

Proclamation No. 118/2001

The Labour Proclamation of Eritrea

Title 1

Preliminary

Article 1. **Short Title**

This Proclamation may be cited as a “the Labour Proclamation of Eritrea No.118/2001”.

Article 2. **Repealed Laws**

The Labour Proclamation of Eritrea No. 8/1991 and all other laws issues in accordance with it or to amend it are hereby repealed and replaced.

Article 3. **Interpretation**

Unless the context otherwise requires , in this proclamation:

- (1) “Employee” means any person who renders services of a physical or intellectual nature, for a definite or indefinite or indefinite period under the direction of an employer for an agreed employment.

Contracts of employment of the following nature shall not be administered under this proclamation:

- (a) members of military, police and security forces;
- (b) members of the Eritrean Civil Services;
- (c) judges and prosecutors; and
- (d) persons holding managerial positions who directly engage in major managerial functions of an undertaking and have power delegated to them by law or contract of employment to make decisions on behalf of the undertaking.

Contracts of employment of employees of state-owned or state-run profit making undertaking and of employees in projects run by Government agencies shall, however, be governed by his proclamation, although the highest level of administration of the said undertakings or projects may be under civil service.

- (2). “Apprentice” means any person who enters into a contract to give his services to an employer in return for vocational training.
- (3).“A Young employee” for the purpose of this proclamation means a person above the age of fourteen and below the age of eighteen.
- (4).“Job seeker” means any person able and willing to work and aged eighteen years or over.

- (5) “Employer” means any person with a legal or physical personality who employs another under a contract of employment.
- (6). “Industrial Undertaking” means public or private undertaking and any branch thereof and includes particularly:
- a. agriculture, forestry and fishery;
 - b. mining and quarrying;
 - c. manufacturing;
 - d. electricity, gas, water and geothermal power;
 - e. construction works, roads and other similar undertakings;
 - f. wholesale and retails trade, restaurants and hotels;
 - g. transport of people and goods by sea, air and land and services of storage and forwarding of goods from and to carrier stations and other forms or communications;
 - h. financing insurance and business services; and
 - i. social and personal services.
- (7) “Essential Services” means the following undertakings that render indispensable services to the public in general:
- a. undertakings that supply water and carry out city cleaning and sanitation services;
 - b. undertakings that supply electric power;
 - c. fire brigade services;
 - d. hospitals, clinics, suppliers of medicine and pharmacies; and
 - e. telecommunications services.
- (8). “Contract of employment” means a written or oral contract entered into by an employee and employer for a definite or indefinite duration, whereby the employee agrees to render services of physical or intellectual nature to the employer, under the direction and control of the employer, for agreed remuneration payable by the employer.
- (9). “Contract of apprenticeship,” means a contract where by an apprentice renders to an employer while acquiring a special skill and receiving an agreed amount of pocket money.
- (10). “Conditions of work” means the entire field of employee –employer relations and shall include, with out limitation, hours of work, wages, annual and other forms of leave payment due for dismissal, compensation to employees for occupational diseases or accidents, redundancy, disciplinary and grievance producers and any other employee benefits and responsibilities.
- (11). “Regular hours of work” means hours of work agreed upon in a contract of employment entered into by the employer and employee based on Articles 48-50 of this proclamation.

(12). “Over-time work” means work performed in excess of the regular hours of work.

(13). “Perdiem” means daily allowances due to an employee for transport, food and lodging expenses for work performed outside his regular place of work.

(14). “Annual leave” means a definite number of workdays in a year where a worker is on holiday with pay.

(15). “Remuneration” means all payments due to an employee for rendering services to an employer but does not include;

- a. any sum paid to the employee to reimburse him for special expenses incurred by him in the course of his employment; and
- b. compensation for service and other compensation payments received because of termination of a contract of employment.

(16). “Wages” means an amount paid to an employee by an employer in cash for services rendered during regular hours of work based on the contract of employment and includes:

- a. any payments made on the basis of a commission, as agreed upon by the employee and the employer, calculated as a percentage of the total volume of work or specific mission; and
- b. allowances paid for accomplishing tasks in areas designated as a hardship areas by the government, due to their server conditions.

(17). “Forced Labour,” means any service which a person performed involuntarily due to the coercion of another person and includes the following:

- a. any work performed by a young person contrary to the provisions of this proclamation; and
- b. any work performed involuntarily merely because of someone’s influence as a result of his holding a public office or traditional status of chieftaincy.

Compulsory national service, normal civic obligations, forced labour as a provided for in the Penal Code, communal services and services rendered during emergency may not, however, be regarded as a forced labour.

(18). “Working month,” means twenty-six working days.

(19). “Association of employees or employers” means any organization of employees or employers, whose principal object is to follow-up relations between employees and employers and includes the federation of two or more associations, as well as the confederation of two or more federations.

(20). “General association” means an association formed by employees in undertakings engaged in similar activities, which have less than twenty employees each.

(21). “Collective agreement” means a written agreement entered into between an employer or employers and employees, pertaining to conditions of work, benefits, rights and obligations of the employees and the employer.

(22). “Collective bargaining ” means all free bargaining between representatives of an employer or employers and employees including bargaining on:

- a. working conditions and details pertaining to employment relations;
- b. terms of employment; and
- c. relations between associations of employees and employers.

(23). “Labour dispute” means any dispute between employee and employer or employees and employers or between an employers’ association and an employees’ association regarding the conditions of work .

(24). “Conciliation” means the resolution of any labour dispute by voluntary settlement of the disputants, including conciliation through a third party.

(25). “Conciliator” means a person a person assigned by the disputants or the Ministry to settle a dispute by conciliation.

(26). “Arbitration” means the process where by the parties to a dispute voluntarily entrust the determination of a labour dispute in accordance with the principles of the law to third person or persons.

3(27). “Individual labour dispute” means any claim of aggrieved employee arising out of the violation or alteration of provisions contained in laws, regulations, work rules or individual contracts of employment and the non-application of established practices by the undertaking.

(28). “Collective labour dispute” means any claim arising out side of the interpretation or the improvement of existing conditions or benefits contained in laws, regulations, collective agreements or work rules and any dispute involving questions of representation of the employee or the employer in the process of collective bargaining.

(29). “Employment injury” means injury sustained due to an accident or disease or disease contracted because of an employment.

(30). “Disability” means disability sustained from employment.

(31). “Strike, ” means the cessation of work by employees acting in concert to influence the employer to accept certain conditions of work in connection with a labour dispute.

(32). “Lock-out” means the closing of a place of employment or the stoppage of work by the employer, thereby refusing wholly or partially to continue to employ all or any number of employees in order to influence those employees to accept certain conditions of work in connection with a labour dispute.

(33). “Minister” and “Ministry” means the Minister and Ministry of Labour Human Welfare, respectively.

(34). “Conciliation branch” means a labour relations unit of the Ministry assigned to settle labour disputes through conciliation.

(35). “labour Relations Board” means a board with judicial powers established by the Minister to hear and decide claims and appeals pursuant to Article 127 (1) and (2) of this proclamation, respectively.

(36). “Offense” means an infraction to be penalized by fine by the First instance labour Court.

(37). “Advisory Board” means an organ established to advise the Minister on, inter alia, labour policy, the implementation of this proclamation and proposals of laws and regulations.

3(38). “Inspector” means a person who is appointed by the Ministry to fulfill tasks he is empowered to execute.

(39). “Medical Board” means a board of medical doctors established by the Ministry of Health.

(40). A word importing the masculine gender shall include the feminine as a well.

Article 4. Scope of Application

The provisions of this proclamation shall govern employment relations between Eritrean employees and foreign diplomatic missions or international organizations operating in Eritrea, unless other specific agreements to the contrary are concluded with Eritrean Government.

Title II

Employment of Job Seekers and work Permit

For Non –nationals

Chapter 1. Employment of Job Seekers

Article 5. Rights of Job Seeker

A job seeker may apply for a job through the employment services unit of the Ministry or a private employment agency, or directly to the employer.

Article 6. Right of an Employer During Employment

Any employer has a right to employ any job seeker by any one of the ways specified in Article 5 hereof.

Article 7. Protection of the Rights of Eritreans working Abroad

The Eritrean Government shall exert effects through its embassies and consulates to ensure that the rights and dignity of Eritrea's working abroad are protected.

Chapter 2. Work Permit Conditions for Non-nationals

Article 8. Work Permits for Non- nationals

- (1) Non-nationals may not work in Eritrea without a valid work permit issued in accordance with guidelines issues by the Ministry. The conditions of employment of non-nationals shall be determined by directives issued by the Ministry.
- (2) A work permit issued to a non-national shall clearly show the type of work he is engaged in, the duration of his employment in Eritrea and such other details as may be required by the Ministry.
- (3) The Ministry may order the termination, cancellation or renewal of permits issued to non-nationals and may introduce in permits new conditions to be complied with.
- (4) The Eritrean government may amend the provisions of this chapter to harmonize them with bilateral agreements, international treaties or conventions it accedes to or ratifies.

Title III

Employment Relations

Chapter 1. Contract of Employment

Article 9. General

- (1) Notwithstanding any provisions in the Civil Code, any person fourteen years of age or older has the capacity to enter into a contract of employment.
- (2) No contract of employment shall be enforceable against a person below the age of eighteen if it is determined to be prejudicial to the interests of that person, and in such a case, such a young person shall not be liable for any damages against him arising from the contract.
- (3) A contract of employment concluded for more than a year shall be made in writing.
- (4) An employee who signs a contract of employment shall do so before two witnesses and place his signature or thumb mark besides the signatures of the two witnesses and the employer.
- (5) The rights of an employee may not be affected because of failure to conclude a written contract of employment.

- (6) An employer who engages in forced labour shall be punishable under the Penal Code.

Article 10. Elements of a contract

- (1) A contract of employment shall, inter alia, specify the duration of the contract, the date of employment, the type of work, the place of work, the rate of wages and other remuneration and the payment methods.
- (2) A contract of employment shall stipulate clearly the respective rights and obligations of the parties.
- (3) Conditions of work laid down in this Proclamation and in collective agreements, which are advantageous to the employee, shall be deemed to be an integral part of the contract of employment.
- (4) Terms in a contract of employment, which do not conform with the provisions of this Proclamation or provide less favorable conditions than those provided by law, shall be null and void.
- (5) Work rules in force in an undertaking shall be specifically mentioned in the contract of employment as part thereof.
- (6) Inventions made by an employee during the work done by him in the service of his employer shall belong to him, unless the employee has been expressly engaged for conducting research or making inventions. Inventions made by an employer shall however, belong to the employer. Any contrary provision in a contract of employment shall be void.

Article 11. Duration of Contract of Employment

- (1) The duration of a contract of employment may be:
 - a. for an indefinite period; or
 - b. for a definite period; or
 - c. for a period required to carry out a definite piece of work; or
 - d. for intermittent periodical work.
- (2) If the work is of a continuous nature, a contract employment made for a definite period shall be deemed to be a contract made for an indefinite period.

Article 12. Probation Period

- (1) No probation period may exceed ninety consecutive days.
- (2) All conditions of work excluding those provided under Article 29, 31 and 56(8) of this proclamation shall apply to a person on probation.
- (3) Time lost by an employer due to failure or making the employee on probation commence his work on the basis of the contract of employment shall be calculated as part of probation period.
- (4) An employee on probation found unfit for the job maybe dismissed by the employer without notice and without severance pay.
- (5) An employee on probation who continues to work after the expiry of the probation period shall be deemed to have successfully completed it and employed on the basis of the contract of employment.
- (6) An employee on probation may terminate his contract of employment without notice.

