

LAWS OF SOUTH SUDAN

LABOUR BILL, 2011

Labour Bill, 2012

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Labor Bill, 2012

In accordance with the provisions of Articles 55(3)(b) and 85 (1) of the Transitional Constitution of the Republic of South Sudan, 2011, the National Legislative Assembly, with the assent of the President of the Republic of South Sudan hereby enact the Following :

Chapter I

Preliminary Provisions

1. Title and Commencement

- (1) This Bill may be cited as Labor Bill, 2012.
- (2) This Bill comes into force on the date of its signature by the President.

2. Repeal and saving

- (1) Any provision of existing legislation, the subject matter of which is governed by this Act is here by repealed to extent that it conflicts with any provisions of this Act.
- (2) Notwithstanding to the provisions of subsection (1), all proceedings, orders and regulations taken or made shall remain in force unless repealed, amended or revoked.

3. Exception

The following categories, shall be exempted from the application of provisions of this Act:

- (a) members of the judiciary;
- (b) legal counsels at the Ministry of Justice;
- (c) individuals of armed forces;
- (d) individuals of the National Security Service;
- (e) workers in the national government and state governments, agencies and public institutions and public sector companies who control the conditions of service laws and special regulations, except for the provisions on industrial relations and industrial safety;
- (f) domestic servants
- (g) agricultural workers other than persons employed in the operation, repair or maintenance of mechanical appliances and devices and other than persons employed in factories, ginneries dairy factories production and similar establishments that manufacture of agricultural products are manufacture or prepared for marketing and other than persons employed in the administration of agricultural business or doing clerical accounting store gardens and poultry work;
- (h) members of the family of the business owner residing with him or her and wholly or to grant extent depend upon him or her;

- (i) temporary workers,
- (j) any category of persons declared under the Council of Ministers by an order made thereby to be exempted totally or partially from application of the provision of this Bill.

4. Purpose

This Bill is to provide a regulatory framework to regulate the relationship between the worker and the employer in private sector, and to establish employment organizations, their function and duties and all matters related to.

5. Authority and Application

- (1) This Bill is drafted in accordance with Schedule B paragraph 14 and 15 of the Transitional Constitution of the Republic of South Sudan, 2011. which grant the Government authority over matter relating to work and their condition.
- (2) This Bill shall apply to every worker in the Republic of South Sudan except as otherwise provided by this Bill or any other law.

6. Interpretation

In this Act, unless the context otherwise requires:

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

"Basic salary" means salary plus cost of living allowance excluding other allowances;

"Casual worker" means any person who performs temporary work in a factory for period not exceeding fifteen days and of a nature that is not included within the activity performed in the factory;

"Child" means any person less than sixteen years of age,

"Committee" means the National Committee of the labor force formed under the provisions of Section 5 (1);

"Competent Authority" means the Minister or the Governor as the case may be;

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

"Dependents" mean those members of the family of the worker who are wholly dependent upon his or her earnings;

"Employer" means in the case of:

- (a) the private sector or mixed any natural or corporate person who employs one worker or more by a work contract that includes-
 - (i) heirs and successors of the employer who entitled for his or rights as the case may be;
 - (ii) the owner or the chairperson of the board of directors of any establishment or any authorized thereby as the case may be;
- (b) the national government and state government organs, the Minister of Finance or any authorized by him or her;
- (c) public sector companies Chairperson of the Board of Directors or any person authorized as the case may be;

"Factory" means any industrial establishment or corporation or scheme under the management of a natural or corporate person, wherein one or more workers are employed in return of wages of whatever type and includes all industrial operations set out in schedule (2) and any place, whether in the open space or otherwise where any of the following works are carried out directly or indirectly ,for trade purpose or gain:

- (a) manufacture of any Substance in whole or in part;
- (b) Changing , repairing, ornamenting, finishing, cleaning, washing or preparing any substance for sale or demolition;
- (c) printing by or offset printing press lithography ,photogravure, bookbinding or any other similar process;
- (d) generation of electricity transforming its current or its distribution or use in factories in electrical scheme;

"Factory owner" means any person who actually uses or manages or possess a factory;

"Family Members" means husband or wife, mother, father, grandfather, grandmother, the son, daughter, grandson and granddaughter, brother, sister, half brother, half sister, step father, stepmother, stepson, stepdaughter;

"Industrial safety inspector" means the officer appointed under the provisions of Section 87;

"Intimidate" means to cause in the mind of an employer a reasonable fear of injury to him or her or to any of his or her family member or violence or damage to any employer or employee or his or property;

"Labour Office" means any of the offices established by the competent authority to implement the functions in accordance with the provisions of this Act;

"License" means obtaining a license in the prescribe form for erecting buildings or new factory or an extension to an existing one or foe carrying out other industrial operations and it includes also obtaining a license for making alteration relating to the arrangement ,erection or organization machinery;

"Minister" means the Minister of Labour and Public Service and Human Resource Development;

"Physician" means a doctor registered in accordance with the provisions of the South Sudan Medical Council law;

"Production Worker" means the worker whose wage is on the based on amount of the daily work or piece work;

"Public officer" means any public officer occupying a post described in chapter one of the state general budget;

"Serious Accident" means any accident leads to death or cause disability at rate of 50% or more or causes injury to more than one worker and also means fire explosion or collapse, that damage in the means of production or places of work,

"Sub-Commission" means the Sub-Committee of the labor force established in accordance with the provisions of Section 5 (2);

"Substance" includes anything solid, liquid or gas or any other compound;

"The Council" means the Labour Relations established under the provisions of Section 70 (1);

"The Project" means any project that is under management of any person and is employing one worker or more for wage of any kind, whether in state or national government or public, private, cooperative or mixed sector;

"Trade Union" means any trade union established under the Worker Trade Unions laws;

"Wage" means the sum of base salary and all other remuneration paid to the worker-mediated employer includes the value of any food, fuel, housing an any overtime, payments or any special bonus paid any work done and any other increments provided, gift, allowance or privileges, or any subscription paid by the employer in any social insurance project or special expenses paid by the employer to the workers;

"Worker" means any person, male or female above sixteen years of age, who is in the service and subject to the management supervision of the employer whether his or her contract of service is written, oral, express or implied or for the purposes of training or probation or whether he or she exerting mental effort of a technical, clerical or the administrative type for wage of any kind;

"Work contract" means any contract, whether written or oral, expressed or implied under which a person is employed for a wage of any kind under the supervision and control of an employer but shall not include contracts of apprenticeship under the apprenticeships and vocational training law;

"Work dispute" means any dispute that arises between employers and employees or between workers and other workers or among business owners and owners that is related to recruitment or conditions related thereto;

Chapter II Labour Force

7. Establishment of National Committee for Labor Force

- (1) The Minister shall establish by an order a committee to be known as the "National Committee of the labor force" comprise of chairperson and a number of members with competent qualification to represent the relevant institutions, labor and the relevant state bodies of employers and workers.
- (2) The Committee specified in section (1) may constitute branch committees in the states
- (3) The National Committee and subcommittees in the States shall be subject to supervision of the Minister.

8. Functions and Powers of the Committee

- (1) The committee shall have the following functions and powers-
 - (a) coordinate the activities of the executive organs related to labor forces according to general approved policy ;
 - (b) collect data and make up to date Statistics of the workforce and submitted all the information and recommendations as it deems appropriate to the Minister, who forwarded to the Council of Ministers;
 - (c) supervise the implementation of workforce approved programs within the framework of the development plans;
 - (d) perform any other functions in the field of Labor Force which assigned by the Minister and within the framework of general policy set out by the Council of Ministers.

- (2) The Committee may delegate any of its functions and powers to any of sub committees in the state.

