apprenticeship or indentured learnership in accordance with the provisions of the Industrial Training Act (Cap 237), shall be employed in an industrial undertaking in attendance on machinery.

(2) No child shall be employed in any open-cast workings or sub-surface workings which are entered by means of a shaft or adit.

**Restriction on employment of women and young persons.**

**28.** (1) Subject to section 29, no woman or juvenile shall be employed between the hours of 6.30 p.m. and 6.30 a.m. in an industrial undertaking:

Provided that –

(i) women or male young persons may be so employed in cases of emergencies which could not have been controlled or foreseen, which interfere with the normal working of the industrial undertaking and which are not of a periodical nature;

(ii) women may be so employed in cases where their work is connected with raw materials or materials in the course of treatment, being in either case materials which are subject to rapid deterioration and their work during those hours is necessary to preserve the materials from certain loss; and

(iii) women, holding responsible positions of a managerial or technical nature, or employed in health and welfare services, and not normally engaged in manual work, may be so employed.

(2) Notwithstanding subsection (1), the Minister may, after consultation with the Board, authorize an employer in writing to employ women or young persons up to the hour of midnight or from the hour of 5 a.m., subject to such conditions as the Minister may determine.

**Emergencies.**

**29.** In case of a serious emergency, when the public interest demands it, the Minister may, by notice in the Gazette, suspend the operation of section 28 in so far as it affects women and male young persons.

**Restriction on employment of women in the mines.**

**30.** No female shall be employed on underground work in a mine except in the following circumstances -

- (a) a woman holding a position of management who does not perform manual work;
- (b) a woman engaged in health or welfare services;
- (c) a woman who in the course of her studies spends a period of training in the underground parts of a mine; or
- (d) a woman who may for any other reason have to enter the underground parts of a mine for the purpose of non-manual occupation.

**Registers of juveniles on employment.**

**31.** Every employer who employs any juvenile shall keep and maintain a register containing the following particulars of every juvenile so employed -

- (a) age or date of birth;
- (b) date of entry into and of leaving the employment;
- (c) such other particulars as may be prescribed.

**Medical examination of juvenile employees.**

**32.** An authorized officer may require any juvenile in employment to be medically examined at any time during the period of his employment.

**Determination of age.**

**33.** (1) If, during the hearing of a charge for an offence under this Act, it is alleged that any person was at the date of the offence of, over or under a particular age, the court hearing the charge shall, after such inquiry as it considers necessary and after hearing any evidence which may be tendered by any party to the proceedings, determine the age of such person for the purposes of the proceedings, and such determination shall be final; and no conviction or order or judgment of a court under this Act shall be invalidated by any subsequent proof that the age of any person has not been correctly stated to, or determined by, the court.

(2) Subject to subsection (1), whenever any question arises as to the age of an employee and no sufficient evidence is available as to his age, a medical officer may estimate his age by his appearance or from any available information, and the age so estimated shall, for the purposes of this Act, and unless and until the contrary is proved, be deemed to be his true age.

**Power of labour officer to cancel and prohibit contracts.**

**34.** (1) A labour officer may, by notice in writing served upon the employer, terminate or cancel any contract of service (other than a deed of apprenticeship or indentured learnership lawfully entered into under the provisions of the Industrial

Training Act(Cap 237) which has been entered into by any juvenile with the employer, on grounds that, in the opinion of that officer the employer is an undesirable person, or that the nature of the employment is dangerous or immoral, or is likely to be injurious to the health of the juvenile, or for any other cause which may be prescribed.

(2) A labour officer may, by notice in writing served upon any person, prohibit that person from employing a juvenile or employing a juvenile in any class or description of employment specified in the notice, on the grounds that, in the opinion of the officer, that person is an undesirable person, or that the nature of the employment is dangerous or immoral, or is likely to be injurious to the health of the employee, or for any other cause which may be prescribed.

(3) A notice given under subsection (1) or subsection (2) shall be personally served upon the employer or person to whom it is addressed.

(4) An employer, employee or person who is aggrieved by a notice given under subsection (1) or subsection (2) may, within thirty days after the date of service thereof, appeal in writing against that notice to a subordinate court of the first class, which may confirm or set aside the notice and the decision of that court thereon shall be final.