Article 13. Renewal of Contract of Employment

- (1) The contract of employment of an employee for a definite period shall be deemed renewed for an indefinite period where the employee continues work after the termination of the said definite period.
- (2) A contract of employment deemed renewed under sub-article (1) hereof may, however, be terminated by the employer or employee without notice within three months from its date of renewal.

Article 14. Assignment to a different Job

- (1) An employee shall work in the type of job specified in the contract of employment.
- (2) Unless there is an agreement to the contrary, the employer may transfer the employee to a job other than that specified in the undertaking demands it at any time. Such a transfer may, however, not entail the reduction of wages or the lowering of the position of the employee.
- (3) Where the wages for the new job to which the employee is transferred are higher than those for the job specified in the employee's contract of employment, the employee shall be entitled to the initial wages for the new job.

Article 15. Change of Place of Work

Where there is no agreement to the contrary in the contract of employment and the employer finds it necessary to transfer an employee to another location, the employer may do so without reducing the employee's benefits and work status. The employer shall bear the cost of transferring an employee to an area designated by the government as a hardship area requiring additional remuneration, he shall be entitled to the said additional remuneration.

Article 16. Modification of a Contract of Employment

Conditions of work of a contract of employment not determined under this Proclamation may be modified by:

- (a) Collective agreement; or
- (b) The written agreement of the parties.

Article 17. Transfer, Amalgamation, Division of Ownership Organizational change of an Undertaking

- (1) Without prejudice to the provisions of Article 16 of this Proclamation, the transfer, amalgamation, division of ownership or organizational change of an undertaking may not have the effect of modifying a contract of employment.
- (2) The employer or owner of the undertaking shall have responsibility of ensuring that all the rights of employees are maintained during the transfer, amalgamation, division of ownership or organizational change of the undertaking.
- (3) An employee's status, seniority, wages and any other privileges acquired through his contract of employment may be renegotiated after the transfer, amalgamation, division of ownership or organizational change of the undertaking.

Article 18. Temporary Suspension of Rights and Obligations Arising out of a Contract of Employment

- (1) The rights and obligations arising out of a contract of employment may be temporarily suspended on the grounds specified in sub-article (3) of this Article.
- (2) The temporary suspension of the rights and obligations arising out of a contract of employment may not interrupt or cancel the contract of employment. It shall, however, interrupt:
 - (a) the employee's obligation to work; and
 - (b) Unless otherwise provided for in this Proclamation or in a collective agreement the employer's obligations to pay wages or provide other benefits and allowances to employee.
- (3) The following shall be valid grounds for the suspension of rights and obligations arising out of a contract of employment:
 - (a) leave without pay granted by the employer upon request by the employee;
 - (b) leave of absence for the purpose of holding office in the federation or confederation of employees or social services, to which the employee is elected;
 - (c) national service or any other national call;
 - (d) full or partial suspension of the activities of the employer due to force majeure for a period of more than seven consecutive days; and
 - (e) detention of an employee for a period not exceeding thirty days, provided that the employer is notified thereof within seven days or the employer can obtain such information by the other means.

Chapter 2. Obligations of the Parties

Article 19. General

- (1) Employers and employees shall, in addition to all the obligations they assume under the contract of employment, perform the obligations enumerated under Articles 20 and 21 hereof, respectively.
- (2) Employers and employees may agree to establish norms for the exchange of information which may help increase the productivity of the undertaking.

Article 20. Obligations of an Employer

An employer shall have the following obligations:

- (1) to implement all the obligations of an employer enumerated in this Proclamation, in collective agreements and in work rules;
- (2) to provide work for the employee and, unless otherwise stipulated in the contract of employment, to provide him with tools and raw materials necessary for the performance of the work;
- (3) to respect the employee's dignity;
- (4) to take all the necessary occupational safety and health measures and to comply with the standards and directives to be given by this Proclamation or by the appropriate authorities in respect of these measures;
- (5) to bear the cost of medical examination, whenever such medical examination is required by law or the appropriate authority;
- (6) to take steps to ensure the training of the employee in the work he is employed for;
- (7) to keep a register containing the relevant particulars specified in Article 10 (1) hereof, particulars of leave taken by an employee for health reasons, other leave, employment injury of the employee and other particulars required by the Ministry;
- (8) upon the termination of a contract of employment or whenever the employee so requests, to provide the employee, free of charge, with a certificate stating the, type of work he performed, the length of service, and, if the employee desires, the wages he was earning and the reason for leaving his job or an evaluation of his conduct and performance;
- (9) to take appropriate measures early on to ensure that all work place premises and the processes of work do not become a source or cause of hazards to the health and safety of the employees;
- (10) to provide employees with personal protective equipment and other necessary materials and instruct them on their use;
- (11) to deduct from an employee's wages and remit membership dues to an employees' association upon the written authorization of the employee at the time of his registration as a member of the association; and
- (12) to complete and send to the Ministry a report of engagement for a new employee within thirty working days after engagement.

Article 21. Obligations of an Employee

An employee shall have the following obligations:

- (1) to implement all the obligations of an employee specified in this Proclamation and in collective agreements and work rules;
- (2) to implement instructions given by the employer based on the terms of the employment contract and work rules
- (3) to handle with due care all working tools and materials and return unused raw materials;
- (4) to abstain from activities which cause physical mental incapacity during working hours;
- (5) to implement all health and safety instructions issued an employer or by a concerned authority;
- (6) to utilize appropriately and with care appliances devices provided for the protection of the safety health of himself and other employees; and
- (7) to render assistance when an accident occurs or imminent danger threatens his fellow employees or employer's property without endangering himself.

Title IV

Termination of Contract of Employment

Chapter 1. General

Article 22. Principle

A contract of employment shall be terminated upon initiation by the employer or employee and in accordance with the provisions of the law or a collective agreement or an agreement of the parties.

Article 23. Non-Legitimate Grounds for the Termination of the contract of employment

The following may not constitute legitimate grounds for the termination by employer of a contract of employment:

- (1) an employee's desire to hold office or his holding office as a representative of employees;
- (2) an employee's membership in an employees' association or his participation in its lawful activities;
- (3) an employee's submission of grievances or his participation in a proceeding before a court of law or a concerned authority against the employer;
- (4) an employee's race, colour, nationality, sex, religion, lineage, pregnancy, family responsibility marital status, political orientation or social status;
- (5) an employee's participation in the National Service or in a legally required public service activity;

- (6) an employee's absence from work due to an officially recognized medical doctor's certified illness or injury; and

- (7) an employee's refusal to work on a dangerous assignment ordered by his employer.

Article 24. Legitimate Grounds for the Termination of Employment

A contract of employment following grounds:

- (1) the death of an employee;

- (2) where the undertaking cannot to the employer's death;

- (3) where the employee wishes to discontinue working the undertaking, unless there is agreement to the contrary;

- (4) where the period of a contract of employment expires;

- (5) where it is revealed that the employee had used forged documents or given false information to be employed in the employer's undertaking;

- (6) where an employee commits theft or breach of trust or any other crime related with his employment;
- (7) where an employee contracts a disease which is not related to his employment and absents himself from work for more than six months;
- (8) where the employee does not, in carrying out his work, show the technical knowledge, speed, honesty, interest and reliability that would reasonably be expected of him;
- (9) where an employee becomes redundant as a result of the reduction of the volume of work or the introduction of new technology and it is not possible to transfer the employee to another section of the undertaking;
- (10) where the undertaking ceases to function permanently due to bankruptcy, natural disaster, war or other causes; or
- (11) where an employee absents himself from work without good cause for five consecutive days or for a sum of ten (10) days within a year.

Article 25. Termination by Agreement Collective Agreement

- (1) A contract of employment terminates by agreement of the parties or on the basis of a collective agreement:
 - (a) where the contracting parties agree for termination; or
 - (b) where an employee commits infractions constituting causes for termination pursuant to a collective agreement.
- (2) Waiver by the employee of any of his rights under the law shall be of no effect in termination effected by agreement of the contracting parties or on the basis of a collective agreement.
- (3) Termination by agreement shall be effective only if made in writing.

Chapter 2. Termination

Article 26. Justified Termination

- (1) An employer may terminate an employee's employment where the employee violates his obligations under Article 21 or pursuant to Articles 24-25 of this Proclamation.

- (2) The provisions of this Proclamation on notice for termination of a contract of employment (Articles 30 and 31) shall apply to termination effected under sub-article (1) hereof.

Article 27. Procedure for Justified Termination

An employer who terminates an employee's contract of employment under Article 26 hereof shall be bound by the obligation to:

- (a) notify the employee on disciplinary procedure at the time of engagement of the employee; and
- (b) give clear graded warnings in writing to an employee who has committed an infraction and furnish evidence for the infraction committed by such employee.

Article 28. Unjustified Termination

- (1) An employer's termination of an employee's contract employment in violation of Article 23 of this Proclamation shall be deemed unjustified termination.
- (2) The provisions of Article 29 of this Proclamation shall bind an employer who terminates the contract employment of an employee on grounds of unjustified termination.
- (3) An employees' association leader dismissed due to his association leadership shall be reinstated.

Article 29. Compensation for Unjustified Termination

- (1) An employee whose contract of employment is unjustly terminated shall be entitled to compensation.
- (2) Compensation for unjustified termination shall be:
 - (a) for an employee, with uninterrupted service of, or uninterruptedly assigned on standby for up to two years, a day's pay for each month of service on the basis of his last month's pay; and
 - (b) for an employee, with uninterrupted service of, uninterruptedly assigned on standby for more than two years, a month's pay for each year of service on the basis of his average monthly pay for the last year of service.
- (3) No compensation for unjustified termination may, however, exceed six months' pay of an employee.

Article 30. Notice for Termination of Contract employment

- (1) Unless specifically provided for in a contract of employment, the period of notice for termination both for the employer and the employee shall be as follows:
 - (a) seven days' notice for a contract of employment which lasted for less than a year;
 - (b) fourteen days' notice for a contract of employment which lasted for one year up to two years;
 - (c) twenty one days' notice for a contract of employment which lasted for more than two years up to five years; and
 - (d) thirty days' notice for a contract of employment which lasted for more than five years.
- (2) The employer may, in lieu of notice, pay the employee a sum equal to the amount of wages the employee would earn during the period of notice.

Article 31. Termination, which Require no Notice

- (1) An employer shall have no obligation to give notice in the following circumstances:
 - (a) where an employee fails to fulfill his obligations under article 21(2)-(7) of this proclamation; or
 - (b) where an employee dies; or
 - (c) where it is revealed that an employee had used forged documents or given false information to be employed in the employer's undertaking; or
 - (d) where an employee commits theft or breach of trust or any other crime related with his employment; or
 - (e) where an employee absents himself from work without good cause for five consecutive days or for a sum of ten (10) days within a year; or
 - (f) where an employee commits infractions constituting causes for termination pursuant to a collective agreements; or
 - (g) where an employee discloses secrets he had to keep.
- (2) An employee shall have no obligation to give notice in the following circumstances;
 - (a) where an employer fails to fulfill his obligations under Article 20 (1)-(6) and (10) of this proclamation; or
 - (b) where an employer commits an act against the employee punishable under the penal code; or
 - (c) where he finds himself and his dependents exposed to great danger or a disease he never anticipated from the employment; or
 - (d) where the pay day has been delayed for more than a week.