9. Financial Resources of the Committee

An annual fund shall be allocated to meets the activities of the Committee and its subcommittees in the States, as a certain percentage deducted from development budget upon recommendation of the Council of Ministers to enable the Committee to perform its duties.

Chapter III Organization of Employment

10. The Establishment of Employment Offices and Register

- (1) The Minister may establish labour offices and determine areas and categories of services;
- (2) The employment office is subject to the supervision of the competent authority;
- (3) Any person desire recruitment and is capable to work or endeavors to change his or her job is entitled to get his or her name registered for this purpose at the competent employment office and shall submit all important particulars and documents ascertain the accuracy information;
- (4) The employment office may require any person desiring to be recruited or endeavoring to change his or her job to pass any professional test to prove his or her skill or submit certain essential documents including identification card in places where the Identification law is applied;
- (5) The competent employment office shall register every qualified application to the conditions provided and shall provide the applicant a free of charge certificate within two days at maximum from the date of submission of the application , from the date of submission of the application, from the date of submission ,provided that the certificate is valid for one year only;
- (6) No person shall register his or her name in more than one employment office simultaneously or submit any false information at registration time.

11. Private Employment Offices and Agencies for Labor Services

- (1) The Minister may permit any person to open an office for the employment or exercise employment businesses by agencies for employment in cases of extreme necessity in accordance with the terms and conditions and offices agencies shall not charge any commission or wage from the labor that join the work.
- (2) Without prejudice to subsection (1) no person or corporation shall perform any employment businesses.

12. Prohibit of Recruitment of non-Registered Persons

without prejudice to the provisions of this Act, project is not allowed to recruit any person

whose recruitment should be done by competent employment offices, unless such person has a registration certificate according to section () .

13. Submission of Particulars

every establishment shall provide the competent authority or competent employment office with essential particulars requested within a period of two weeks.

14. Employment Nomination

(1) In accordance to Civil Service Act, 2009 and regulations made there under

- (a) It is not allowed to advertise for a post for employment through any means of publication or advertisement without prior written approval of the competent employment office, the advertisement shall give the serial number of the permit issued by the employment office.
- (b) Each project recruit more than ten persons or more than willing to recruit any person who qualified the recruitment of the provisions of this Act ,and whose registration is part of the activities of employment offices ,shall submit an application to the competent employment office in order to nominate one person or more who qualified the recruitment conditions of the job selection shall be made among those nominated by the office nevertheless this sub-section shall not be apply to –

- (i) Persons applying for causal work not exceeding three months or more as specified by the Minister;
- (ii) the employer of his or her family members or dependents;
- (iii) the main posts filled by those persons who considered as delegated representatives of the employer and the Minister shall issued a decision regarding this matter;
- (iv) Recruitment that takes place by the competent administrative entity that cares about the released persons.

- (2) The Minister may issue by order to increase or decrease of the number mentioned in subsection (1) or order that sub-section (1) shall be applied to any class of workers.
- (3) The project may be advertise for the post subject to subsection (1) according to requirements of the project to which subsection(2) applies in case there are no persons qualifying requirements among the applicants registered with them and that it could not nominate a suitable person within a period of two weeks from the time of submission of the application, the project shall notify the competent office of the name and qualifications of the person who is appointed within a week of the selection.

15. Notification of the Employment Office of the Person Appointed

any project when appointing a registered in employment office to return to that office registration certificate of the person to re-use that office to a certificate of registration of

that person after reordering the required data within two weeks from the date of appointment.

16. Recruitment of South Sudanese Abroad

Every South Sudanese willing to work abroad shall get permission from the Minister in accordance with the regulations issued under the provisions of this Act and without prejudice to any conditions or procedures that must be fulfilled by any other law.

17. Inspection and Investigation

- (1) To apply the provisions of this chapter, the employees delegated by the Minister who hold identification proving such power shall be entitled to visit the project at any time for the purpose of inspections or checking the documents or records that are related to workers requesting important information from the employers' or their agents or deputies or order them to appear before them if that is deemed necessary. The employers or their agents shall facilitate the job of these employees to furnish them with accurate and true information, the competent authority are under obligation to give effective help if deemed necessary. Agents or their representatives to facilitate the task of such personnel
- (2) The Minister shall by an order issued by him or her regulate methods and procedures of inspections and identification cards of the employees in charge of such inspection.

18. Workers Training

the employer may train the workers who are recruited with him or her vocational training professional or practical job within a specific period, in accordance with the requirements of work and its need.

19. Training Contract

The training contract shall be in written form contract, which include particulars relating to training period, stages, obligations of the parties during that period, provided that the agreed wages during such period shall not be less than the minimum rate of wages within the provisions of the law.

20. Termination of Training Contract

The employer may terminate the training contract when the trainee shown to have a disqualifying worker and willingness to learn a profession or work in an acceptable manner.

Chapter IV

Employment of Women and Children

21. Conditions of Employment of Women

No women shall be employed in dangerous works or works that required a lot of physical efforts harmful with health-damaging like heavy carrying works and the works performed under the ground or water as well as that exposure to toxic substances or cold or heat that exceeded reasonable limits, for women tolerance .

22. Time of Women Employment

- (1) No women shall be employed to work between (10) p.m and (6)p.m with the exception of employing women in administrative, professional, technical or other acts of social and health works.
- (2) Notwithstanding the provisions of subsection (1) the competent authority in consultation with the Committee may allow under the conditions prescribed, any class of women to work at night in response to requirement of public interest.
- (3) The daily total rest gap for women shall not be less than one half an hour or more; provided that the working period shall not extend for consecutive hours without gap.

23. Conditions for Children Employment

- (1) No child shall be employed in any of the following works:
 - (a) Carrying heavy weights;
 - (b) Steam boilers and pressure receptacles;
 - (c) Blast furnaces and foundries;
 - (d) Works done under the ground or under water and mines or quarries works;
 - (e) Works in composition of which lead and its compounds enter;
 - (f) Works in which the workers are exposed to poisonous or injurious materials whether organic or inorganic such as lead mercury ,cyanide ,calcium ,petroleum and its compounds;
 - (g) Radiation works and ionization radiation;
 - (h) Maintenance of machinery and belts.
- (2) Subject to the provisions of subsection (1) children shall not generally be employed in industries and dangerous works which are harmful to health or require physically effort.
- (3) Children shall not be employed at night between (8)p.m and (6) a.m , the competent authority may exempt any number of children from the provisions of subsection provided their ages between fifteen and sixteen.
- (4) Children under twelve of age shall not be employed with the exception of:
 - (a) The State vocational schools;
 - (b) Training workshops not for profit purposes;
 - (c) Member of employer family who work under his or her supervision in the enterprise no other person is employed;

- (d) Workers under apprenticeship contract.
- (5) The Minister or his or her delegate, upon consultation with the Committee may prohibit the employment of children under the fifteenth year of age in industries and enterprises that determine by his or her decision.
- (6) Subject to the provisions of subsection (5) children under the age of fifteen shall not be employed unless his or her guardian residing with him or her in the place of work and contract with the child shall not be binding on him or her unless his or her guardian has approved the employment and presented to the employer evidence to proof his or her responsibility on the child residence in work area.
- (7) Child shall not be employed for additional hours and shall not be employed in the weekly or official holidays or waiver of his or her right of annual leave, postpone or break the same.
- (8) Medical examination for Children
a full medical examination shall be made for every child before his or her employment and at periodical gap after employment in manner specified by competent authority according to the nature of work carried out by the child ,the medical practitioners of the government hospital shall carryout the appropriate examination and issue the necessary medical certificates.