(5) An employer or person who, having been served with a notice given under subsection (1) or subsection (2) which has not been set aside on appeal, employs or continues to employ the juvenile to whom the notice refers in or about the employment to which the notice relates, or any similar employment, or, as the case may be, employs any juvenile, shall be guilty of an offence:

Provided that it shall not be an offence for an employer served with a notice given under subsection (1) to continue to employ the juvenile to whom the notice refers during the period of thirty days limited for appeal or, if an appeal is lodged within that period, pending the outcome of that appeal.

#### **Penalty for unlawful employment of juveniles.**

**35.** If a person knowingly employs a juvenile in an industrial undertaking in contravention of the provisions of this Part, he shall be guilty of an offence and liable to a fine not exceeding one thousand shillings or, in the case of a second or subsequent offence, of two thousand shillings.

#### **Penalty for unlawful employment of women.**

**36.** A person who employs a woman in contravention of the provisions of this Part shall be guilty of an offence and liable to a fine not exceeding one thousand shillings, or, in the case of a second or subsequent offence, not exceeding two thousand shillings.

#### **Penalty in case of death or injury.**

**37.** If a woman or juvenile is killed or dies or suffers any bodily injury in consequence of her or his employer having contravened any provision of this Part, the employer shall, in addition to any other penalty, be liable to a fine not exceeding four thousand shillings, or, in default of payment, to imprisonment for term not

exceeding six months; and the whole or any part of the fine may be applied for the benefit of the injured person or her or his family or otherwise as the Minister may direct:

Provided that -

(i) in the case of injury to health, the employer shall not be liable to a penalty under this section unless the injury was caused directly by the contravention; and

(ii) the employer shall not be liable to a penalty under this section if a charge against him under this Part in respect of the act or default by which the death or injury was caused has been heard and dismissed before the injury occurred.

### **Records to be kept by employer.**

**38.** Every employer shall keep a written record of all employees employed by him with whom he has entered into contracts under this Act, which shall contain such particulars as may be prescribed, and the employer shall permit the record to be examined by an authorized officer who may require an employer to produce for inspection that record for any period relating to the preceding twelve months:

Provided that in the case of an employer of juveniles who maintain a register in accordance with section 31 it shall be a sufficient compliance with this section in respect of the juveniles employed by him if such register contains, in relation to each juvenile, the particulars required to be registered by and under subsection (1) of that section.

### **Penalty for false entries, etc.**

**39.** If any person makes or causes to be made or knowingly allows to be made an entry in a register, record, book or other document whatsoever, required by this Act to be kept which he knows to be false in a material particular, or produces or furnishes, or causes or knowingly allows to be produced or furnished, to an authorized officer, a register, record, book or other document which he knows to be false in a material particular, he shall be guilty of an offence and liable to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding six months, or to both.

### **Complaint and jurisdiction in cases of dispute between employers and employees.**

**40.** (1) Whenever an employer or employee neglects or refuses to fulfil a contract of service, or whenever any question, difference or dispute arises as to the rights or liabilities of either party, or touching any misconduct, neglect or ill treatment or either party, or any injury to the person or property of either party, under any contract of service, the party feeling aggrieved may make a complaint either to a labour officer or to a magistrate empowered to hold a magistrate's court of the first or second class.

(2) Subject to section 77 of the Constitution, whenever a complaint is made under subsection (1) of this section -

(a) to a labour officer, he shall use his best endeavours, by the taking of such lawful steps as may seem to him to be expedient, to effect a settlement between the parties;

(b) to a magistrate, the magistrate shall have jurisdiction (notwithstanding anything contained in any written law respecting the jurisdiction of the magistrate to the contrary) in all cases arising in his area of jurisdiction, in addition to any jurisdiction he might have exercised if this Act had not been enacted, to exercise all or any of the following powers -

(i) he may adjust and set off one against the other all the claims on the part either of the employer or of the employee arising out of, or incidental to, the relation between them as the magistrate may find to be subsisting, whether those claims are liquidated or unliquidated, and are for wages, damages or otherwise, and he may direct the payment of such sum as he finds due by one party to the other party:

(ii) he may assess the value of services rendered by an employee, or in any case where the rate or amount of wages or allowances to which an employee should be entitled have not been agreed between the employer and employee, or it is not certain what terms were agreed, he may decide the relative rights of the employer and employee, and may make such direction as in his opinion meets the justice of the case;

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

(iv) he may assess the amount of compensation due to an employer for the loss of or damage to his property occasioned by the wrongful act or neglect of his employee, and order accordingly;

(v) where it appears to the magistrate that an employer or employee has been guilty of any offence under this Act, he may, in lieu of or in addition to doing any of the acts or things and to making any of the orders or directions authorized by subparagraphs (i), (ii), (iii) and (iv), pass any sentence or judgment authorized by this Act upon the person so offending, and may make any order or do any act or thing by this Act authorized, or which may lawfully be done for giving effect to such judgment or order.

(3) If in the opinion of the labour officer, a complaint made to him under this section is, or at any time appears to be, incapable of settlement between the parties, he shall forthwith refer the complaint to a magistrate and in that case the provisions of paragraph (b) of subsection (2) shall apply in addition to the following provision of this section and to subsection (2) of section 58.

(4) If, at any time after the making or referring of a complaint under this section, it appears to a magistrate, by information on oath, that the party against whom the complaint is made is about to abscond, he may cause him to be arrested and detained in custody, unless the party finds security to appear and answer the complaint and to abide by the decision of the court thereon.

(5) A person shall give security under subsection (2) by a written or oral acknowledgment in or under the direction of the court of the undertaking or

condition by which and the sums for which he is bound, and the bond shall be forfeited and enforced in the manner provided for the forfeiture and enforcement of bonds under the law for the time being in force relating to procedure in criminal cases.

**Whole or part of any fine may be paid to the complainant.**

**41.** When a magistrate imposes a fine or enforces payment of any sum secured by a recognizance or bond, he may direct that the fine or sum when recovered, or any part thereof he thinks fit, shall be applied to compensate any employer or employee for any 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 contract of service.

**Defendant not required to enter the dock except in certain events.**

**42.** No person against whom a complaint is made under this Act, who is not immediately before the hearing of the complaint in actual custody, shall be compelled to enter the dock or place usually assigned for prisoners under trial in the court or shall be otherwise treated as under arrest during the hearing of the complaint:

Provided that, if in the opinion of the magistrate before whom the complaint is heard it is necessary, in order to secure the attendance of an employer or employee, that he should be placed in custody, it shall be lawful for the magistrate to cause that person to be arrested and detained in custody.

**When civil procedure maybe followed.**

**43.** Anything in this Act to the contrary notwithstanding, but subject to section 77 of the Constitution, it shall be lawful for any magistrate having jurisdiction in any proceedings under this Act, whenever he considers that by following or by requiring the complainant to follow the procedure laid down by law for criminal cases the ends of justice will or may be defeated, to adopt or order to be adopted, for all or any purpose of the proceedings and at any stage thereof or for the levying of moneys ordered to be paid, all or any of the provisions of the law for the time being in force relating to procedure in civil cases.

**Joinder in cases of non-payment of wages.**

**44.** (1) Notwithstanding anything to the contrary contained in any other law for the time being in force, on a complaint or suit against an employer in respect of wages due to more than one of his employees, the magistrate may permit one complaint or one plaint to be made or filed by a labour officer or by one of the employees on behalf of all the other employees and their claims to be proved by the labour officer or by the employee accordingly and the complaint or plaint shall have annexed thereto a schedule setting forth the names of those employees, their addresses and descriptions and the details of wages due to each employee.

(2) All claims referred to in subsection (1) shall rank equally between themselves, and shall be paid in full, unless the amount recovered from the employer is less than the total amount of the claims with costs, in which case, after payment of the costs, all the claims shall abate in equal proportions among themselves and be paid

accordingly; and costs given against the employees shall be paid by those employees or by any of them in such proportions as the court shall direct.

(3) The provisions of section 219 of the Criminal Procedure Code (Cap 75) shall not apply to any proceedings instituted under this Act for the non-payment of wages to an employee.