Article 32. Severance Pay

- (1) An employee whose contract of employment has terminated according to the provisions of this Proclamation shall be entitled to severance pay.
- (2) An employee who has completed a year of service or more shall, upon the termination of his employment, be paid severance pay by the employer as follows:
 - (a) two weeks' wages for each of the first five years of employment;
 - (b) three weeks' wages for each year of employment after the fifth year up to and including the tenth year; and
 - (c) four weeks' wages for each year of service after the tenth year.

The severance pay of an employee who has served for less than a year shall be calculated at the rate of two weeks' wages per annum.

- (3) The wages specified under sub-article (2) (a), (b) and (c) hereof shall be calculated on the basis of the last wage earned by the employee at the time of the termination of his employment.
- (4) Irrespective of the grounds for the termination of his employment, an employee may not be deprived of his right for severance pay.

Title V

Special Contracts

Chapter I. Contract of Apprenticeship

Article 33. Apprentice's Conditions of Employment

A contract of apprenticeship shall be in writing and shall, at least, include the following:

- (a) the vocational training an apprentice will get;
- (b) the duration of apprenticeship; and
- (c) whether pocket money is to be paid to an apprentice.

Article 34. Termination

- (1) A contract of apprenticeship shall terminate pursuant to the provisions of Articles 24-25 of this Proclamation or where, in the opinion of the employer, the apprentice is found to be incompetent in his training.
- (2) Where a contract of apprenticeship terminates, the contracting parties shall be bound by the provisions of this proclamation on notice for termination of a contract of employment.
- (3) The provisions of Articles 29, 32 and 55 of this Proclamation shall not apply to a contract of apprenticeship terminated under sub-article (1) and (2) of this Article.

Article 35. Application of Conditions of Work on an Apprentice

- (1) Unless otherwise provided in this Proclamation, conditions of work provided for in this Proclamation, in collective agreements and in work rules shall also apply to an apprentice.
- (2) The amount of pocket money to be paid to an apprentice, if any shall be determined by the agreement of the contracting parties.
- (3) No apprentice may alone be assigned to hazardous work.

Article 36. Obligations of an Employer

An employer who engages an apprentice shall fulfill the following obligations:

- (a) to give the apprentice the training as required by the contract of apprenticeship;
- (b) to assign the apprentice only to the vocational training specified in the contract of apprenticeship;
- (c) to give directives to the apprentice and take necessary precautions to protect him from employment injury;
- (d) to take all reasonable steps to safeguard the health and moral well-being of the apprentice; and
- (e) to give the apprentice an appropriate certificate at the completion of the apprenticeship training, or prior to it, where the contract is terminated earlier.

Article 37. Obligations of an Apprentice

An apprentice shall fulfill the following obligations:

- (1) to perform his obligations under the contract; and
- (2) to diligently follow the instructions and directives given to him in the process of training and endeavour to complete his training successfully.

Article 38. Powers of the Minister

The minister may issue regulations to control the conditions of training apprentices.

Chapter 2. Domestic Employees

Article 39. Domestic Employee

A domestic employee is a person primarily hired for the performance of household duties and chores, the maintenance of the home and the care and comfort of the members of the household and includes a domestic gardeners, guard or driver.

Article 40. Powers of the Minister

The Minister may, by regulation, determine the provisions of this Proclamation, which shall apply to all or to a category of domestic employee and the manner of their application.

Title VI

Minimum Labour conditions

Chapter 1. Wages

Article 41. General

- (1) An employee shall pay equal starting wages for the same type of work.
- (2) Wages shall be determined by the contracting parties, but may not be less than the minimum wages fixed by collective agreement in an undertaking.

Article 42. Forms of Payment of Wages

Wages may be pain in any one of the following forms:

- (a) time rate, that is where the wages are paid on the basis of a unit time without particular regard to the result of the work done the period may be in hours, a day, a week, a fortnight or a month;
- (b) lump sum, that is, where wages are paid for a definite piece of work, irrespective of the time required to complete it;
- (c) piece-rate, that is where the quantity and quality of the work done are taken into account for the payment of wages;
- (d) combined piece and time rate, that is, where the quantity and quality of the work done within a given period are taken into account for the payment of wages;
- (e) job rate, that is, where the employee is paid for a specific amount of work within a specific period; and
- (f) commission, that is, where an employee receives an agreed percentage or amount for each operation performed. This type of wages shall be earned as soon as the operation is completed. If, however, the activities of work give rise to various commissions, agreement may be reached for schedules of payment.

Article 43. Conditions of payment for Idle Time

- (1) Unless otherwise provided for in this proclamation or other relevant law, wages shall be paid only for work done.
- (2) Notwithstanding sub-article (1) hereof, an employee shall be entitled to his wages if he was ready but unable to work due to lack of supply of tools or raw materials or other reasons not attributable to him.

Article 44. Payment of Wages

- (1) Wages shall be paid to the employee or his legal representative on the day and at the place agreed by the parties, or on the habitual day and the habitual place of payment.
- (2) Payment of wages shall be effected without interruption. Where payment is not effected on the due date, it shall be only delayed until the following working day.
- (3) If the Payment date falls on a Sunday or a public holiday, payment shall be effected on the preceding working day.

Article 45. Deduction from Wages

- (1) The employer may not deduct from, attach or set-off the wages of an employee, except where it is provided otherwise by law or collective agreement or accordance with a court order or an express written agreement of the employee
- (2) In no case may the aggregate deduction or setoffs in any one-month exceed one-fifth of the wages due to the employee in that month.

Article 46. Record of Payment

- (1) The employer shall keep a register of payment specifying the gross and net pay, other additional remuneration, the amount and types of deductions, and other relevant particulars, and where there is no special arrangement, showing the signature of the employee.
- (2) The employer shall have the obligation to make the register accessible, and to explain the entries thereof to the employee at the latter's request.
- (3) The fact that an employee has without protest, received the net amount indicated on the register may not constitute waiver of his right to any part of his remuneration which was due.

Article 47. Perdiem

- (1) An employer who assigns an employee to travel and work temporarily outside his place of employment shall pay him agreed transport expenses and daily food and, lodging allowances.
- (2) Where an employee travels and works temporarily in areas designated as hardship areas marked for extra allowance by the government, he shall be entitled to the extra allowance. The perdiem may be increased by agreement of the parties.

Chapter 2. Working Hours, Leave and Public Holidays

Article 48. Regular Hours of Work

- (1) Regular hours of work may not exceed eight hours a day and forty-eight hours a week.
- (2) The Minister may issue directives reducing regular hours of work for any economic sector, industries or occupations where there are special conditions of work.
Such reduction may not entail reduction of the wages of an employee.

Article 49. Arrangement of Weekly Hours of Work

- (1) Hours of work shall spread equally over the working days of a week, provided that where the nature of the work so requires, the hours of work in any one of the working days may be shortened and the difference distributed over the remaining days of the week, without extending the daily limits of eight hours by more than two hours.
- (2) No work run by shifts may exceed eight hours per shift.

Article 50. Distribution of Hours of Work in Weeks

Where the circumstances in which the work has to be carried on are such that normal hours of work cannot be distributed evenly over a week, working hours calculated on the basis of average hours of work may be distributed over a period longer than one week, provided that the average number of hours worked over a four-week or shorter period may not exceed eight hours per day and forty eight hours per week.

Article 51. Break for Relaxation and Meals

- (1) An employee shall have break for relaxation for a limited period between working hours, taking into consideration the nature and place of work. The break shall be part of the regular hours of work.
- (2) An employee shall have a meal break, taking into consideration the nature and place of work, but such break may not be part of the regular hours of work.

Article 52. Overtime work

- (1) An employer may make an employee work over time, provided he may not make the latter work overtime for more than two hours without the latter's consent.
- (2) Notwithstanding the provisions of sub-article (I) hereof, an employee shall be compelled to work overtime in the following instances:
 - (a) during an accident, actual or threatened;
 - (b) where there is urgent work;
 - (c) where force majeure occurs; or

(d) to substitute an absent employee assigned on work which runs continuously.

Article 53. Overtime Work Payment

- (1) An employee who works overtime between six o'clock in the morning and ten o'clock in the evening shall be paid at the rate of one and a quarter (2/2) multiplied by the regular hourly rate. For overtime work from ten o'clock in the evening up to six in the morning, he shall be paid at the rate of one and one half (1.5) multiplied by the regular hourly rate.
- (2) An employee who works overtime on weekly rest day shall be paid at the rate of two (2) multiplied by the regular hourly rate.
- (3) An employee who works overtime on public holidays shall be paid at the rate of two and one half (2 1/2) Multiplied by the regular hourly rate.
- (4) Payment for overtime work shall be effected together with the payment of wages.

Article 54. Weekly rest

- (1) An employee shall, at the minimum, be entitled to a weekly rest of twenty-four consecutive hours in the course of each period of seven days.
- (2) The weekly rest period shall be Sunday, provided that undertakings that work on Sundays may replace it by another suitable day.
- (3) The Minister may issue regulations concerning the weekly rest of employees engaged in work of a special nature.

Article 55. Public Holidays

- (1) All public holidays recognized by law shall be paid public holidays. Where more than one public holidays fall on the same day, payment shall be made for only one holiday.
- (2) An employee who works on a public holiday shall be paid for each hour of work at the rate of two and a half (2 1/2) multiplied by the regular hourly rate.
- (3) Where a public holiday falls on a rest day designated by this Proclamation or any other special law, the employee who works on such a day shall only be entitled payment for a public holiday.

Article 56. Annual Leave

- (1) An employee shall, at the time he takes leave, be paid wages due to him for the period of leave.
- (2) An employee shall be entitled to annual leave with pay amounting to:
 - (a) fourteen working days for the first year of service and
 - (b) fourteen working days plus one working day each additional year of service.
- (3) Annual leave may not exceed thirty-five working days.
- (4) No postponement of annual leave shall be permitted. Annual leave may, however, be postponed to for unforeseen shortages or breakdowns.
- (5) An annual leave postponed under sub-article shall be taken after the cause of its postponement ceases to exist.
- (6) An employee may take his leave in parts if he agrees.
- (7) Where an employee falls sick during his annual leave the provisions of this Proclamation on sick leave apply.
- (8) Unless there is an agreement to the contrary for each annual leave, annual leave shall be taken at a time convenient to the employee.
- (9) An employee whose contract of employment has been terminated under this Proclamation shall be paid wages in lieu of annual leave not taken. Where the employee has completed his probation period but not a year of service, he shall be paid wages in lieu of leave not taken proportionate to the length of time he has worked during the year.
- (10) Unless otherwise provided in this Proclamation and except with the consent of the employee, wages may not be paid in lieu of annual leave.

Article 57. Recall from Annual Leave

- (1) An employee who is on leave may be recalled only when unforeseen circumstances require his return to work.
- (2) A recalled employee shall be entitled either to resume his leave or to a payment covering the remainder of his leave.
- (3) Where an employee is recalled, the employer shall cover those reasonable expenses incurred by the employee as a result of the recall, including transport expenses and daily food and lodging allowances for the duration of the trip.

The travel time associated with a recall shall be considered normal work time.

Article 58. Leave for family Events

- (1) An employee shall be entitled to leave with pay for working days where he marries or where his spouse, an ascendant, a descendant or another

relative, whether by affinity or consanguinity up to the second degree, dies.

- (2) An employee shall be entitled to leave without pay for five consecutive days in cases where he encounters exceptional and serious occurrences.

Article 59. Association Leave

Employee association leaders shall be entitled to leave with pay for the purposes of labour dispute, litigation, collective agreement negotiation, association meetings, seminars or training courses.