24. The working hours of the Children

The normal working hours for children shall be seven hours interspersed with rest period of one hour with pay and the child shall not be employed for more than four consecutive hours.

25. Display the Conditions and Regulations concerning the children in a conspicuous place

the employer shall display the special conditions for children in a conspicuous place of his or her work and a copy of the regulations concerning employment of children provided in this law as well and list showing the working hours and rest periods.

26. Notification in Case Tendency for Deviation

The employer shall notify the competent authority or competent labor office of any child who shows deviations such as abnormal violence or tendency to destroy materials or tools or repeated negligence or repeated absences from work without reasonable excuse.

27. Termination of Childs Contract of Work

The contract of work of any child shall be terminate if it is proved that he or she is unfit for the work according to a medical certificate issued under this law.

28. Establishment of Special Committees and its Composition

The Minister may establish special committees for any industry or profession to determine the conditions of service for children and to determine the weights that children of more than fifteen years of age shall be asked to carry, pull or push such committees shall submit their recommendation to the Minister to make decision.

Chapter V

Work Contract

29. Writing Contract

- (1) Any contract that exceeds three months in duration shall be made in writing by the employer .the contract shall be written three copies and signed by two parties each party shall keep one copy and shall be submitted with the Labor Office.
- (2) The contract made under subsection (1) shall not be deemed beneficial to employer unless and until the worker takes cognizance of and signed it, either by writing his or her name or printing his or her thumb impression or stamp on it, he or she may call a witness to read the contract over and sign it by writing his or her name or impression his or her thumb print or stamp.
- (3) In case of the worker is not able to read the contract, the employer shall read the contract in presence of the witness selected by the worker, provided that a witness is able to write and read.
- (4) In the absent of the written contract, the worker may prove his or her entitlements by any kind of evidence.
- (5) When a dispute arises between the employer and the worker who is working without a written work contract for solving the dispute, they may be guided by one or more similar work contracts that have been made with a number of workers who work with the same employer for the same period and work in the same enterprise.

30. Types and Terms of Contracts

- (1) The work contract may either be for indefinite or defined period and may be for the performance of the specific work.
- (2) The duration of a definite period contract shall not exceed two years and may be renewed for only once in the same enterprise and the renewal period shall be considered continuous with the pervious service and in case the worker continues in service after duration of the period of renewal he or she shall deemed as contracting for indefinite period contract.
- (3) Any written contract shall be considered indefinite unless it is clearly stated that it is for a definite period or that it is for performing a specific work, or for substitute of worker for another.
- (4) The probationary period shall not exceed three months with the exception of the training period and the work contract is considered an indefinite contract if the period is not specified and the probationary period has elapsed, without the contract being terminated by either party.

31. The Contents of the Work Contract

the work contract shall be written in clear and unambiguous terms where the rights and obligations of two parties shall clearly specified , without prejudice to the generality of the foregoing the work contract shall contain the following particulars:

- (a) the name of employer, the name of the enterprise and its place and address;
- (b) the full name of worker, his or her age ,domicile and any other particulars necessary for identification and his or her qualification;
- (c) the nature and kind of work agreed upon to be performed ,the starting date and place of work;
- (d) the agreed wage and the time of payment;
- (e) the period of notice for terminate the contract;
- (f) any other terms of service to be agreed upon;
- (g) educational certificates, experience certificates and any other relevant documents;
- (h) date of termination of the definite work contract;
- (i) any other particulars under the provisions of this law.

32. Terms Inconsistence with the Provisions of this Bill

any term in the contract that is inconsistence with the provisions of this Bill shall be void, even if it is proceeded the date of its commencement ,unless such terms is more favorable to the worker who can claim all his or her entitlements under this Act.

33. The Work is Differs from that Agreed Upon

The employer shall not ask the worker to work without his or her consent. work basically different from the work agreed upon in the work contract unless necessary so requires for prevention of accident or in the case of force majeure provided that the request shall be temporary for period not exceeding two weeks.

34. Preserving of Contract

the competent labor office may request if deems necessary the employer to submit all work contracts or those of some categories of workers work in with him or her for purposes of perusal and checking.

35. The Receipt of Depositing the papers of the Worker and his or her Certificates

The employer shall provide the worker with a receipt for what he or she deposited with him or her of documents and certificates.

Chapter VI

Wages, Loans and Other Emoluments

36. The wage

- (1) The wages of worker shall be paid in cash and may be exempted this from what is included into the wages as providing the worker with food, fuel, housing, transportation or clothing.
- (2) The wage may be paid daily, weekly or monthly, as agreed upon unless with the competent authority direct otherwise.
- (3) The employer and the production worker, contracting to work for an indefinite duration shall agree to a specific wage for the minimum amount according to such wage, there shall be calculated the entitlements of the worker other than the gratuities and for and for the purposes of this section the wage of the production worker shall be

calculated at equivalent to that received by any other labourer carrying on a similar work and the wage shall be paid to him or her in certain periods of time according to subsection (2).

- (4) Notwithstanding any agreement between the employer and the worker to change the system of employment by transferring the worker from monthly to the daily, the weekly or fortnightly pay or to the wage based on production, the worker shall continue to be entitled to all rights he or she gained during the period in which he or she worked basis on the monthly wage.
- (5) Subject to the provisions of subsection (2) the wages of daily workers shall be paid daily, unless there is an agreement between the employer and the worker for payment at the end of the working day in the place of work during the working hours.
- (6) with exception of what has been provided for in subsection (5), the wage shall be due at the end of the week, the fortnight or the month as the case may be and shall be paid in place of work and during working hours, the payment of wage shall not be delayed to the third day, from the date of entitlements as agreed upon.
- (7) In the case of termination of the work contract all entitlements of the worker shall be paid within a week from the date of termination.
- (8) The wage shall be paid to the worker in person or whom he or she delegated in writing without deduction, except the deduction is in accordance with the provisions of this Act or any other law, the employer shall give the worker statement of the deduction if the worker requested it.

37. Deduction for Absence

- (1) The worker shall not be entitled to wages for the period of his or her absence from work, except in cases specified under this Act or where the employer consent to pay during the period of absent.
- (2) The worker who completes three months of continuous service is entitled to a wage during absence from work for any of the following reasons:
 - (a) unavailability of the ordinary means of transportation;
 - (b) occurrence of catastrophe or event that prevent him or her from attending work;
 - (c) summon by the Court or any other public authority empowered by law to do so;
 - (d) death of a husband or a wife or children or a parent or a brothers or sisters;
 - (e) Any other reason accepted by the employer.

38. Loans

- (1) The employer may grant loans to the workers provided that:
 - (a) such loans shall be without interest but the employer may charge a reduced percentage to meet the expenses concerning the loans;
 - (b) the periodical deduction for entitlement of loans shall not exceed 15% of basic salary.

- (2) Subject to the provisions of paragraph (b) of subsection (1) The worker shall pay the instalment of the loan granted to him or her at the end of termination of the work contract through specific manner specified in the contract of the loan or by other legal means.
- (3) Courts shall not accept any claim raised by an employer against any worker concerning any loan unless such loan granted to him or her under written contract.
- (4) Loans granted to the worker shall be without interest.

39. Asking the Worker to do Work out Side the Work Station

- (1) Any worker asked by the employer to do a work outside the area of his or her work outside the station of his or her work shall do the same; the employer shall bear the expenses of transport of the worker to and fro.
- (2) When the worker spends a whole night outside the place of his or her work for the purpose of duty asked thereto by the employer, the employer shall pay him or her traveling allowance at the rate specified in conditions of service if there is no agreement, the employer shall pay reasonable expenses which the works spends every night provided that in all cases what the employer pays for one night shall not be less than the wage of three days.
- (3) For the purposes of this Section the duty outside the station of the worker shall be considered as a transfer of the worker if it is for six months or less.