**Cost of witnesses, etc.**

**45.** In any complaint under this Act, the process of the court of the magistrate for compelling the attendance of the party accused and of all necessary witnesses shall not be subject to fees of court:

Provided that, if at the trial the complaint appears to the magistrate to be frivolous or vexatious, the party complaining shall be guilty of an offence and liable to a fine not exceeding two hundred shillings, and to defray the costs of the process and of the witnesses in the case, and, in default of payment of the fine and costs, to imprisonment for a term not exceeding one month; and the fine and costs may be imposed upon the occasion of the trial and without a fresh action or proceedings for the recovery thereof.

**Offences under other laws.**

**46.** Nothing in this Act shall prevent an employer or employee from being proceeded against according to law for an offence punishable under any other law in force, but so that no employer or employee shall be punishable twice for the same offence.

**Saving as to contracts of service made abroad.**

**47.** (1) Nothing in this Act shall prevent an employer or employee from enforcing their respective rights and remedies for any breach or nonperformance of a lawful contract of service made outside Kenya, but the respective rights of the parties under that contract as well against each other as against third parties invading those rights may be enforced in the same manner as other contracts arising thereabout may be enforced and as if this Act had not been enacted:

Provided that, whenever any such contract has been executed in conformity with this Act, it shall be enforced in the same manner as a contract entered into under this Act; but no written contract the tenor and execution of which are not in conformity with this Act shall be enforced as against an employee who is unable to read and understand writing; any such contract shall be deemed to be executed in conformity with this Act if it is signed by the names or marks of the contracting parties and bears, as concerns any illiterate parties an attestation to the like effect as is prescribed by this Act.

(2) If the contract was made in any foreign place the attestation may be by any judge or magistrate, being authenticated by the official seal of the court to which he is attached.

**General penalty.**

**48.** A person, other than a child, who commits an offence under or contravenes or fails to comply with any of the provisions of this Act for which no penalty is specifically provided shall be liable to a fine not exceeding one thousand shillings and, in default of payment, to imprisonment for a term not exceeding three months.

**Certificate of appointment.**

**49.** (1) Every authorized officer shall be furnished by the Labour Commissioner with a certificate of his appointment.

(2) An authorized officer shall, on the occasion of an inspection or visit authorized by or under the provisions of this Act, notify the employer or his representative of his presence for that purpose at the first practicable opportunity, unless it is considered by the authorized officer concerned that the notification may be prejudicial to the performance of his duties or otherwise likely to defeat the object thereof.

(3) When acting in the performance of his duties under this Act, an authorized officer shall, if reasonably requested by any person affected so to do, produce his certificate of appointment to that person giving him a sufficient opportunity to read it.

**Powers of authorized officer.**

**50.** (1) An authorized officer may, either alone or in the presence of another person -

(a) enter, inspect and examine at all reasonable times by day and night any land or building or other structure whether permanent or temporary on or in which he has reasonable ground for believing that an employee is living, residing or employed, and may make such inquiries and inspection or examination as may be necessary to enable him to determine whether the provisions of this Act are being complied with;

(b) at all reasonable times require an employer to produce an employee employed by him and a document relating to the employment of any employee, and may require an employee to produce any document relating to his employment;

(c) examine and take copies of a register, record, book or other document relating or appearing to relate to employment, whether produced to him or not, and take possession of that register, record, book or other document which he has reasonable ground for believing to be or to contain evidence of an offence under this Act;

(d) enter, inspect and examine all latrines and other sanitary arrangements or water supply;

(e) inspect and examine all food provided or appearing to be provided for the use of employees, and take samples thereof in duplicate in the presence of the employer or his sufficient representative which shall be scaled and one sample so sealed shall be left with the employer:



(f) order that all buildings and premises where employees are housed or employed be kept in a clean and sanitary condition;

(g) without prejudice to the powers of the Attorney-General, institute proceedings in respect of any contravention of, or any offence committed by an employer under, this Act;

(h) institute or appear or institute and appear on behalf of any employee in any civil proceedings by an employee against his employer in respect of any matter or thing or cause of action arising out of or in the course of the employment, whether such civil proceedings are contemplated or instituted by the employee himself or are civil proceedings ordered by a magistrate in lieu of criminal proceedings under section 43;

(i) without prejudice to the institution of proceedings in respect of any offence, take into custody and return to his parent or guardian, or other person whom he is satisfied has for the time being the charge of or control over him, any child whom he reasonably suspects to be employed in contravention of any of the provisions of Part IV;

(j) subject to any direction of the labour commissioner, delegate to any labour inspector any of the powers conferred upon him under this section.