Article 60. Leave for Special Purpose

- (1) An employee who appears at hearings before competent to hear labour disputes or to enforce labour laws shall be granted leave with pay only for the time utilized for the said purpose.
- (2) An employee who exercises his civil rights shall be granted leave with pay only for the time utilized for the said purpose.
- (3) The manner in which educational or training leave is to be granted and the form and extent of the financial assistance to be given may be determined in collective agreement or work rules.

Article 61. Obligation to Notify

An employee wishing to take leave in accordance with the provisions of Articles 58-60 of this Proclamation shall notify the employer in advance and present the necessary supportive evidence where the employer so requests.

Article 62. Sick Leave

- (1) Where an employee, after having completed his probation, is rendered incapable to work owing to sickness resulting other than from an employment injury, he shall be entitled to sick leave.
- (2) The leave referred to in sub-article (1) of this Article may not exceed six months counted consecutively or separately in any twelve-month period starting from the first day of the employee's sickness.
- (3) Where the employee absents himself from work on grounds of sickness, he shall, except where the employer is in a position to be aware of the sickness, notify the employer the day following his absence.
- (4) Unless otherwise provided in the collective agreement, the employee may exercise his right of sick leave provided he presents a valid medical certificate at the beginning of his sickness or subsequently thereafter.
- (5) The period of sick leave provided for in this Article shall be granted in the following manner:
 - (a) the first one month with 100% of his wages;
 - (b) the next two months with 50% of his wages;
 - (c) the next three months without pay.

- (6) An employer shall bear no responsibility under this Chapter for the sickness of an employee, which lasts more than six months.

Chapter 3. Working Conditions of the Disabled

Article 63. General

- (1) The Ministry and the associations of employees employers shall bear responsibility to broaden the work and vocational training opportunities of the disabled and enable them to work according to their abilities.
- (2) The Minister may issue regulations to regulate the working conditions of the disabled, taking into consideration their different levels of ability and health.

Article 64. Equality of Opportunity or Treatment in Employment and Remuneration

- (1) A disabled person may not be discriminated regards opportunity or treatment in employment wages solely due to his disability.
- (2) The Minister may, where a disabled person complains against discrimination pursuant to sub-Article (1) hereof, decide whether there is discrimination based solely on disability. The Minister may, where he decides that there is discrimination, order the employer concerned
- (3) The disabled person or employer who is dissatisfied with the decision of the Minister may appeal against the decision of the Minister to the High Court within fifteen days from the day he receives a copy of the decision.

Chapter 4. Working Conditions for Women and Young Employees

Section 1. Equal Opportunity or Treatment of Women and Maternity Protection and Benefits

Article 65. General

- (1) Women may not be discriminated against as regards opportunity or treatment in employment and remuneration, on the basis of their sex.
- (2) The Minister may, where a woman complains against discrimination pursuant to sub-Article (1) hereof, decide whether there is discrimination on the basis of her sex. The Minister may, where he decides there is discrimination, order the employer concerned to rectify the situation.

- (3) The woman or employer may appeal against the decision of the Minister to the High Court within fifteen days from the day they receive a copy of the decision.

Article 66. Pregnancy and Maternity leave

- (1) A pregnant employee shall be granted leave with pay for medical examination connected with her pregnancy provided, however, that she is obliged to present a medical certificate of her examination to employer.
- (2) A pregnant employee shall be entitled to sixty consecutive days of paid maternity leave beginning from the next day of her delivery. She may, however choose to take her maternity leave in two parts, one preceding her presumed confinement and the other after her delivery.
- (3) An employee who falls sick following the end of maternity leave, shall be granted sick leave under Article 62 of this Proclamation

Article 67. Working Conditions for a Pregnant Employee

- (1) A pregnant employee may not be assigned on n work between 10:00 P.M. and 6:00 A.M. and overtime work.
- (2) Where a pregnant employee's job is dangerous to pregnancy or health, she may, upon official medical certification, be transferred with the same wage another temporary job. She shall be entitled to be reinstated to her former job after the end of maternity leave.
- (3) An employer may neither terminate the contract, employment nor serve notice of termination employee on maternity leave or on sick leave that has arisen out of her pregnancy or confinement.

Section 2. Working condition of Young Employees

Article 68. General

- (1) It is prohibited to employ a person under the age of fourteen years.
- (2) A young employee may not be assigned to work between 6:00 P.M. and 6:00 A.M.
- (3) A young employee may not be made to work for more than seven hours per day.

Article 69. Employment Prohibited to a Young Employee

- (1) The Minister may, by regulation, issue a list of activities prohibited to young employees, including apprentices, which shall, in particular, include:

- (a) Work in the transport of passengers and goods by road, railway, air and sea and in docksides and warehouses involving heavy weight lifting, pulling or pushing or any other related type of labour;
- (b) Work connected with toxic chemicals, dangerous machines, electric power generation plants, transformers or transmission lines;
- (c) underground work, such as mines, quarries similar works; and
- (d) work in sewers and digging tunnels.

(2) Sub-article (1) of this Article shall not apply to any type of training carried out and supervised by a competent authority.

Chapter 5. Employment Injuries

Section 1. Responsibility for Employment Injuries

Article 70. General

- (1) Air injury sustained by an employee during or the employer according to the provisions of this Chapter shall compensate for connection with his work as a consequence of employment accident or an occupational disease.
- (2) The employer shall be liable, regardless of fault, employment injuries sustained by an employee such liability shall be determined in accordance the provisions of this Chapter.
- (3) An employer using fixed machinery or engaged mining, quarrying, transporting heavy burdens extensive deforestation, construction or explosive work shall cover his employees with workers' compensation insurance. He shall be liable for an offense where he fails to do so.

Article 71. Employment Accident

An employment accident is any organic injury or functional disorder sustained by an employee as a result of any cause extraneous to the injured employee or any effort he makes during or in connection with the performance of his work and includes:

- (1) an injury sustained by an employee while carrying on employer's orders, even away from the work place or outside his regular hours of work;
- (2) an injury sustained by an employee, before or after his working hours, because of obligations related to his work, or during any interruptions of work while in the work place or the premises of the undertaking, or while he is proceeding to or from the place of work in a transport service vehicle provided by the employer;
- (3) an injury sustained by an employee as a result of an action of the employer or a third party during the performance of his work, provided that where the work merely gives the employer or third party an opportunity to cause the injury, it may not be deemed to have been incurred in the performance of work; and

- (4) an injury sustained by an employee as a result of his violating work rules, the employer's orders or other similar directives to prevent an accident, to save life or to safeguard the employer's interest.

Article 72. Occupational Disease

- (1) A pathological condition, whether caused by physical, chemical or biological agents, which arises as a consequence of the type of work performed by the employee or the surroundings in which he works shall be considered an occupational disease.
- (2) Occupational diseases shall not include endemic or epidemic diseases which are prevalent and contracted in the area where the work is done, except in the case of an employee exclusively engaged in combating such diseases by reason of his occupation.
- (3) The Minister shall, in consultation with the Ministry of Public Health, issue schedules that are subject to periodic revision listing diseases of occupational origin.
- (4) Notwithstanding the provisions of sub-article (3) of this Article, an employee shall be entitled to compensation if he establishes the occupational origin of a disease he contracts.

Article 73. Conditions where an Employer Bears no Responsibility

- (1) An employer shall not be liable for any injury, which an employee intentionally causes to himself.
- (2) An injury resulting from the following acts shall, in particular, be deemed to be intentionally caused employee:
 - (a) without prejudice to the provisions of Article 71(4) of this Proclamation, non-obedience of express safety and health instructions or non-observance of the provisions of accident prevention rules especially issued by a employer; or
 - (b) reporting to work in a state of intoxication caused either by taking medicine not prescribed by a physician or alcoholic beverages or narcotic drugs.
- (4) With the exception of his obligations under Article 75 hereof, an employer is entitled to be reimbursed for all expenses he incurs from an employee who intentionally injures himself.

Article 75. Degree of Disablement and its Assessment

- (1) The degree of disablement shall be assessed Medical Board or any other certified physician based on the disablement chart annexed to this Proclamation table No. 1. Where the disablement chart is not clear specific disablement the Medical Board shall bear the sole authority to assess it.

- (2) Where a disabled employee or an employee who has already suffered an employment injury sustains a near employment injury, his disablement shall be assessed only taking into account his new employment injury.
- (3) Where an employee sustains more than one of the listed in the disabilities chart, he shall be compensated for the sum of all of the disabilities, provided the sum total may not exceed 100%.
- (4) Disablement that has been assessed may be revised on the initiation of the employee or employer, in accordance with sub-articles (1) and (2) hereof, where the employee's condition deteriorates or improves or has been wrongly diagnosed.

Section 2. Services and benefits in the Case of Employment Injury

Sub-section 1. Medical Services

Article 75. First Aid and Funeral Expenses

An employer shall have the following obligations and at his own expense:

- (a) to provide an injured employee with prompt first aid;
- (b) to transport an injured employee by an adequate means of transportation to the nearest health center; and
- (c) unless otherwise provided in a collective agreement to pay a rational price for the coffin, the burial ground and the transportation of the remains of an employee who dies because of an employment injury.

Article 76. Medical Expenses

Where an employee sustains employment injury, the employer shall cover the expenses of the medical services listed below:

- (a) hospital and pharmaceutical care;
- (b) general and special medical and surgical care; and
- (c) any necessary prosthetic or orthopedic appliances.

Article 77. Duration of Medical Services

Medical services for an employee who sustains employment injury shall cease in accordance with decision of the Medical Board.

Sub-section 2. Various Cash Benefits

Article 78. Compensation for Employment Injuries

- (1) An employee who has sustained employment shall be entitled to:
 - (a) periodic payments while he is temporarily and
 - (b) disability compensation where he sustained permanent disability.
- (2) The heirs of an employee who dies as a result of employment injury shall be entitled to compensation provided under Article 81(3) (c) hereof.

Article 79. Periodic Payments

- (1) The employer shall pay for one year the periodic payments provided for under Article 78(1) (a) hereof.
- (2) The periodic payments referred to in sub-article (1) hereof shall be monthly at the rate of not less than seventy five percent (75%) of the employee's wages of the last month, starting from the day of injury up to twelve months.
- (3) The periodic payments payable to the injured employee under sub-article (2) of this Article shall be increased by five percent (5%) for each year of service, provided, however, that the increase may not exceed the employee's monthly wages.
- (4) Periodic payments shall cease when one of the following occurs first:
 - (a) when an injured employee is medically certified to be no longer disabled; or
 - (b) when an employee receives disablement compensation; or
 - (c) twelve months from the date an employee stopped work.

Article 80. Conditions for the Suspension of Periodic Payments

- (1) Periodic payments may be suspended where an injured employee who has claimed or is receiving payment commits any one of the following:
 - (a) refuses or neglects to submit himself to medical examination or in any way intentionally obstructs or unnecessarily delays such an examination;
 - (b) behaves in a manner calculated to delay his recovery; or
 - (c) violates directives issued by the competent authority which injured employees must observe.
- (2) The periodic payments shall recommence, as soon as circumstances, which cause the suspension, cease, provided, however, that there may be no entitlement to back-pay for the period during which the suspension was in force.