40. Expenses of Transport

- (1) An employer shall transport the worker or pay transport expenses of transportation to the area where he or she was initially employed within seven days from the date of termination of contract.
- (2) If the employer during the commencement of the work contract transports the worker from the place to his or he work to another place, he or she shall pay the expenses of transporting his or her members of the family who depend wholly upon his or her earnings together with their luggage to that place according to the prescribed rates of transportation.
- (3) In case of the workers death, the employer of the worker shall transport the members of the family who depend wholly upon his or earnings together with their luggages to their original place of residence if they request.
- (4) Members of the family of the worker shall prove that they are legally supported by a certificate issued by the competent authority.

41. Statements of Entitlements

The employer shall at the termination of the work contract provide the worker with detailed statement of his or her entitlements.

42. Violability of Reconciliation Discharge or Waiver

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

Chapter VII
Working Hours and Leaves

43. Normal Working Hours

- (1) The normal working hours shall be forty-eight hours per week or eight hours a day, provided that an interval of not less than half an hour with pay shall be allowed during the working hours either for taking the meal or for rest.
- (2) The competent authority by order after consultation with the Council shall amend the weekly or daily working hours or intervals for some periods of the year or for some categories of workers according to the nature and kind of work.

44. Overtime Work

- (1) with the exception of the cases where the competent authority otherwise decided and subject to the provisions of section 23(7), The employer in necessary emergency may ask the worker to perform overtime work hours after the official working for necessity emergency to be overtime by two parties provided that the period shall not exceed four hours per day or twelve hours a week.
- (2) In all cases, the overtime shall be optional for women within the period prescribed in subsection (1).
- (3) the overtime work shall be paid on the date of payment of normal wages as follows:
 - (a) in cases of normal working day, the hour shall be calculated to equal to one and half;
 - (b) In the days of public holidays one hour shall be calculated at two hours.
- (4) The overtime work wage shall be calculated on the basis of basic salary.

45. Annual leaves

- (1) The annual leave the right of the worker and shall be in accordance with the provisions of subsection (2) after the completion of one year of continuous service with the employer and for each subsequent year provided that it shall be with to full pay and shall be tabled during to the needs of work and shall include the official holidays and vacation.
- (2) The annual leave shall be calculated as follows:
 - (a) if the worker completed from one year up to three years continuous service ,he or she shall be entitle to an annual leave equal to twenty days;
 - (b) if the worker completed eight years and less than fifteen years of continuous service, he or she shall be entitle to an annual leave equal to twenty-five days;
 - (c) if the worker completed fifteen years and more in continuous service, he or she shall be entitle to an annual leave equal to thirty days.
- (3) Subject to the provisions of subsection (1) and (2) The worker, in case of termination of the work contract for any reason or in the case of resignation, the worker shall be entitle

to a wage for all days of the annual leave or the proportionate part period he or she spent and had not been granted .

- (4) the worker with consent of the employer, may postpone his or her annual leave for one year, or he or she may divide it between the year in which it was due the following year and shall not be postponed for more than one year and the worker shall be entitled to his or her annual leave plus the postponed leave in the following year.

46. Traveling, Official Occasions and Holidays Leave

- (1) The worker shall be entitled to traveling leave with full pay for traveling to and between his or her place of work and his or her original home once a year.
- (2) The traveling leave shall be calculated according to the time shown by the transport authorities transport authority or any means available for land transport to original home of the worker, provided that in all cases the period shall not exceed ten days.
- (3) During the official occasions and holidays the worker shall be entitled to leave with full pay ,except the daily worker who shall be entitled to leave after completion of three months of continuous service.

47. Maternity leave

- (1) a women worker after the completion of six months of service from date of her appointment and for any subsequent year of service shall be entitled to a delivery leave on full pay calculated as follows:
 - (a) four weeks before the delivery and four weeks after delivery and the actual date on which delivery take place shall be certified by medical practitioner;
 - (b) a permission may be given optionally the same period of leave as specified in paragraph (a) to two weeks before and 6 weeks after delivery;
 - (c) if the woman worker absent herself after completion mentioned in paragraphs (a) and (b) above due to illness resulting from pregnancy or delivery, the medical practitioner, shall be considered to be a sick leave.
- (2) Without prejudice to the provisions of paragraphs (a) and (b) of Section 50 of this Act, the woman worker shall not be dismissed during the period of pregnancy or during the delivery leave.

48. Sick leave

- (1) Subject to the provisions of the work injuries compensation Act,1981.if the worker completed a period of not less than three months of continuous service and is unable to come to the place of work because of a certified illness the reason of which is not due to his or her misconduct or negligence, he or she shall be entitled to a wage for all the days of his or absence due to such illness and wage shall be calculated as follows:
 - (a) three months with full pay;
 - (b) three months with half pay;
 - (c) three months with quarter of pay.

- (2) The worker shall not be on sick leave with reduced pay unless he or she exhausted his or her normal leave.
- (3) If the illness continues for a period of more than stated above, the worker is on sick leave without pay until he or she is sent during a reasonable period to the medical commission to decide promptly his or her fitness for work.

Chapter VIII

Termination and Expiry of Work Contract

49. Termination of the Work Contract by Notice

- (1) The work contract shall be terminate by notice for any of the following reasons:
 - (a) in case of disability of the worker to perform his or her work or if he or she is so ill that ceases to work even if after the completion of his or her annual sick leave whether this leave with or without pay provided that the illness of the worker is proved by Medical Commission;
 - (b) the completion of the work contracted for, or expiry of period of the contract;
 - (c) the total destruction of the establishment;
 - (d) attaining the age of sixty years, unless the parties agreed otherwise, such period shall be considered continuous service;
 - (e) the dismissal of the worker, or his or her desertion of the work during probationary period;
 - (f) agreement of the parties in writing to terminate the contract work;
 - (g) liquidation the establishment provided that is prove by an official certificate issued by competent authority;
 - (h) the resignation of the worker;
 - (i) the death of the worker.
- (2) Except in cases where the work contract provides for longer period of notice. The work contract shall terminate for reasons mentioned in subsection (1) by a written notice by either party ,and the period of notice shall be as follows –
 - (a) one month, Where the worker works in the basis of the monthly wage;
 - (b) two weeks, where the worker is appointed on the basis of pay every two weeks and he or she completed less than five years of continuous service;
 - (c) one week where the worker is appointed on the weekly wage and has completed less than two years of continuous service, and two weeks, if he or she has completed two years and less than five years of continuous service;
 - (d) where the worker is appointed on the basis of the daily wage, the period of notice shall be as follows:
 - i. if he or she has not completed three months of continues service at the of any working day;

- ii. one week ,if the worker completed between three months and two years of continuous service;
 - iii. Two weeks, if the worker completed between two and five years of continuous service.
 - (e) One month if the worker is appointed on a daily, weekly or the basis of daily wage and has completed not less than five years of continuous service.
 - (f) Six months, directly before the expiration of the contract by reason of reaching the age pension.
- (3) If either party does not notify the other of the expiry of the work contract under subsection (2) the injured party shall be paid compensation equivalent to wage for the period of notice.
- (4) The worker may after the expiration of half of the notice, leave the work for fetching other work, provided that he or she is paid full wages for the remaining period of the notice.
- (5) If the worker at the expiry of the work contract is entitle to his or her annual leave, the period of such leave shall not be calculated in the period of notice.
- (6) For the purposes of pension, the age shall be proved by any of the following means and according to the following order-
- (a) The admission of the age recorded by the employer in document of social security , pension or life insurance signed by the worker;
 - (b) The original birth certificate,
 - (c) Certificate of birth or by assessment issued by the Medical Commission.