(2) Where an authorized officer removes a register, record, book or other document in pursuance of paragraph (c) of subsection (1), he shall give to the employer or his representative a receipt in respect of such register, record, book or other document in such form as may be prescribed.

#### **Powers of medical officer.**

**51.** A medical officer may for the purposes of this Act exercise the powers conferred upon an authorized officer by paragraphs (a) to (f) inclusive of section 50, and may in addition do all or any of the following -

(a) order an employee who, in his opinion, is sick and for whom the conditions prevailing at the place of employment are not conducive to the rapid recovery of his health or strength to return to the place of his engagement, or to proceed to a hospital, and in that case the employer shall at the earliest opportunity and at his own expense send the employee to the place of engagement or to a hospital, as the case may be;

(b) condemn any food provided for employees which, in his opinion, is unfit for human consumption, and all food so condemned shall be destroyed forthwith in the presence of the medical officer;

(c) condemn any building or other structure whether permanent or temporary in which an employee is living, residing or employed, if in his opinion it is unfitted by reason of its construction, situation or condition for the purpose to which it is put, whereupon it shall not be used for that purpose until a medical officer has subsequently certified that it may be used for that purpose;

(d) order at the expense of the employer such variety of food for an employee as he may deem necessary:

Provided that the cost of the food supplied under any such order shall not exceed the normal cost of rations ordinarily supplied by employers to employees in that district at the time;

(e) order the employer to supply an employee working under a written contract of service with one or more blankets or with clothing, and in that case the reasonable cost thereof shall be paid by the employee and may be deducted from the remuneration of the employee, and until the cost has been paid by, or deducted from, the wages of the employee the blanket or blankets or clothing supplied shall remain the property of the employer;

(f) inspect all drugs and medicines provided for the use of employees.

### **Obstructing or hindering officers, etc.**

**52.** Any person, other than a child, who willfully obstructs or hinders an authorized officer or medical officer in the exercise of any power conferred by this Act or any rules made thereunder, or who neglects or fails to comply with any requirement or order made or given by such an officer in pursuance of any power conferred by this Act or such rules shall be guilty of an offence and liable to a fine not exceeding four thousand shillings or to imprisonment for a term not exceeding six months or to both.

### **Offences by companies, etc.**

**53.** (1) Where an offence under this Act is committed by a company or association or body of persons, corporate or un-incorporate or by a public body, and the offence is proved to have been committed with the consent or connivance, or to have been facilitated by any neglect on the part, of any director, chairman, manager, secretary or other officer of or employed by such company or association or body of persons or public body, he, as well, shall be deemed to be guilty of an offence and shall be liable to be proceeded against and punished accordingly.

(2) In any proceedings under this Act, it shall be sufficient in the charge or information to allege the nature of any employment to which the charge relates and to state the name of the ostensible employer; and the burden of proving that the employment is not such as alleged or that the employer specified in the charge or information is not the actual employer shall lie upon the person or public body alleging that fact.

### **Evidence.**

**54.** Where an entry is required by this Act to be made in a register or written record, the entry made by an employer or on his behalf shall, as against him, be admissible as evidence of the facts therein stated.

### **Secrecy of Information.**

**55.** Any person who is or has been engaged in the administration of this Act who discloses, except for the purposes of the exercise of his functions or when required to do so by a court or under any written law, any information acquired by him in the exercise or purported exercise of his functions under this Act to any other

person shall be guilty of an offence and liable to imprisonment for a term not exceeding twelve months or to a fine not exceeding ten thousand shillings or to both.