Article 81. Amount of Compensation for Disablement

- (1) Disablement compensation payable to employees of undertakings which have introduced worker's compensation insurance pursuant to the provisions of Article 70(3) of this Proclamation shall, unless otherwise provided in a collective agreement, be equal to the workers' compensation insurance entered into on behalf of the employees by the employer, provided, however, that if amount covered by the insurance is less than the amount provided for under sub-article (3) of this Article, the difference shall be covered by the employer.

- (2) Disablement compensation payable to an employee of an undertaking, which has not introduced workers' compensation insurance, shall be equal to the amount he is entitled to under sub-article (3) of this Article.
- (3) The amount payable by an employer for disablement compensation shall be as follows:
 - (a) where the injury sustained by an employee is permanent total disablement, a sum equal to six times his annual wages;
 - (b) where the injury sustained by an employee is permanent partial disablement, a sum equal to the percentile of disablement multiplied by six times his annual wages; and
 - (c) where the injury sustained causes the death of an employee, a sum equal to five times his annual wages which goes to his heirs-at-law, provided, however, that the payment may not be less than fifteen thousand Nacfa (15,000.00)
- (4) Disablement or death compensation due to an apprentice shall be calculated on the basis of the wages he would have qualified for after his apprenticeship.

Article 82. Date of Occurrence of an Employment Injury

- (1) The date considered the date of occurrence of an employment accident is the day an employee is injured by the accident he encounters.
- (2) The date considered the date of occurrence of an employment disease is the day the disease is clearly known, that is the first day an employee loses his ability to work, the day he ascertains by a medical doctor's examination that he has contracted a disease or the day he dies because of the disease.

Article 83. Benefits not Taxable

The benefits paid under the provisions of this chapter shall be exempted from any kind of tax.

Title VII

Social Security

Article 84. Social Security

The Minister has the power to issue regulations pertaining to social security.

Article 85. Power of the Minister

The Minister shall, after conducting the necessary study, present to the National Assembly a draft law governing the establishment and/or management of provident fund for employees.

Title VIII

Formation of Associations and Collective Bargaining

Article 86. General

- (1) Employees and employers shall have the right to form their respective associations and participate in their activities as members.
- (2) Employees and employers associations, respectively, shall have the right to frame their constitution, elect their representatives, organize their administration and set their programmes.
- (3) No measures of refusal or cancellation of registration or dissolution of any employees' or employers' association may be taken except in accordance with the provision of Articles 94 to 97 of this Proclamation.

Article 88. Rights of Leaders of Employees' Associations

- (1) The right to wage increment and promotion of a leader of an employees' association who absents himself from the work of the undertaking for the purpose of association duties may not be curtailed. The time spent on association duties shall be considered as part of his services for the undertaking.
- (2) Leaders of federation or confederation of employees shall be full-time paid employees of the federation or confederation. The federation or confederation shall also pay all services-related benefits that would be due to them during their tenure there.
- (3) A leader of a federation or confederation of employees whose services with the federation or confederation are terminated or completed shall be entitled to return to a job in the undertaking at least comparable to his former position. Where a leader of a federation of employees return to a job in the undertaking, he shall be entitled to the general wage increases which might have been given absence and pension rights, if any.
- (4) Where a leader of a federation or confederation of employees returns to a job in his former undertaking pursuant to sub-article (3) of this Article, his former undertaking shall familiarize him with new working conditions, procedures and technology, if any.
- (5) In cases where implementing the provisions sub-articles (3) and (4) of tills Article is impossible due to valid reasons, a leader who leaves his post of leadership from the federation or confederation of employees shall be adequately compensated by the federation or confederation, provided, however, that the undertaking he had been working liar before becoming a leader of a federation or confederation of employees shall pay him severance pay and other dues in respect of rights he had acquired while working for the undertaking.

- (6) The provisions of sub-articles (3)-(5) of this Article shall not apply to a leader who leaves his post due to corruption, theft, embezzlement or betrayal of the purpose of the organization or the commission of a crime.

Article 89. Formation of Associations

- (1) Employees' associations may be established in an undertaking where the number of employees is twenty or more, provided, however, the number of members of an association may not be less than fifteen.
- (2) Employees who work in different undertakings which have less than twenty employees each but are engaged in similar activities, may join and establish a general association, provided, however, the numbers of members of a general association may not be less than twenty.
- (3) Employees' associations may jointly form federations and federations may jointly form confederations.
- (4) Employers may jointly form an employers' association, employers' associations may jointly form an employers' federation and employers' federations may jointly form an employers' confederation.
- (5) No employees' or employers' association may form a confederation without forming a federation.
- (6) Any level of association of employees or employers may establish offices as required.

Article 90. Functions of Associations

Associations shall formulate their functions which may include:

- (1) observing the conditions of work and fulfilling the obligations set forth in this Proclamation, respecting; the rights and interests of its members and representing members in collective negotiations and labour dispute before labour dispute settlement tribunals;
- (2) ensuring that laws, regulations and directives are known to, observed and implemented by members;
- (3) initiating laws and regulations pertaining to employer and employees and participating actively during their preparation and amendments;
- (4) discharging other functions provided for in their constitutions;
- (5) striving to develop and implement effective tripartite relations among the government, employers and employees; and
- (6) fostering the establishment of a sound working relationship between the employer and employees to improve the production capacity of the undertaking.

Article 91. Functions of Federations and Confederations

In addition to those functions mentioned in Article 90 hereof, federations and confederations shall have the following functions:

- (1) to strengthen the unity and spirit of co-operation of their members, participate in the determination or improvement of the conditions of work at the trade or industry level and encourage members to strength their participation in the construction of the national economy;
- (2) to represent their associations in national and international conferences; and
- (3) to discharge other functions provided for in their constitutions.

Article 92. Constitution of Association

Employees' and employers' associations shall frame their own constitutions. The constitutions may, inter alia, include the following:

- (1) the name of the association;
- (2) the address of the head office of the association;
- (3) the objectives of tile association;
- (4) the date of formation of the association;
- (5) the rights and duties of members;
- (6) the emblem of the association;
- (7) the qualification for leadership of the association;
- (8) the financial and property administration of association;
- (9) the meetings and election procedures;
- (10) the contribution of its members;
- (11) disciplinary measures; and
- (12) the conditions for dissolving the association.

Article 93. Registration of Associations

- (1) Every employee' and employer's association shall be registered by the Ministry in accordance with this Proclamation.
- (2) Every employee's and employers' association shall, upon its establishment, submit an application for registration to the Ministry attaching the following:
 - (a) the constitution of the association;
 - (b) a document containing the names, addresses and signatures of its leaders;
 - (c) in the case of a general association, a document containing the names of undertakings where members are working;
 - (d) where the association is a federation or a confederation, a document containing the names, addresses and signatures of the leaders and the names of the member employees' or employers' association; and
 - (e) a document containing the name and emblem of the association.
- (3) The Ministry shall issue a certificate of registration within one month of receiving a duly completed application together with the documents mentioned in sub-article (2) hereof. Where the Ministry does not respond within this period, the association shall be deemed registered.

- (4) Employees' and employers' associations registered by the ministry in accordance with this Proclamation shall have the capacity to undertake the following activities:
 - (a) to enter in to contracts;
 - (b) to sue and be sued;
 - (c) to own, use and dispose of movable and immovable property;
 - (d) to represent members at any level; and
 - (e) to perform any legal act necessary for the attainment of its purpose.
- (5) An association which elects a new leadership shall submit a document with the names, addresses and signatures of the new leaders to the Ministry.
- (6) An association which is not registered in accordance with the provisions of this Proclamation may not perform activities provided for in this Proclamation.

Article 94. Refusal to Register

The Ministry may refuse registration of an association on any one of the following grounds: -

- (1) where the association fails to fulfill the requirements for registration laid down in this Proclamation;
- (2) where one of the objects of the constitution of the association is contrary to law; and
- (3) where the name of the associations is identical with or so closely similar to the name of another association established prior to it as to confuse its members and the general public.

Article 95. Cancellation of Registration

- (1) The Ministry may cancel the certificate of registration of an association on any one of the following grounds:
 - (a) where the certificate of registration is obtained by deceit or given by mistake;
 - (b) where any one of the objectives of the constitution of the association is found to be contrary to this Proclamation and the association is not willing to remedy or correct it;
 - (c) where the association engages in activities prohibited under this Proclamation and is not willing to cease, remedy or eliminate such activities or acts; and
 - (d) where the number of members of the association decreases below the minimum required by this Proclamation and continues to be so for more than a year.
- (2) The Ministry may, upon request by an association, ensure that the association is dissolved in such manner as it deems appropriate.

Article 96. Notice for Cancellation of Registration

- (1) The Ministry shall, before canceling the registration of an association, give to the concerned association one month's prior notice, specifying the reason for the cancellation and providing the opportunity to oppose it. The Ministry may not specify any reason other than those enumerated in Article 95 hereof.
- (2) Where the one month period of notice provided for in sub-article (1) of this Article expires and the association does not oppose the notice or opposes it but is rejected by the Ministry, the Ministry may cancel the registration.

Article 97. Appeal

- (1) Where the Ministry refuses registration or cancels a registered association, the association may appeal to the high Court within fifteen days from the date of the receipt of the decision in writing. During the hearing the Ministry shall be given the opportunity to appeal before the court and present its reasons for refusal or cancellation of registration.
- (2) Where the High Court rejects the refusal to register by the Ministry, the association shall forthwith be registered by an order of the court, and where it rejects the cancellation of a registration by the Ministry, the registration shall be confirmed.

Article 98. Consequence of Cancellation of Registration

- (1) An association shall be deemed cancelled effective as of the date of the Ministry's refusal to register or cancellation of registration, if no timely appeal has been taken therefrom to the High Court, or effective as of the date that an appeal having been taken, is denied or dismissed by the court.
- (2) An association the registration of which has been canceled pursuant to sub-article (1) of this Article shall be dissolved on the basis of the procedures of its constitution.

Chapter 2. Collective Agreement

Article 99. Collective Bargaining

- (1) An employees' association shall have the right to bargain a collective agreement with one or more employers or their associations in matters provided for in Article 102 hereof.
- (2) An employer or employers' association shall have the right to bargain a collective agreement with an employees' association or representatives of employees.

Article 100. Representation

- (1) The following shall have the right to represent employees during collective bargaining:
 - (a) where there is an association there is an association of employees, the leaders of the association who are empowered to represent the employees in collective bargaining ; or
 - (b) where there is a general association of employees the leaders of the association who are authorized in accordance with the constitution of the association; or
 - (c) where the undertaking has no association of employees, the employees delegated by the employees of the undertaking.
- (2) The persons who represent the employer shall be the concerned employer or employers, their representatives or those who are delegated by one or more employers' associations.

Article 101. Advisors

A bargaining party to collective agreement may appear with an advisor to assist him.

Article 102. Contents of Collective agreement

The following may, inter alia, be determined by collective agreements:

- (1) matters left by the provisions of this Proclamation or other laws to be regulated by collective agreements;
- (2) the conditions for the protection of occupational safety and health of employees;
- (3) employees' participation, particularly in matters regarding promotion, wages, transfer, reduction and discipline;
- (4) conditions of work and the procedure for making work rules and resolving grievances;
- (5) arrangement of working hours and break intervals during working hours;
- (6) the introduction of ways and means for the promotion of production;
- (7) improvement of the employees' educational standard and vocational skills; and
- (8) the use of arbitration where a dispute arises between the parties on the interpretation of the collective agreement.

Article 103. Procedure for Collective Bargaining

- (1) A party wishing to conclude a collective agreement shall request the other party in writing. It shall also prepare and submit a draft necessary for the negotiation.