50. Terminate the Work Contract in the Case of Repeated Contravention

- (1) in the case of repeated contraventions, if the is notified of dismissal where all or a maximum of penalties prescribed are exhausted ,the employer in the case of any succeeding breach ,may terminate the indefinite work contract by notice ,the duration of which shall be fixed according to the provision of section 50 (2) provided that the employer shall give the worker a letter showing the reasons of the termination of the work contract ,and shall pay him or her all his or her entitlements.
- (2) If the worker has received any notice for final dismissal and has not committed any contravention during the year subsequent to the date of notice shall automatically laps thereto.

51. Appeal

- (1) Any of the two parties may appear to the competent against the termination of the work contract under the provisions of Se within a period of two weeks starting from the date of notification.
- (2) The competent authority shall issue its decision within a period of two weeks starting from the date of receiving the application the application of appeal.
- (3) If the competent authority proves the termination of the contract, the employer shall pay to the workers all his or her entitlements. If the competent authority does not approve the termination, it shall order the return of the worker to his or her work provided that all his or her entitlements for the period of suspension shall be paid to him

or her .in case the employer did not carry out the decision made all his or her legal entitlements, including his or her wage during the period of suspension plus compensation equal to the salary of six months.

52. Termination of the Work Contract without Notice to the Worker

The employer may be terminate the work contract without notice in the following cases:

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

53. Terminate The Work Contract Without Notice The Employer

The worker may be terminate the work contract without giving notice to the employer in the following cases:

- (a) If the employer or the person on his or her behalf cheats the worker in regarding work contract ;
- (b) If the employer has not satisfied his or her obligations towards the worker in accordance with the provisions of this Act or the terms of the work contract;
- (c) If the employer or the person acting on his or her behalf commits an assault punishable by law;
- (d) If there is a serious endangers threatening the safety of the worker or affecting his or her health; provided that the employer knows the danger and does not take the measures and procedures necessary to prevent the same.

54. Referring of Dispute to the Competent Authority

- (1) In all the cases specified in section 52 and 53 the work contract shall not be terminated before referring the dispute to the competent authority and obtain approval, the competent authority shall make the appropriate investigations concerning that case

or cases and it shall make its decision thereon within a maximum period of two weeks starting from the date of referring the dispute thereto.

- (2) In case of proof of any of the cases specified in section 52, the employer may suspend the worker until the competent authority makes its decision.
- (3) When the employer to terminate the work contract before referring the dispute to the competent authority makes its decision, the following shall take place –
 - (a) The worker shall be returned to his work together with payment of full wage for the period during which he was suspended;
 - (b) Payment of all entitlements of the worker including his or her wage for the period of suspension plus the payment of compensation equal to six months basic salary.
- (4) If the work leaves the work before referring the dispute to the competent authority or before the competent authority makes its decision. No wage is to be paid to him or her for the days during which he or she leaves the work.
- (5) If the competent authority is not convinced with reasons of termination of the work contract under section 52, the competent authority shall issue its decision that the work contract is to continue in force and the worker shall start his work and shall be paid all his or her entitlements for period during he or she was suspended. if the decision is the termination of the work contract under section 52, the employer may terminate the work contract and shall pay the worker not less than three quarters of the gratuity entitled thereto in addition to his or her other entitlements, except his wage for period of notice.
- (6) If the employer does not comply with the decision of the competent authority to return the worker, he or she shall pay him or her entitlements including his or her wages for the period of suspension in addition to compensation equal to six months of the basic salary.

55. Reduction of the Number of Employees for Economic and technological Reasons

- (1) The employer may apply to the competent authority for reduction of number of workers or closing of the workplace for economic or technological reasons.
- (2) The competent authority shall present the application of the employer for reduction of number of workers or for closing the place of work to the competent commission to make its evaluation and recommendation.
- (3) The competent authority shall issue a decision within a period of three weeks from the date of receiving the application taking into consideration the recommendation of the Commission referred to in subsection (2).
- (4) If the Governor approves the application for the closing of the work place or reduction of number of workers, the employer may execute the decision of the governor provided that such execution do not prejudice the right to make the reduction according to what is specified in his or her application, if he or she does not receive the direction from the date of receiving the application by Governor, provided that not harm shall ensue to the reduce workers in relation to their rights.

- (5) If the employer reduces the number workers without regard to the procedures specified in this Section and contrary to the decision of the Governor on or before the issuance of his or he decision on or before presenting the application, the following shall take place-
- (a) the worker shall be returned to his or her work together with payment full wage for the period of suspension;
 - (b) payment of all entitlements of the worker including his or her wage for the period of suspension plus the payment of compensation equal to six months from the basic salary.
- (6) The competent authority shall form three committees to be constituted of number of the government bodies, in addition to employers and workers' organizations in equal numbers to evaluate and make recommendation concerning applications for closing workplaces and reduction of workers in accordance with the provisions of this Act and the regulations made issued hereunder.

56. Termination Of The Work Contract With Notice By The Worker

The worker, in cases other than specified in section 53 may terminate the work contract by notice according to the provisions of section 49 (2) and (3).

57. Termination of the Work Contract When The Worker Is On A Journey Or Voyage Connected With His Or Her Employers Business

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

58. Certificate of Service

An employer shall give the worker whose service has expired or terminated a certificate showing the name of the employer, work performed by the worker, the period he or she spent in his or her wage without mentioning the reasons led to the expiry or termination of the work contract.

Chapter IX **after Service Benefits**

59. Calculation of the Gratuity

- (1) Subject to the provisions of the Social Insurance law or any other beneficial scheme, the worker who complains a period of not less than three years of continuous service shall be entitle to a gratuity for period of his or her service to be calculated as follows:
 - (a) if he or she has completed a period of not less than three years and not more than ten years shall be entitled to one month basic salary in respect of each year of service;
 - (b) if he or she has completed more than ten year, he or she shall be entitled to one and half month basic salary in respect of each year after the succeeding five year and if he or she has completed more than fifteen years, he or she shall be entitled to one and three quarter of a month basic salary in respect to each additional year of service, provided that the gratuity shall not exceed thirty six months basic salary.
- (2) The gratuities are calculated on the basis of the last monthly base salary.
- (3) The after service gratuity for the production worker is calculated on the basis of the average actual income during the last three years.

60. Termination of the Work Contract by the Worker

- (1) A worker who has spent a period of not less than three years continuous service and who terminates his or her work contract in accordance with the provisions of Section 57 shall be entitled to pay to be calculated as follows:
 - (a) if the worker has spent five years of service he or she shall be entitled to quarter of the gratuity pay he or she entitle to receive;
 - (b) if the worker has spent of five years of continuous service and less than fifteen years ,he or she shall be entitled to one and half of the gratuities pay he or she entitle to receive;
 - (c) if the worker has spent a period of continuous service of fifteen years and less than twenty, he or she shall be entitle to three quarters of the gratuity pay he or she is entitle to;
 - (d) if the worker has spent twenty years or more in service he or she shall be entitled to full gratuity pay.
- (2) Under this section, gratuity pay means the pay that the worker is entitled to receive according to section 60.

61. Gratuity of Seasonal Workers

- (1) Each worker doing seasonal work for duration which is not less than three months is entitled for gratuity provided that the total actual days of service with the same employer are not less than three years.

- (2) The gratuity is calculated in accordance with the provisions of Section 60 on basis that the season being estimated as one whole year.
- (3) For the purposes of this Section, monthly salary is to be calculated based on his or her actual income from the same employer during the last three years divided by (36) thirty-six months.
- (4) The provisions of this Section shall be applied to one season from the commencement of this Act.