**Rules.**

**56.** (1) The Minister, after consultation with the Board, may make rules providing for all or any of the purposes, whether general or to meet particular cases, that may be convenient for the administration of this Act or that may be necessary or expedient for carrying out the objects or purposes of this Act, and, without prejudice to the generality of the foregoing, for all or any of the following purposes -

- (a) prescribing anything which under this Act is to be or may be prescribed;
- (b) controlling the conditions under which employees may be housed or employed, including sanitary arrangements and water supply;
- (c) controlling the feeding of employees in cases where food is to be supplied by the employer under the contract of service, including the quantity, variety and kind of food to be supplied;
- (d) regulating the care of sick and injured employees;
- (e) prescribing books to be kept and returns to be rendered by employers;
- (f) prescribing -
  - (i) for any period the maximum number of hours during which any employee or class of employees, whether generally or in relation to any particular kind of employment, may be required to work;
  - (ii) the intervals to be allowed to them for meals and rest;
  - (iii) the holidays or half-holidays (with or without pay and traveling expenses) to be allowed to them;
  - (iv) any other conditions to be observed in relation to their employment; and any such conditions may relate to feeding, housing, medical attendance education, recreation, discipline or otherwise;
- (g) appointing labour supervisors where employees of one employer exceed the maximum prescribed;
- (j) prohibiting absolutely or subject to conditions the employment of women, young persons or children in any specified trade or occupation;
- (k) prescribing the age below which children are not to be employed;
- (l) requiring employers of children to furnish information and returns to any specified officer in respect of such children or their employment or the conditions of their employment;
- (m) the issue by employers or any class of employers to employees or any class of employees, whether generally or in relation to any particular kind of employment. of

employment cards, and the forms of such cards;

(n) prescribing particulars to be included in a certificate of service;

(o) prescribing the form, and providing for the display in places of employment, of notices relating to wages and the terms and conditions of employment.

(2) Any such rules may impose conditions, require acts or things to be performed or done to the satisfaction of an authorized officer or a medical officer, empower any such officer to issue orders either verbally or in writing requiring acts or things to be performed or done or prohibiting acts or things from being performed or done, and may prescribe periods or dates upon, within or before which such acts or things shall be performed or done or such conditions shall be fulfilled.

(3) Any such rules may distinguish between juveniles of different ages and sexes and, in relation to women or juveniles between different localities, occupations and circumstances.

### **Savings.**

**58.** (1) Except where otherwise provided, the provisions Savings of this Act shall be in addition to, and not in substitution for or in derogation of, the provisions of any other Act.

(2) Save as otherwise provided in this Act, the provisions of the law for the time being in force relating to procedure in criminal cases respecting appeals and references to the High Court by way of revision, confirmation or case stated and the levying of moneys ordered to be paid shall apply to all proceedings and all orders for the payment of money under this Act.

(3) Any term of a contract of service, or foreign contract of service to which section 19 applies, made after the date of commencement of this Act which provides a condition of service or employment less favourable to an employee than the like condition of employment provide by this Act shall be void to the extent that it is so less favourable, and the relevant condition of employment provided by this Act shall be deemed to have been included in and to form part of such contract or foreign contract of service as the case may be.

### **Transitional.**

**59.** (1) Every valid contract of service, and foreign contract of service to which Part III applies, entered into into in accordance with the Employment Act (now repealed) shall continue in force to the extent that the terms and conditions thereof are not inconsistent with the provisions of this Act, and subject to the foregoing every such contract shall be read and construed as if it were a contract made in accordance with and subject to the provisions of this Act, and the parties thereto shall be subject to those provisions accordingly.

(2) Should any difficulty arise in effecting the transition from the laws now repealed by section 57 to the provisions of this Act, or in reconciling the provisions of any other written law in force relating to employment with the provisions of this Act, the Minister for Labour, after consultation with and the agreement of the Attorney-General, by order made at any time within the period of six months next after the

date of commencement of the relevant provision of this Act, may amend any of the provisions of such other written law or of this Act to such extent only as may appear to them to be necessary for the purpose of giving effect to the provisions and purposes of this Act:

Provided that no such order shall be made unless a draft thereof shall have been laid before, and approved by resolution of, the National Assembly.