- (2) The invited party shall, within fifteen days of receiving the invitation, appear for collective bargaining.
- (3) The parties shall, before commencing collective bargaining, draw up the rules of procedure.
- (4) Each party shall have the duty to bargain in good faith.
- (5) Issues on which the parties cannot reach agreement by negotiation shall be submitted to conciliation, arbitration or to the competent labour dispute settlement body.

Article 104. Form of Collective Agreement

- (1) Every collective agreement shall be in writing and shall specify the parties.
- (2) Collective agreements shall, where there is format prepared by the Ministry, adopt the format of such model.
- (3) Every collective agreement shall specify the date and place of the signature.

Article 105. Registration of Collective Agreement

- (1) The Ministry shall register any collective agreement.
- (2) After the signing of the collective agreement the parties shall submit two signed copies thereof to the Ministry for registration.
- (3) Where the collective agreement has a purpose or content contrary to law or does not fulfill the requirements of Article 104 hereof, the Ministry shall have the Authority to refuse its registration.
- (4) Parties to collective agreement have the right to jointly or severally appeal to the High Court where they are refused the registration of their collective agreement. The provisions of Article 97 hereof shall apply mutates to such an appeal.
- (5) The Ministry shall, after the registration of the collective agreement, verify the authenticity of the agreement, affix its seal on it and give copies to each of the parties to the collective agreement.
- (6) Where the Ministry fails, within one month from the date of receipt of the collective agreement, to notify parties to the collective agreement in writing whether it has registered it or not, the collective agreement shall be deemed registered.

Article 106. Accession

A collective agreement which has already been signed and registered may be acceded to by others.

Article 107. Duration of Collective Agreement

The Duration of a collective agreement may not be for less than one year or more than three years.

Article 108. Applicability of collective Agreement

- (1) A collective agreement shall be effective after its registration according to article 105 hereof.

- (2) A collective agreement shall apply to all parties covered by it and to those other employees of the undertaking who are not members of the association.
- (3) Unless otherwise replaced by another collective agreement, the conditions of work, benefits and rights stipulated in the collective agreement shall apply.
- (4) Where the collective agreement is more favourable to the employees than those provided for by law in similar matters, collective agreement shall prevail, provided, however, that where the law is more favourable than the collective agreement, the law shall be applicable.

Article 109. Challenge to the Collective Agreement

- (1) No party may challenge the collective agreement or request for its amendment or termination before the expiry of its agreed duration, provided, however, that upon the occurrence of a major financial change in an undertaking, a challenge to the collective agreement or a request for its amendment or termination may be initiated by either party and submitted to the Minister.
- (2) Where the Minister is convinced that a major financial change has occurred in an undertaking, he may propose that the two parties bargain on a challenge or request submitted to him under sub-article (1) of this Article.
- (3) Where the Minister proposes that the two parties bargain under sub-article (2) of this Article and they accept the proposal, the collective agreement shall remain in force until the parties arrive at a settlement.
- (4) An amendment made under sub-article (1) and (2) of this Article shall not alter the duration of the collective agreement.
- (5) The parties to a collective agreement may, at any time, mutually agree to amend or modify it.
- (6) Any amendment or modification of a collective agreement effected under this Article shall be registered in accordance with Article 105 hereof.

Article 110. Labour Dispute Arising out of a Collective Agreement

Labour disputes which arise from the interpretation of the provisions of a collective agreement shall be resolved in accordance with the provisions of this Proclamation, provided, however, that where a grievance procedure has been stipulated in the collective agreement, such grievance procedure may be applied.

Article 111. Renewal of Collective Agreement

- (1) Unless otherwise provided in the collective agreement, a party desiring to amend, modify or renew the collective agreement shall notify the other party in writing, three months prior to the expiry of the duration of the collective agreement.

- (2) The party notified according to sub-article (1) of this Article shall appear for collective bargaining within fifteen days after receipt of the notice.

Article 112. Obligation of an Employer on the Bargaining and Implementation of a Collective Agreement

Every undertaking or an employer shall have the following obligations on the bargaining and implementation of a collective agreement:

- (1) to appear for bargaining when so required;
- (2) to submit all essential evidence and documents required during bargaining ;
- (3) without prejudice to the provisions of Article 115 hereof, to refrain, during bargaining, from making any unilateral change on work rules, working conditions and any other conditions related to the employees' benefit and interest which may have a harmful effect on the employees;
- (4) in cooperation with the employees' association, to make every effort to help the employees understand the interpretation and application of the provisions of the collective agreement; and
- (5) unless the collective agreement provides for a lesser period, to meet with the employees' representatives every six months to evaluate the collective agreement.

Article 113. Obligations of an Association of Employees on the Bargaining and Implementation of Collective Agreement

Every association of employees shall have following obligations on the bargaining and implementation of a collective agreement:

- (1) to appear for bargaining when so required ;
- (2) to entertain the opinions of the member employees on a draft collective agreement before submitting it for bargaining;
- (3) to make effort to help the employees understand the interpretation and application of the provisions of the collective agreement in cooperation with the employer;
- (4) unless he collective agreement provides for a lesser period, to meet every six months with the employer or his representatives to evaluate the collective agreement; and
- (5) without prejudice to the provisions of Article 115 hereof, to refrain during the bargaining, from making changes which adversely affect the undertaking.

Article 114. Exceptions

- (1) Where an association of employees which is party to a collective agreement is dissolved, the collective agreement is dissolved, the collective agreement shall continue to be valid between the employer and the employees.
- (2) In the case of amalgamation of two or more undertakings, unless otherwise decided by the concerned parties:

- (a) the collective agreement of the undertaking with more employees shall be applicable where undertakings which have their own collective agreements are amalgamated; or
 - (b) where only one of the undertakings had a collective agreement, that collective agreement shall be applicable to the undertaking which results from the amalgamation; or
 - (c) where the number of employees of all the undertakings is equal and each undertaking had its own collective agreement, the one more favourable to the employees in general shall be applicable to the amalgamated undertaking.
- (3) Where an undertaking is divided, each one of its divided parts shall be governed by the collective agreement of the undertaking until each one of them concludes a new collective agreement.

Title IX

Strike and Lockout and Unfair Labour Practices

Chapter 1. Strike and Lockout

Article 115. Strike and Lockout

- (1) Employees shall have the right to strike based on a labour dispute initiated to safeguard their rights and benefits recognized by this Proclamation or a collective agreement, while an employer, on his part, shall have the right to prevent all or part of his employees from working by way of a lockout based on a labour dispute, provided, however, there shall be no strike or lockout for the employees or the employer, respectively, in the following conditions:
- (a) in undertakings which provide essential services; or
 - (b) in instances where conciliation or arbitration is in process to resolve a labour dispute between an employer and employees; or
 - (c) within fifteen days after the failure of conciliation or an arbitration awarded being rendered; or
 - (d) in instances where a labour dispute between an employer and employees has been submitted to the Labour Relations Board or the High Court and thirty-one days have not lapsed without a decision being given thereon; or
 - (e) if the labour dispute has been decided upon by the Labour Relations Board or the High Court.
- (2) Without prejudice to the provisions of sub-article (1) (a) to (e) hereof, employees or an employer shall, respectively, notify five days in advance:
- (a) the Ministry;
 - (b) the other concerned party; and
 - (c) the concerned Authority;
- that they will strike or lockout.

Article 116. The Legality of a Strike

Without prejudice to the provisions of Article 118 hereof, the following conditions must be fulfilled to hold a strike:

- (1) the strike must be called and supported by an association; or
- (2) in an undertaking where there is no association, more than half of the employees must be in agreement to hold strike; or
- (3) in an undertaking where there is an association but the majority of the employees are not members of the association, the agreement of more than half of the employees of the undertaking to hold the strike.

Article 117. Labour Dispute Resolution in Undertakings which Supply Essential Services

- (1) Labour dispute that lead to a lockout or strike in undertakings which supply essential services shall be resolved by a committee which shall be established by the Minister.
- (2) The committee to be established by the Minister under sub-article (1) hereof shall be composed of members from the government, associations of employees and associations of employers.
- (3) Any part dissatisfied with the decision of the committee established under sub-article (1) and (2) hereof may appeal to the Labour Relations Board within fifteen days from the date of the decision of the committee.

Chapter 2. Unfair Labour Practices

Article 118. Unfair Labour Practice on the Part of an Employer or Undertaking

It shall be unfair labour practice for an employer or undertaking to commit any one of the following acts:

- (1) to change existing conditions of work to the detriment of the other party while labour dispute or collective agreement bargaining is in process in accordance with this Proclamation;
- (2) to apply pressure with the intent of coercing or urging the representatives of employees in a collective agreement bargaining to accept the proposal of the employer or undertaking;
- (3) to discriminate between employees as to conditions of work on the grounds of membership or involvement in an association of employees;
- (4) to induce employees by promise of benefit to refrain from being or ceasing to be members of an association of employees;
- (5) to interfere with the affairs of an employees' association;
- (6) to show lack of good faith in collective bargaining;

- (7) to discriminate on grounds of race, colour, social origin, nationality, sex, political orientation or religion;
- (8) to fail to execute immediately any agreement, decision or order;
- (9) to fail to procure any required evidence;
- (10) to obstruct or be a cause of delay for the smooth settlement of a labour dispute; or
- (11) to undertake an unlawful lockout.

Article 119. Unfair Labour Practice on the Part of Employees

It shall be unfair labour practice for an association of employees to commit any one of the following acts:

- (1) to use undue influence or promise of benefit in an attempt to induce any employees to become a member of an association of employees;
- (2) to intimidate, threaten or unduly influence an employee not to become or to cease from being a leader of an association of employees;
- (3) to apply pressure with the intent of coercing or urging an employee or the representative of an undertaking in a collective agreement bargaining to accept the proposal of the association of employees;
- (4) to show lack of good faith in collective bargaining;
- (5) to fail to execute immediately an agreement, decision or order;
- (6) to fail to produce any required evidence;
- (7) to obstruct or be cause for the delay of the smooth settlement of a labour dispute; or
- (8) to go on an unlawful strike.

Title X

Labour Dispute

Chapter 1. Types of Labour Dispute

Article 120. Collective Labour Dispute

Collective Labour Dispute may, inter alia, include the following:

- (1) wages and other benefits;
- (2) the introduction of new labour conditions;
- (3) collective agreement bargaining, its re-negotiation, duration and dissolution;
- (4) dispute on the interpretation of this Proclamation, collective agreement or work rules;
- (5) procedure for promoting employees;
- (6) matters generally affecting the employees and the viability of an undertaking;
- (7) complaints directed against steps taken by the employer on promotion, job transfer and training of employees; and
- (8) complaints raised on the issue of the reduction employees.

Article 121. Individual Labour Dispute

Individual labour dispute may, inter alia, relate to the following:

- (1) claims in relation to dismissal from employment and other disciplinary measures;
- (2) claims in relation to the termination of an employment contract;
- (3) claims in relation to working hours, wages and other remuneration and leave;
- (4) claims in relation to the issuance of a certificate of employment; and
- (5) claims in relation to employment injuries.

Chapter 2. Labour Dispute Resolution**Section 1. Conciliation or Arbitration of Labour Disputes****Article 122. General Principles**

Since any labour dispute which is prolonged and assumes undesirable features is harmful to the interests of employees and employers and to the economy of the country, every representative of employee or employer should assume responsibility for striving to resolve labour disputes in good faith, expeditiously and in a spirit of understanding.