62. Addition of the Period of the previous Service

The employer may, at the request of the worker who is re-appointed add the previous service of that worker to his or her succeeding service and shall be considered continuous service, or he or she agreed with the employer on the manner of refunding the gratuity without satisfactory his or her obligation to refund the same.

Chapter X General Provisions

63. Work Regulations And Penalties

- (1) Every employer shall make basic regulations and penalties regulations to be fixed in a conspicuous place in the place of work; provided that the basic regulations shall include at least the hours of work and its time.
- (2) The employer shall deposit the basic regulations with the competent labor office .the penalties regulations shall not be valid unless they are approved by that office.
- (3) The Minister may, after consultation with the General Union of the Employer and the General Federation of Trade Unions shall make standard penalties regulations, according to the nature of every work for employers as a guide in drafting their regulations.
- (4) The money obtained from fines shall be spent to the benefit of the workers according to such terms and conditions as the Minister may prescribe after consultation with the General Federation of Workers and the General Federation of Trade Unions.

64. Keeping Particulars of Workers

shall each employer shall keep a record of every worker including particulars of wages, deductions, annual and sick leaves, dates, number and other conditions provided for the in work contract and any other particulars required by the regulations issued under this Bill, provided that such particulars shall be kept for at least one year after termination of work contract, and the employer shall present any of these particulars when required by the competent authority.

65. Validity of the Work Contract with the Successor

If another person replaces the employer contracted with the worker for the reason of enterprise being sold or transferring the ownership by means of inheritance, or gift or will ,or by the reason of transferring the power of supervision and administration, the workers contract shall be valid with such other person.

66. Prohibition of Enforcing Certain Contracts

take any contract under which the worker undertake to pay the employer whole or part of any amount which has paid or agreed to pay in connection with employment of such worker shall be void and shall not be enforced by courts.

67. Payment payable at the Death of the Worker

- (1) In the event of death of the worker, his family members shall be entitled to the wages, gratuities or other payments which the deceased is entitled under the provisions of this Bill at the time of his or her death.
- (2) The employer shall pay such wages, gratuities or other payments to the competent court.
- (3) The competent court shall distribute such gratuities, wages or other payments referred to in subsection (2) among the heirs of the deceased.

68. Inspection

- (1) There shall be established a National Council to be called “the State Labor Relation Council” by an order to be made by the Minister.
- (2) A council shall be established in every state to be called “the state labour relation council” to be constituted by an order made by the competent authority.
- (3) Two councils, in addition to what is provided for in this Bill, shall have powers and authority to do the following-
 - (a) Give advice and consultation in matters referred thereto by the Minister or the Governor as deemed necessary;
 - (b) Help the Minister or the Governor in framing of the general policy for the labor relations and supervisions of the implementation of such policy;
 - (c) Help the Minister or the Governor in regulating ,developing and consolidating labor relations and the relation between the employer and the workers to create favorable conditions for the work and production;
 - (d) Make studies and submit recommendations, in field of labor relations, to the Minister or the Governor for his or her decision.

69. Priority of Entitlement of the Workers

Payment due under the provisions of this Bill for the workers and those claiming on their behalf shall have priority over any other debts after the judicial fees.

70. Exemption from Judicial Fees

- (1) In all stages of litigation, suits raised by a worker or members of his or her family, or the workers union, in respect of dispute connected with the provisions of this Bill shall be exempted from judicial fees.
- (2) In the case that the judgment is not in favor of the worker, the court may order the worker to pay all or part of such fees.

71. Lapse of Right by Prescription

the right of the worker to raise a claim in respect of the acquired entitlement, according to the provisions of this Bill, shall not lapse in the gratuities, wage or other entitlements.

72. Conditions of Service for the Better Benefits

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

Chapter XI Industrial Safety

73. Application

The provisions of this chapter shall apply to factories, other industrial operations set forth in schedule No1 hereto.

74. Registration of Factories

- (1) Every factory and every industry shall be registered in accordance with the provisions of this chapter.
- (2) Every owner of an existing a factory shall submit to the competent authority within one month from the date of commencement of this law an application in form set out in schedule No (2) hereto.
- (3) The factory shall be granted a Registration Certificate in the form set out in schedule No (3) hereto.

75. Registers of Factories

as s from the date of coming into force of this law the competent authority shall keep registers of factories including all the particulars which it thinks necessary for every factory.

76. Licensing

- (1) No factory shall be erected or an extension to a factory not establishes a plant or building an extension to him only after obtaining a license from the competent authority.
- (2) The competent authority may be closed any plant or an extension has run without a license.
- (3) The provisions of subsection (1) alteration in existing factory, the extension thereof, or conversation of any existing premises into factory or the installation of addition of new machinery.
- (4) Anything which affects the factory internally or externally or which results in the addition activity of power alteration of the sections of the factory shall be deemed to be an alteration.

77. Requirements of licenses

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

(2) The Minister shall determine by order published in the official gazette and general conditions to be met by each plant.

Meaning conditions to be met in every factory and final.

78. Submission of Application for a License

The application for a license shall be submitted to the competent authority on the form set out in schedule No. (4) of this law. And attach to the application plans, drawings and data for machines to be installed and their locations and raw materials to be used and the various building designs and all papers and documents required in accordance with the regulations and decisions issued pursuant to the provisions of this Act or any other law.

79. Fees for the Preview

the applicant shall be notified by recipient of his or her application and cost performance of inspection fees prescribed in the regulations.

80. Approval of the request

- (1) The applicant shall be notified applicant after the preview to the final approval or rejection of his or her request.
- (2) The applicant In case of approval on his or her the plant shall be notified by the conditions that should be available at the plant and the duration of implementation, he or she shall notify the competent Authority to accept it and implement all these conditions should be the competent authority to issue the required license after making sure that they satisfy the conditions mentioned.
- (3) Obtains the license on the final approval of the existing buildings from the competent authority upon completion of the buildings.

81. Relinquishment of Application

If years have elapsed from the date of expiry of the period specified for the implementation of conditions without the applicant shall notify the competent authority to implement regarded as having withdrawn his application.

82. Rejection of Application and Appeal

- (1) The decision of competent authority refusing the issuance of the license shall state the reason.
- (2) The appeal against the decision of refusal shall be lodged to the competent court within a period not exceeding fifteen days of the date of notification of the applicant.

83. Particular Requirement from the license Holder

Every license holder shall present to the competent authority within a period not exceeding one year a proper statement showing the true number of workers, working conditions and means ,protection measures and any other information requested by the competent authority.

84. Assignment and Transfer of a License In Case of Death

- (1) The licensee holder may assign his or her license to any other person, provided that the assignee shall present an application, within fifteen days of the date of the

assignment of the agreement from the date of the agreement for transferring the said license to his or her name, accompanied by the assignment agreement.

- (2) In the case of the death of a licensee holder, the person in whom the factory vests shall notify competent authority within fifteen days from the date of death of their names and the name of the authorized agent in accordance with the provisions of this Bill and shall carry out the procedures necessary for transfer of the license thereto within six months.

85. Inspection, Reporting Accidents and Stopping Factories

Appointment of Industrial Safety Inspector

- (1) For the purposes of implementation of the provisions of this Bill, the competent authority shall appoint an industrial safety inspector.
- (2) The competent authority shall supervise over all factories and industrial operations specified in Schedule No. (1) Attached to this law.

86. Powers of Industrial Safety Inspector

- (1) For the purposes of this Bill and regulations issued under, an industrial safety inspector shall have the power to enter the factory premises during working hours, by day or at night in order to inspect, inquire into accidents, examine the equipment and materials and take samples thereon or to verify any other particulars he or she deems necessary.
- (2) The factory owner or his or her agent or his or her representative shall furnish the industrial safety inspector with all data and information requested.