### **Orders under section 1 (2)**

*(These Orders, being liable to change from time to time, are not reproduced here but existing Orders are in L.Ns. 65/1976, 94/1976, 246/1978, 122/1982 and 167/1982)*

L.N. 155/1977.

## **THE EMPLOYMENT (CHILDREN) RULES**

### **Rules under section 56**

Citation.

- 1.** These Rules may be cited as the Employment (Children) Rules.

Application.

- 2.** These Rules shall apply to any type of employment, except employment as an apprentice or as an indentured learner.

Permits for the employment of children.

- 3. (1)** No person shall employ a child without the prior written permission of an authorized officer:

Provided that no permission shall be given to employ a child -

(i) in such circumstances as would cause the child to reside away from its parents or guardian unless the parents or guardian's approval to such employment has first been obtained in writing; or

(ii) in any bar, hotel, restaurant or club where intoxicating liquor is sold or anywhere as a tourist guide unless the Labour Commissioner has consented in writing to the employment and the child is in possession of a copy of the consent.

(2) Every permit issued under this rule shall be renewed annually.

(3) A person who employs a child, or causes a child to be employed without the prior written permission of an authorized officer, whether or not the person is a parent or guardian of the child, shall be guilty of an offence.

Welfare of children.

- 4.** Every person authorized to employ more than ten children on permanent basis shall designate a person, to be approved in writing by the Labour Commissioner, to be responsible for the welfare of the children:

Provided that the Labour Commissioner may delegate his power of approval under this rule to any authorized officer.

Penalties

**5.** A person who fails to comply with any of these Rules, shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding four thousand shillings.

**THE EMPLOYMENT (MEDICAL TREATMENT) RULES**

L.N. 157/1977.

Citation.

**1.** These Rules may be cited as the Employment (Medical Treatment) Rules.

Interpretation and expenses of medical treatment.

**2.** (1) In these Rules, unless the context otherwise requires, "medical treatment" means treatment by a registered or licensed medical practitioner, treatment at a hospital, clinic, health centre, medical aid centre or in cases of minor illness or injury treatment by any other skilled or semi-skilled person, and in each case includes the provision of drugs, dressings and medical supplies as may be necessary.

(2) The medical treatment shall be provided at the expense of the employer, unless -

(a) The illness or injury was contracted during any period when the employee was absent from his employment without lawful cause or excuse; or

(b) the illness or injury is proved to have been self inflicted.

Reports of illness, etc.

**3.** An employer shall take reasonable steps to ensure that every case of illness or injury of any employee occurring on his property is brought to his notice, by displaying on a notice board the necessity to report such illness or injury.

Treatment to be provided.

**4.** (1) Where there is reasonable cause to believe that any employee is suffering from illness or injury, whether contracted as a result of the employee's work or not, every employer shall, with the consent of the employee, cause to be provided to such employee medical treatment.

(2) The treatment provided under sub-paragraph (1) shall be at the cost of the employer unless provided free by the Government.

Medicines, etc., to be available at place of work.

**5.** Every employer shall always have readily available at the place of work a sufficient quantity of aspirin, quinine, or some other recognized medicine for the treatment of malaria, epsom salts and a solution of a recognized antiseptic.

First aid kits.

**6.** Every employer shall keep, or cause to be kept readily available at all times at the place of work, at least one first-aid kit.

Dressers or nurse.

**7.** Every employer who employs not less than one hundred employees in any one place shall, where no public hospital or dispensary facilities are readily available near the place of employment, appoint a medical dresser or nurse, or other suitable person to supervise the treatment and care of the sick.

Transport to and from hospital

**8.** (1) Where it is likely to be necessary for an employee to go to a hospital for medical treatment and some form of transport is necessary, his employer shall provide such transport as is reasonable.

(2) On the discharge of the employee from hospital, if the medical officer is of the opinion that some form of transport is necessary to take the employee back to his place of employment, the medical officer shall inform the employer to make arrangements for the transport, and if the employer cannot be contacted the medical officer may himself make such reasonable arrangement for transportation of the employee at the expense of the employer.

Penalty.

**9.** An employer who fails to comply with any of the provisions of these Rules shall be guilty of an offence and shall be liable to a fine not exceeding two thousand shillings.