Article 123. Conciliation at the level of an Undertaking

- (1) Where any labor dispute arises, the parties or their representatives have the responsibility to meet at the place of work and make a serious preliminary effort to resolve the dispute in a spirit of understanding through conciliation.
- (2) The process of conciliation shall be carried out by establishing a conciliating body. The conciliating body shall comprise an equal number of representatives appointed by the parties and an extra chairperson appointed in turn by the representatives.
- (3) Notwithstanding the provisions of sub-article (2) of this Article, the mode of conciliation at the level of an undertaking may be determined by a collective agreement.
- (4) Where a dispute is resolved by conciliation at the level of an undertaking, the parties shall submit to the Ministry for registration, a document signed by them and the conciliators with a short resume explaining the case.

Article 124. Conciliation by the Ministry

- (1) The Conciliation Branch shall examine a labour dispute submitted to it for conciliation and attempt to resolve it through conciliation by conciliatory bodies, which it establishes.
- (2) Where a labour dispute is resolved through conciliation, the Conciliation Branch shall register the conciliation agreement signed by both parties.

- (3) Where a labour dispute is not resolved through conciliation, the Conciliation Branch shall keep a detailed account of the dispute and supply verified copies to the parties upon request.

Article 125. Arbitration

Where the labour dispute of the parties is heard and decided by arbitration based on their collective agreement or an agreement or an agreement reached after the occurrence of the dispute:

- (1) notwithstanding any law to the contrary, any party dissatisfied with the arbitral award or decision shall, within fifteen (15) days from the date the arbitral award or decision is given in writing, be entitled to appeal to the Labour Division of the Zonal Court where the case involves an individual labour dispute, or to the Labour Relations Board where the case involves a collective labour dispute dispute;
- (2) the grounds of appeal shall be limited to those provided for appeal against arbitral decisions in the civil Procedure Code;
- (3) an individual labour dispute heard and decided by arbitration shall be deemed to have been heard and decided by the first Instance Labour Court; and
- (4) a labour dispute resolved by arbitration shall be registered by the interested party with the Ministry within five days after the arbitral award or decision.

Section 2. Judicial Jurisdiction in Labour Disputes

Article 126. The First Instance Labour Court

- (1) The First Instance Labour Court shall have first instance jurisdiction over the following:
 - (a) suits involving individual labour dispute except a labour dispute involving the termination of the contract of employment of an employees' association leader;
 - (b) suits involving employment injury; and
 - (c) offences which are punishable under this Proclamation.
- (2) The First Instance Labour Court shall give its decision within thirty days from the date on which the claim or charge is submitted to it.
- (3) Any party dissatisfied with the decision of the First Instance Labour Court may, within thirty days from the date on which the decision is delivered, appeal to the Labour Division of the Zonal Court.

Article 127. The Labour Relations Board

- (1) The Labour Relations Board shall have the first instance jurisdiction over the following cases:
 - (a) labour disputes relating to unfair labour practices;
 - (b) collective labour disputes; and
 - (c) a suit involving the dismissal by an employer of an employees' association leader.
- (2) The Labour Relations Board shall have appellate jurisdiction over the following cases:
 - (a) appeals against arbitral award on a collective labour dispute;
 - (b) appeals against the decision of the committee established by the Minister under Article 117 hereof; and
 - (c) appeals by an employer against an order given by an Inspector or measures taken by the Minister pursuant to article 144(3) hereof.
- (3) Prior to the examination and decision of a dispute under sub-article (1) (a) and (b) hereof, the Labour Relations Board may try a reconciliation of the parties by assigning persons it believes to be competent and neutral within fifteen days after the case is submitted to it.
- (4) All findings of facts made by the Labour Relations Board in the process of hearing disputes shall be conclusive and final.
- (5) Except for decision under Article 145(3) hereof, an appeal from a decision of the Labour Relations Board may be made to the High Court by an aggrieved party solely on questions of law which materially affect the Board's decision within thirty days from the date the decision is served upon the parties.

Article 128. The High Court

- (1) The High Court shall have jurisdiction over appeals from the Labour Relations Board only on issues of law which materially affect the Board's Decision.
- (2) Basing itself on the issues of the law, the High Court shall give its opinion on how the case should have been resolved and return the case to the Labour Relations Board so it can give its decision based on the opinion.
- (3) The High Court shall, within thirty days from the day the appeal is submitted to it, return an appeal to the Labour Relations Board with its opinion based on sub-article (2) of this Article.
- (4) The decisions which the High Court renders on appeals pursuant to Articles 64(3), 65(3), 97 and 105(4) shall be final and subject to no appeal.

Chapter 3. Establishment, Process and Powers of the First Instance Labour Court and the Labour Relations Board.

Section 1. First Instance Labour Court

Article 129. Structure and Organization of the First Instance Labour Court

- (1) The Minister shall establish the First Instance Labour Court.
- (2) The Minister shall, in consultation with the Ministry of Justice, appoint the judges for the First Instance Labour Court.
- (3) While the judicial independence of the First Instance Labour Court shall be respected like any other court of the country, it shall be administered as part of the Ministry.
- (4) The First Instance Labour Court may comprise either three judges or one judge as the circumstances may require.
- (5) A First Instance Labour Court may be set up to one or two or more than two sub-regions and may as a circuit court.
- (6) In places where labour dispute caseloads are excessive numerous First Instance Labour Court benches may be set up and may be staffed by one or more registrars and assistant registrars.
- (7) The Minister shall assign the required registrars and assistant registrars for the First Instance Labour Court.
- (8) the First Instance Labour Court shall submit its annual work report to the Minister.

Article 130. Procedure and Powers of the First Instance Labour Court

- (1) The First Instance Labour Court shall follow court procedures observed by civil courts.
- (2) The First Instance Labour Court shall have powers similar to civil courts in the process of adjudication.
- (3) The First Instance Labour Court shall have the power to penalize by fine offenses punishable under Proclamation.
- (4) First Instance Labour Courts shall have the power to order the execution of conciliations registered by the Ministry.
- (5) Labour decisions shall follow the format observed by civil courts.

Article 131. Execution of Decisions of the First Instance Labour Courts.

First Instance Labour Court decisions shall be executed by the judgement execution office of the civil courts.

Section 2. The Labour Relation Board

Article 132. Establishment and Organization of the Labour Relations Board

- (1) The Labour Relations Board shall be composed of a chairman appointed by the Minister, two members representing the employees' associations, two members representing the employers' associations, as well as two alternate members each representing the employees' associations and the employers' associations.
- (2) A Labour Relations Board may be established by the Minister to serve one or two or, more regions or instead only one Labour Relations Board may be established at the national level.
- (3) The appointment procedure for the representatives of the employees' and employers' associations to the Labour Relations Board shall be jointly formulated and issued by the Minister and the leaders of the highest levels of employees' and employers' associations.
- (4) The Minister shall assign a secretary and other necessary staff to the Labour Relations Board.
- (5) Members and alternate members of the Labour relations Board shall serve on part-time basis without remuneration. The Minister shall fix an expense allowance for attendance at meetings of the Labour Relations Board.
- (6) Members and alternate members of the Labour Relations Board shall be appointed for a term of three years, provided, however, that in making the initial appointments, the terms of one, two and three years, respectively, shall be specified such that in each subsequent year the terms of not more than one-third of the members and alternate members then serving shall expire in any one calendar year.
- (7) The Minister shall dismiss a Board member in case of negligence of duty or malfeasance in office and shall arrange for the appointment of a substitute for remaining unexpired term based on sub-article (3) of this Article.

Article 133. Powers of the Labour Relations Board

The Labour Relations Board shall have the following powers:

- (1) to hear and decide claims and appeals based on Article 127 hereof;
- (2) to order any concerned person or organization to submit to it information and documents required by it while carrying out its duties;
- (3) to summon parties and witnesses to appear and to hear their testimony;
- (4) to administer oaths or take affirmations of persons appearing before it and examine any such persons upon such oath or affirmation; and
- (5) to enter the premises of any working hours in order to obtain relevant information, hear witnesses or require the submission of documents or other articles for inspection from any person in the premises, provided that, except in case of emergency, it shall give adequate advance notice to the undertaking or its representative.

Article 134. Work Directives

The Labour Relations Board shall issue its own internal working procedures and rules of evidence.

Article 135. Hearings

- (1) Before giving decisions, the Labour Relations Board shall afford the parties involved opportunity to present their cases and be heard. It shall give at least three working days' advance notice of the hearing to the parties and the notice shall contain the date and place of hearing.
- (2) The Labour Relations Board may proceed with the hearing where any one of the parties or any other person properly summoned to appear at hearing fails to appear at the fixed time and place. If failure to appear was for good cause or was not the fault of the person involved, the Labour Relations Board shall grant that person a second opportunity to appear before it.
- (3) The Labour Relations Board shall not be bound by laws of evidence and procedure followed by the civil courts, provided, however, that it may use them whenever it deems them necessary.
- (4) Employers' and employees' associations and other parties notified to appear at a hearing may be represented by a rational number of their duly authorized representatives or appointed legal counsels as the Board may decide.
- (5) In reaching any decision, the Labour Relations Board shall take into account the substantial merits of the case, and need not follow strictly the principles substantive law as followed by the courts.

Article 136. Decisions of the Labour relations Board

- (1) The Labour Relation Board shall give its decision within thirty days from the date on which an appeal is lodged.
- (2) Decisions of the Labour Relations Board shall be in writing and signed by the majority of the Board members who concur therein. Dissenting opinions shall also be made in writing and signed by the dissenting member.
- (3) A copy of a decision of the Labour Relations Board shall be delivered to each of the parties involved within five days from the date of the decision.

Article 137. Execution of The Decisions of the Labour Relations Board

- (1) Decisions of the Labour Relations Board shall be executed by the judgment execution office of the civil courts.

- (2) Where a judgment of the Labour Relations Board relates to working conditions, shall be part of the contract of employment, and the contract of employment shall be adjusted to that effect.

Article 138. Annual Report

The Labour Relations Board shall submit its annual report to the Minister.

Chapter 4. Court Fees

Article 139. Exemption from Fees

Claims or appeals submitted to a court by an association of employees or by an employee relating to labour disputes or unfair labour practices shall be exempt from court fees.

Title XI

Labour Administration

Chapter 1. Powers of the Minister

Article 140. The power to Issue Regulations

The Minister may issue regulations or directives necessary for the implementation of this Proclamation. He may, in particular, issue regulations or directives on the following:

- (a) occupational safety, health and the protection of the working environment;
- (b) standards of working conditions;
- (c) classification of hazardous occupations;
- (d) types of occupations which are particularly arduous and dangerous to the health and to the reproductive system of female employees;
- (e) the procedure for the reduction of employees;
- (f) unemployment insurance;
- (g) details of conditions of work for young employees, pregnant women and disabled persons;
- (h) types, programmes and tests of vocational training;
- (i) the working conditions of construction employees;
- (j) the method of classification of management and employees in government-owned undertakings; and
- (k) the requirements for the establishment and operation of private employment agencies.

Article 141. The Power to Administer and Organize

The Minister shall, in order to organize, coordinate, follow up and implement the labour administration system, among others, establish:

- (a) an employment service;

- (b) a labour inspection service;
- (c) a labour relations service; and
- (d) an advisory board.

Article 142. Power of the Minister in the Case of a Discriminated Employee

- (1) The Minister shall decide on any complaint submitted to him pursuant to Articles 64(2) and 65(2) hereof, after considering the complaint through a committee which he authorizes.
- (2) Subject to the provisions of Articles 64(3) and 65(3) hereof, a decision given by the Minister under sub article (1) of this Article shall be executed by the execution office of the civil courts.