87. The Federal Advisory Committee for Industrial Safety

- (1) There shall be established a committee to be known as "The Federal Advisory Committee for Industrial Safety" constituted by a decision made by of the Minister as chairperson and a number of members of different specialization.
- (2) The decision mentioned in sub section (1) shall specify the functions and powers of the Federal Committee.
- (3) The Committee mentioned in sub section (1) may constitute subordinate committees in the states and may delegate any of its functions to such subordinate committees.

88. Appointment of Industrial Safety Officers

- (1) Every factory owner employing workers not less than 30 and not more than 150, he or she shall appoint a full time Industrial Safety Officer.
- (2) The Minister shall specify the qualification of Industrial Safety Officer.

89. Industrial Security Committee

- (1) There shall be established in every factory in which the number of workers is 500 or more, an Industrial Safety Committee which shall be constituted of the factory manager as chairperson, heads of productive sections in the factory and two representatives of the workers Trade Union as members and Industrial Safety Officer shall be reporter thereof.

- (2) The Industrial Safety Committee is responsible for industrial security policy-making industrial safety shall be responsible for planning the Industrial Safety policy in the factory and supervise the implementation thereof in accordance with the provisions of this Bill and decisions made there under .the Committee shall notify the competent authority and the employer with everything relating to industrial safety conditions within the factory and its recommendations in this respect.
- (3) The Industrial safety committee shall hold at least one meeting every month and shall also hold a meeting on the occurrence of a serious accident or within a week of the discovery of any occupational disease.

90. Reporting Accidents

when any accident occurs in the factory within the course of daily working hours or as result thereof-

- (a) causes death of any worker;
- (b) causes fire or explosion;
- (c) causes a serious accident; and
- (d) Disables any worker from performing his or her work for one day or more, the factory owner shall report the accident at the end of the day on which the accident occurs in the form (5) thereto.

91. Health complexes

- (1) The Governor or his or her authorized representative in consultation with state the Minister of Health may order the establishment of medical treatment and supervision of workers in the factories.
- (2) The order referred to in sub section (1) shall specify the establishment cost, financing the services, the functions and powers of the complexes; it may also include the rules and requirement which ensure the efficient carrying out of the duties thereof.

92. Notification of Workers with Occupational Dangers

Every factory owner shall bring to the notice of his or her occupational dangers and the protection means there from and shall such protection of his or her workers against industrial accidents or from occupational diseases.

93. Training of workers

No factory shall assign any work to a worker unless after such workers receive sufficient training therein or unless such work is performed under the supervision of a person or persons of experience in such field or work.

94. The duties of the workers

- (1) No worker employed in any factory shall perform any work of such nature as may expose him or her or others to danger. He or she shall have the benefit of all means of protection provided foe him or her.
- (2) No worker shall intentionally damage or misuse of materials, machinery and other property of the factory.

95. Stopping Factories and Industrial Operations

- (1) The competent authority may prohibit the operation of any factory if it deems necessary-
 - (a) Any part of the passages, works or machines or machinery used in any factory is in such a condition or so constructed or positioned that it cannot be used without risk of bodily injury or injury to health of workers therein, unless the same is repaired, altered or moved so that such risk is removed.
 - (b) Any industrial operation in the course of completion or anything being made in any factory is in such a state as may cause bodily injury to the health of workers therein, unless the factory owner has taken the necessary measures for the removal of the danger.
- (2) The competent authority may prohibit the manufacture, modification, or finishing of any machinery or any other thing that is manufactured, modified or finished locally if it is feared that it may cause bodily injury to the health of workers in any factory or place of work.

96. Responsibility of the Factory Owner

Where any contravention to the provisions of this Bill has been committed in any factory, the owner of the factory shall be deemed responsible for committing such contraventions has been caused by breach of any person employed in the factory of any of his or her duties u the owner of the factory shall be responsible for such contravention in respect of such breach unless it is proved that he or she failed to take all means to prevent such breach.

Chapter XII

Employment Dispute and Stages of Settlement of Disputes

97. Application

The provisions of this chapter shall apply to every trade dispute which arises is between one or more of the employers and all their workers or any group of them, whether they are members and all their work forces or any group thereof whether members of trade union or not, provided that an employer shall not negotiate with any group of employees whenever they are represented by lawful trade union save through such organization.

98. Immunity of Trade Unions from tortious liability

- (1) No action shall be entertained against a trade union or against any of its members or officials whether such action is instituted by employees or employer on behalf of themselves or all other members of a trade union in respect of any tortious act alleged to have been committed by or on behalf of trade union.
- (2) Nothing in the provisions of subsection (1) shall absolve from any civil or criminal liability which may be incurred in accordance with the laws in force of any act

committed by a member or official of the trade unions or federation in violation of rights and property of trade union federation.

99. Conspiracy in relation with a trade dispute

- (1) No action shall be entertained in respect of any act done pursuant to an agreement between two or more persons if done in contemplation or instigation of trade dispute.
- (2) Any activity that constitutes an offense against state security, integrity or basic rules in accordance with the laws in force shall be exception to sub section (1).
- (3) For the purposes of this section, an offence means any act which exposes the offender to penalty of imprisonment whether absolutely or at the direction of the court.

100. Public Official Subject to Penalty

Nothing in this Bill shall be construed as exempting from disciplinary measures for any public official who breaks his or her duties in completion of trade dispute.

101. Immunity from Actions for inducing breach of contract

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

102. Intimidation and Annoyance

No person shall be compelled any person to do or refrain from doing any act which such person has a legal right to do or refrain from doing the same through:

- (a) the use of violence or provocation or insulting of such person or his wife or his children or damaging his or her property;
- (b) following such person from one place to another;
- (c) concealing any tools or clothes or any property owned or used by such person or depriving him or her of use thereof;
- (d) Watching or annoying any person at his or her home or any other place where a resident or in any road leading to such home or place.

Chapter XIII

Stages of Settlement of Disputes

103. Negotiation

- (1) In case of a trade dispute arising between the parties to the dispute they shall, within a period not exceeding two weeks, enter into amicable negotiation for settlement of such dispute, provided that the period of negotiations shall not exceed three weeks after the date of commencement of negotiations, and provided further that subject to agreement of the parties, the period of negotiation may be extended for other two weeks;
- (2) The competent authority or any person acting on his or her behalf may attend the negotiation of any trade dispute. It shall not take part in negotiation save by agreement of the parties;

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

104. Mediation

- (1) In case of failure of the parties to the dispute to reach an agreement for settlement of the dispute under section (), each party may, by him or herself or through his or her representative, apply to the competent authority, to endeavor to settle the dispute or their representatives, their addresses, the subject and circumstances of the dispute and the names of the negotiators, provided that the number of the representative of each party shall not exceed three persons.
- (2) Whenever one of the parties to the dispute applies for intervention of the competent authority, the other party shall be bound by such intervention.
- (3) If neither of the parties to the dispute applies for mediation, the competent authority may issue a decision to refer the dispute for mediation without obtaining their consent the two parties shall be bound by such decision.

105. Attendance of Representative of Ministry of Finance for Session of Negotiation and Mediations

In case where the dispute relating to requirements of workers employment arise between parties as public corporations, public entities or companies, where the government owns 50% of its shares or more, the National Minister of Finance shall appoint a representative to attend the session of negotiations and mediation on his or her behalf.

106. Condition of Application

If the application is submitted by the employer it shall be signed by him or her or by authorized agent, if it is submitted by the Chairperson of the trade Union which they belong subject to approval of the executive committee of the Trade Union or half the number of the workforce or officials if they have no trade union.