Chapter 2. The Labour Inspection Service

Article 143. The Labour Inspection Service

- (1) The Labour Inspection Service shall ensure the implementation of the provisions of this Proclamation and of regulations and directives issued in accordance with this Proclamation, other laws relating to labour relations, collective agreements and the decisions or orders given by the authorities responsible to determine labour disputes.
- (2) Labour Inspection Service shall include the supervision, execution, conducting of studies and research and preparation in accordance with this Proclamation and other laws, of working conditions, occupational safety, health and standards of work.
- (3) The Labour Inspection Service shall, in cooperation with concerned government bodies, supervise to ensure that a new undertaking under construction (does not pose danger to the safety and health of workers).

Article 144. Powers and Duties of Inspectors

- (1) The Minister shall assign Labour Inspectors to carry out the duties of the Labour Inspection Service specified in hereof.
- (2) To implement the provisions of this Proclamation any inspector shall have the power to enter, during working hours after identifying himself to the employer or his representative and carry on whatever inspection he deems necessary and, in particular:
 - (a) to question any person alone or in the presence of any witness;
 - (b) to check, copy or extract any paper, file or other document
 - (c) to ensure that relevant notices appropriate place of work;

- (d) to take any sample of any matter in a work place and to test it to ensure that it does not cause injury to employees; and
 - (f) to photograph, measure, draw or test premises where employees work, tools or any other objects he deems essential and see or copy any document pertaining to premises or working tools in order to ensure the safety and health of employees.
- (3) Where the inspector finds that there is present, in or on the premises, plant, installations, machinery or equipment or in the working methods being followed therein, any condition which threatens the health, safety or welfare of the employees of such undertaking, he shall order the employer to take measures to correct such condition within a given period of time, provided, however, that where the danger is imminent and requires urgent measures, he shall inform the Minister and measures shall be taken immediately to avert it.
 - (4) A Labour Inspector shall, at any time, whether during or after he leaves his employment, keep any secret of manufacturing, commercial or other working process which may come to his attention in the course of performing his duties under this Proclamation.
 - (5) A Labour Inspector shall perform his functions diligently and impartially. He shall take into account any reasonable suggestion given to him by employers and employees.
 - (6) No Labour Inspector may supervise any undertaking which he owns or in which he has a vested interest.
 - (7) No Labour Inspector may participate in a labour dispute or collective bargaining as a conciliator or an arbitrator.

Article 145. Appeal

- (1) Where an employer disagrees with the order given to him or measures undertaken according to Article 144(3) hereof, he shall be entitled to appeal to the Labour Relations Board within five working days. An appeal by the employer shall not of itself, suspend the execution of an order given or measures undertaken by the Inspector or Minister according to Article 144(3) to protect the health and safety of employees.
- (2) Where the period for an appeal to be submitted according to sub-article (1) of this Article lapses, an order given by an Inspector or measures undertaken by the Minister according to Article 144(3) hereof shall be executed by order of the Labour Relations Board.
- (3) The decision of the Labour Relations Board on an appeal pursuant to sub-article (1) of this Article shall be final and subject to no further appeal.

Article 146. Obstructions to an Inspector

An employer who obstructs an inspector from accomplishing his duties by the following actions shall be answerable for an offense:

- (a) Preventing the inspector from entering a work place or from staying in the premises;

- (b) refusing to let the inspector examine records or documents necessary for his functions;
- (c) concealing data relating to employment accidents and the circumstances in which they occur; or
- (d) performing an act or omission which inappropriately delays or interferes with the discharge of the Labour Inspector's functions.

Chapter 3. Advisory Board

Article 147. Advisory Board

- (1) The Ministry shall issue directives to determine the structure and working procedure of the Advisory Board and the assignment of its members and their term of service.
- (2) The Advisory Board shall comprise members from the Ministry and the associations of employees and employers.
- (3) The Advisory Board shall, basing itself on studies, advise the Minister on developing labour policies, the implementation of this Proclamation, proposals for laws and regulations, developing labour relations and other essential matters for the administration of labour.

Title XII

Period of Limitation and Priority of Claims

Chapter 1. Period of Limitation

Article 148. Period of Limitation

- (1) Unless provided otherwise in this Proclamation or other relevant law, an action arising from an employment contract shall be barred by limitation after one year from the date on which the claim becomes actionable.
- (2) The relevant law oil periods of limitation shall apply to matters for which a period of limitation has not been provided for in this Proclamation.

Article 149. Calculation of Period of Limitation

- (1) The period of limitation shall begin to run from the day following the day when the right may be exercised.

- (2) Whenever the last day of a period of limitation falls on a non-working day, it shall expire on the next working day.
- (3) Where a period of limitation has been interrupted, it shall start to run afresh as provided in sub-articles (1) and (2) of this Article.
- (4) Any party may waive his right to raise period of limitation as a defence after it has become effective.

Article 150. Interruption of Period of Limitation

A period of limitation shall be interrupted by:

- (1) an action taken before an authority responsible for the determination of labour disputes until a final decision is given thereon: or
- (2) a complaint taken before the competent authority responsible for the enforcement and application of this Proclamation until a final decision is given thereon in writing; or
- (3) a written admission or partial execution of the other party's right.

Article 151. Discretion of the Competent Authority

- (1) The authority responsible for the determination of labour disputes may accept an action after the expiry of a period of limitation, if it ascertains that the delay is due to force majeure, provided, however, that the action is submitted to it within fifteen days from the date the force majeure ceases to exist.
- (2) Without affecting the generality of the provisions of sub-article (1) of this Article, the following shall be good cause for disregarding a period of limitation:
 - i. the illness of the concerned employee; or
 - ii. the participation of an employee in a national call; or
 - iii. the transfer of an employee upon the order of an officially recognized authority to a place other than his residence; or
 - iv. the death of an employee.

Chapter 2. Priority of Claims

Article 152. Priority Over Other Debts

Unless otherwise provided by law, any claim of payment of an employee arising from an employment contract shall have priority over other payments or debts.

Article 153. Procedure of Payment of claims

- (1) Where an undertaking is liquidated or declared bankrupt, execution officers or agencies authorized by law or the court to execute such decision shall have the duty to pay the claims of the employees referred to in Article 152 hereof within thirty days following the decision of the competent authority.
- (2) Where the said claims are not met within the time set forth in sub-article (1) of this Article due to lack of funds, they shall be paid as soon as the funds become available.

Title XIII

Penalty and Transitory Provisions

Chapter 1. Penalties

Article 154. General

Unless the provisions of the Penal Code provide for more severe penalties, the penalties laid down in this Chapter shall apply.

Article 155. Offenses by an Employer

- (1) An employer who:
 - (a) causes an employee to work beyond the maximum working hours set forth in this Proclamation or contravenes in any manner the provisions relating to working hours; or
 - (b) infringes the provisions of this Proclamation regulating weekly rest days, public holidays or leave;
shall be liable to a fine up to five hundred (500.00) Nakfa.
- (2) An employer who:
 - (a) fails to fulfill the obligations laid down in Article 20(4) of this Proclamation; or
 - (b) fails to keep records required by this Proclamation; shall be liable to a fine up to one thousand (1,000.00) Nakfa.

Article 156. Common Offenses

An employers' or employees' association which:

- (1) violates regulations or directives issued in accordance with this Proclamation relating to the safety and health of employees and exposes an employee to serious danger; or
- (2) fails to fulfill its obligations in accordance with the provisions of Articles 103, 112 and 113 of this Proclamation; or
- (3) contravenes the provisions of Articles 118 and 119 of this Proclamation;
or
- (4) contravenes the provisions of Article 146 of this Proclamation; or

- (5) fails to comply with an order given by an inspector pursuant to this Proclamation or other relevant laws or intentionally gives false information or explanation to the competent authorities;

shall be liable to a fine not exceeding one thousand two hundred (1200.00) Nakfa, or where the offense is committed by an employee or a representative of the employer, a fine not exceeding five hundred (500.00) Nakfa.

Article 157. Offenses and Crimes Committed in Violation of this Proclamation

- (1) Offenses committed under this Proclamation (Articles 155 and 156) or under regulations issued pursuant to this Proclamation shall be heard and decided by the First Instance Labour Court. The complainant or his representative or an Inspector shall have the right to submit their complaints on the offenses committed to the First Instance Labour Court.
- (2) Penal Code offenses committed in violation of this Proclamation or regulations or directives issued under this Proclamation shall be brought before the competent criminal courts.

Article 158. Period of Limitation

No offense proceedings under Article 157(1) hereof shall be instituted where one year has elapsed from the date on which the offense was committed.

Chapter 2. Transitory Provisions

Article 159. Labour Disputes

Labour disputes pending before the Ministry or any other authorities competent to adjudicate labour disputes prior to the coming into force of this Proclamation shall be decided by those bodies in accordance with the law in force before the coming into effect of this Proclamation.

Article 160. Collective Agreements

Without prejudice to the provisions of Articles 109, 110 and 111 hereof, collective agreements in force prior to the entry into force of this Proclamation shall continue to be effective, unless amended or replaced in accordance with the provisions of this Proclamation.

Article 161. Association of Employees and Employers

Associations of employees and employers established legally prior to the entry into force of this Proclamation shall continue to possess legal personality until reestablished on the basis of this Proclamation.

Article 162. Effective Date

This Proclamation shall enter into force as of the date of its publication in the Gazette of Eritrean Laws.

Done at Asmara, this 15th day of November 2001,
Government of Eritrea.

Table No. 1

Disability Chart

Injury	Disability in percentage
1. Loss of two eyes	100%
2. Loss of one eye	50%
3. Loss of one eye of a person who had only one eye	75%
4. Loss of one ear	30%
5. Loss of two ears	60%
6. Loss of one ear of a person who had only one ear	45%
7. Loss of two arms	100%
8. Loss of two hands or all fingers plus two thumbs	100%
9. Loss of feet	100%
10. Total body paralysis	100%
11. Injury which entails being bedridden or subjected to the use of a wheel chair	100%
12. Other injuries that result in indefinite total disability	100%
13. Loss of arm shoulder down	75%
14. Loss of arm between shoulder and elbow	75%
15. Loss of arm at elbow	75%
16. Loss of arm below elbow	75%
17. Loss of arm between elbow and wrist	70%
18. Loss of arm at wrist	70%
19. Loss of four fingers plus one thumb	70%

20. Loss of four fingers	60%
21. Loss of thumb:	
(a) two phalanges	50%
(b) one phalanx	30%
22. Loss of index finger:	
(a) three phalanges	35%
(b) two phalanges	25%
(c) one phalanx	20%
23. Loss of middle finger:	
(a) three phalanges	25%
(b) two phalanges	20%
(c) one phalanx	15%
24. Loss of ring finger:	
(a) three phalanges	20%
(b) two phalanges	15%
(c) one phalanx	10%
25. Loss of little finger:	
(a) three phalanges	20%
(b) two phalanges	15%
(c) one phalanx	10%
26. Loss of metacarpalis	
(a) first or second (sum)	20%
(b) third, fourth or fifth (sum)	15%
27. Total loss of leg	75%
Loss of leg:	
(a) on or above knee	65%
(b) below knee	55%
28. Loss of foot	50%
29. Loss of toes:	
(a) all in one foot	35%
(b) a thumb and two phalanges	20%
(c) a thumb and one phalanx	10%
(d) with the exception of the thumb for every toe in excess of one	10%