107. Settling the Dispute

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

108. Amicable Settlement of a Dispute

If a dispute is amicably settled, the agreement shall be reduced to a document, three copies shall be made thereof, one to be signed by the competent authority and the

representative of the parties and to be given to them during the period of its continuance in force.

109. The Period of Continuance in Force of an Agreement

The period of continuance in force shall be included in the agreement, provided that it shall not exceed three years unless the agreement deals with fixing of wage and working hours in such case the period may extend to a period not exceeding five years.

110. Reference of the Dispute to Arbitration

If the competent authority becomes unable to settle a dispute amicably within the period referred to in section 107, it shall refer the dispute to an arbitration tribunal without the approval of the parties to the dispute whenever it deems necessary.

111. Condition of the Arbitration Tribunal

- (1) the competent authority shall, by a decision made and constitute an arbitration tribunal as follows:
 - (a) a judge whose grade is not less than High court judge to be nominated by the president of judiciary organ of the State as Chairperson;
 - (b) in case of private sector, an employer who has no connection with the dispute to be nominated by the employer, and in case of national Government and state Government organs, representative from the Ministry of Finance.
 - (c) a representative of trade union which has no direct connection with the subject of the dispute to be nominated by the trade union party to the dispute;
 - (d) a representative of the Ministry of labour and Public Service;
 - (e) a person experienced to be nominated by the competent authority.
- (2) subject to the provision of sub section (1), in case where the dispute relating to conditions of workers employment arises between parties such as public corporations, public entities or companies, where the government owns 50% of its shares or more, the National Minister of Finance shall appoint a representative to attend, on his or her behalf, the arbitration tribunal in cases of state public corporation, public entities or companies, the Governor shall appoint a representative to attend the arbitration tribunal.

112. The First Session of the Arbitration Tribunal and Quorum

- (1) The Chairperson of an arbitration tribunal shall within a period not exceeding one week from the date of reference of the dispute to arbitration fix a date for hearing.
- (2) The presence of four members including the chairperson shall constitute a quorum of an arbitration tribunal.

113. The Period for Settlement of a Dispute

An arbitration tribunal shall consider and decide a dispute referred thereto within a period not exceeding four weeks after the date of reference to arbitration.

114. Powers of the Arbitration Tribunal

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

115. Appearance of Advocate and Consultants

Any of the parties to a dispute may engage an advocate or consultant to represent him or her before an arbitration tribunal.

116. The Laws to be Applied by the Arbitration Tribunal

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

117. The Award of the Arbitration Tribunal

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

118. Complicity of the Arbitration Tribunal Award

- (1) An award of the arbitration tribunal shall be final and shall not be challenged in any manner whatsoever ;
- (2) The chairperson of the arbitration tribunal shall notify the parties to the dispute of the award and give a copy thereof ,he or she shall send a copy of the award with all the kept documents relating to the dispute to the competent authority to kept them, he or she shall give copies to the concerned authorities.

119. Residence Expenses of the Representatives of Workforce and Unions

In case an award is made in favour of workforce ,official or Unions ,the arbitration tribunal shall bind the employer to pay the expenses it decides to meet the transportation and residence expenses borne by the representatives of work force ,official or Unions.

120. Rectification for Amendment of any Award

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

121. Remuneration of the Chairperson and Members of an Arbitration Tribunal

The competent authority shall determine the remuneration of the chairperson and members of an arbitration tribunal and the manner of their payment.

122. Prohibition of Stoppage of Work or Closure of Place of Work

Workforce and official are prohibited from stoppage of work whether total or partial and no employer shall close up the place of work whether totally or partial by reason of a trade dispute in the following cases-

- (a) Before entering into negotiation;
- (b) Immediately after any party applies for mediation;
- (c) During mediations proceedings;
- (d) Immediately after the decision of the Governor to refer dispute to arbitration;
- (e) During arbitration proceeding;
- (f) After the issue or the announcement of the award of the arbitration tribunal.

Chapter XIV Miscellaneous Provisions

123. Amendment of Schedules

The Minister may by order to be published in the gazette make any amendment to the schedules attached to this Bill.

124. Offences and Penalties

- (1) Without prejudice to any sever penalty provided for in any other Act, any person shall be punished with imprisonment for term not exceeding six months or with fine or with both who-
 - (a) Causes or takes steps to incorporate any wrong information in the workers record of service with intention to defraud or causes or permits the delay of payment of the workers entitlements depending on that record knowing of such fraud; or

- (b) Provides or permit the introduction of any information or documents to the competent authority knowing that it is not correct.
- (2) It shall be deemed an offence if any contravention or abstention of the implementation of any of the provisions of this Bill or the provisions of any order or regulations made there under is punishable where a certain punishment is not provided for under this Bill or any other law with imprisonment for term not exceeding six months or with fine or with both, and in case of repetition of the contravention the fine may be extend to double the fine prescribed.
- (3) The competent court may order that a part of the fine be paid to injured person.

125. Power to Make Regulation and Rules

The Minister may make the necessary regulations and rules for the imprisonment of the provisions of this Bill.

SCHEDULE NO (1)

FACTORIES AND INDUSTRIAL OPERATIONS

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

SCHEDULE NO (2)
APPLICATION FOR REGISTRATION

With respect to the registration of the factory under the labour act 2012

1. Name of the Factory owner -----
2. Address of the factory -----
3. Site of the factory -----
4. Economic and industrial activity -----

5. Type of machinery and equipment -----
6. Where boilers or pressure receptacles are used ,there shall be stated therein-
 - (a) Type-----
 - (b) Date of manufacture -----
 - (c) Pressure -----
7. Number of workers
 - (a) Men -----
 - (b) Women -----
 - (c) Children -----
 - i. Males -----
 - ii. Females -----

Date: -----

Signature of the factory owner

SCHEDULE NO (3)
FACTORY CERTIFICATE OR REGISTRATION

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

I certify that this factory has been duly registered by virtue of

Date -----

Signature

SCHEDULE NO (4)

**APPLICATION FOR LICENSE FOR BUILDING A FACTORY OR EXTENSION
IN FACTORY**

1. Name of the factory owner -----

2. Name and address of the factory -----

3. Economic and industrial activities -----

4. Number of plot -----

Block -----

Area -----

Site -----

5. Building materials used in
 - (a) Floors -----

 - (b) Walls -----

 - (c) Roofs -----

6. The types of machinery used in the factory
 - (a) Are they run by electricity? -----

 - (b) Are they run by diesel? -----

 - (c) Are they run by steam? -----

 - (d) Run normally? -----

7. Are steam boiler and pressure receptacle used; if so state their
 - (a) Number -----

 - (b) Serial No -----

(c) Pressure -----

(d) Date of manufacture -----

8. Storage

(a) The chemical substance -----

(b) The organic substance -----

(c) Other wastes -----

9. The workers employed

Stages	Men	Women	Infants	Total
1 st				
2 nd				
3 rd				
4 th				

Date: -----

Signature of the factory owner

SCHEDULE NO (5)
NOTIFICATION OF AN ACCIDENT

In accordance with Labour Act 2012

1. Name of the factory owner-----
2. Address -----
3. Economic activity -----
4. Date of accident -----
5. Nature of accident -----
6. Duration of accident -----
7. Type of machine -----
8. If caused by machine give name and party causing injury -----
9. State briefly how the accident occurred -----
10. Particulars of injured person or persons :
 - (a) Name -----
 - (b) Male/female -----
 - (c) Age -----
 - (d) Address -----
 - (e) Pay -----
 - (f) Appointment -----

Date: -----

Signature of the Factory owner