

circumstances;

- (c) prescribe penalties for contraventions of or failure to comply with the provisions of the regulations, not exceeding a fine of fifteen thousand penalty units.

(As amended by Act No. 13 of 1994)

5. Regulations made under section *four* and anything done under the authority of such regulations shall have effect notwithstanding anything inconsistent therewith contained in any other enactment having the force of law in Zambia other than this Act, the Constitution, the Emergency Powers Act or the Preservation of Public Security Act; and for so long as regulations made under section *four* have the force of law, any provision of such an enactment shall, to the extent of the inconsistency, have no effect.

Repugnancy  
with other  
enactments  
Cap. 1  
Cap. 108  
Cap. 112

6. Nothing in this Act or in any regulations made under this Act shall be construed as binding the Republic.

Republic not  
bound

## SUBSIDIARY LEGISLATION

### THE EMPLOYMENT (SPECIAL PROVISIONS) REGULATIONS [ARRANGEMENT OF SECTIONS]

#### Regulation

1. Title
2. Interpretation
3. Application and exemption
4. Restriction on dismissal or termination of employment
5. Prohibition of variation of conditions of service
6. Decision of Proper Officer to be made promptly
7. Establishment and Constitution of Employment Review tribunal
8. Meetings and Proceedings of tribunal
9. Application for Review
10. Hearing and determination of Review

11. Penalty

## **SECTION 4 -THE EMPLOYMENT (SPECIAL PROVISIONS) REGULATIONS**

### **Regulations by the President**

Statutory  
Instrument  
56 of 1989  
Act No.  
13 of 1994

1. These Regulations may be cited as the Employment (Special Provisions) Regulations.

Title

2. In these Regulations, unless the context otherwise requires-

Interpretation

"Chairman" means Chairman of the Tribunal;

"proper officer" means a Principal Labour Officer, a Senior Labour Officer, a Labour Officer, an Assistant Labour Officer, a Labour Inspector, a District Executive Secretary, or an Administrative Secretary in the district or town within which a person is employed;

"Secretary" means the Employment Secretary of the Tribunal;

"Tribunal" means the Employment Review Tribunal established under regulation 7.

3. (1) These Regulations shall not apply in relation to-

Application and  
exemption

(a) an employer the number of whose employees is less than five; or

(b) a person who is adjudged or otherwise declared bankrupt; or

(c) a company which is being wound up.

(2) The Minister may, by writing under his hand, exempt any person or class of persons from all or any of the provisions of these Regulations; and any such exemption may be made subject to such conditions and restrictions, if any, as may be specified by the Minister.

<p><b>4. (1)</b> No person shall dismiss or otherwise terminate the employment of any employee, irrespective of whether previous notice of the dismissal or termination has been given to the employee or not, unless-</p>	<p>Restriction on dismissal or termination of employment</p>
<p>(a) approval of the proper officer in writing, has been given to the dismissal or termination; or</p>	
<p>(b) the employee is dismissed on the grounds of wilful disobedience, misconduct, neglect or incompetence and-</p>	
<p>(i) the person by whom the employee is dismissed would, but for the provisions of these Regulations, have been entitled to dismiss the employee on those grounds summarily and without notice; and</p>	
<p>(ii) the person by whom the employee is dismissed notifies the proper officer, within four days after the date of dismissal, of the circumstances and reasons leading to the dismissal;</p>	
<p>(c) in the case of an employee who was engaged for a period of fixed duration or for the performance of a specific task, the employment is terminated on the expiry of that period or, as the case may be, on the performance of that task.</p>	
<p><b>5.</b> Any person who withholds or alters to the detriment of any employee any of the benefits to which the employee is entitled under his contract of service shall be guilty of an offence.</p>	<p>Prohibition of variation of conditions of service</p>
<p><b>6.</b> Where an application is made to the proper officer for the approval of any matter under these Regulations, the proper officer shall notify the applicant of his decisions on it as soon as reasonably practicable.</p>	<p>Decision of proper officer to be made promptly</p>
<p><b>7. (1)</b> For the purpose of these Regulations, there shall be established a tribunal to be known as "the Employment Review Tribunal".</p>	<p>Establishment and constitution of Employment Review Tribunal</p>

(2) The Tribunal shall consist of three members appointed by the Minister, one of whom shall be designated by the Minister as the Chairman of the Tribunal.

(3) The Minister shall appoint a public officer to be Secretary to the Tribunal.

(4) The Members of the Tribunal shall hold office during the pleasure of the Minister.

(5) The Minister may appoint-

(a) such number of alternate members of the Tribunal as he thinks fit, and an alternate member may attend any meeting of the Tribunal when a member is unable to do so for any reason, and when attending any such meeting, an alternate member shall, for all purposes, be deemed to be a member of the Tribunal;

(b) an alternate Chairman from among the alternate members and the alternate Chairman may perform all the functions of the Chairman, when the latter is unable to do so for any reason.

8. (1) Meetings of the Tribunal shall be convened by the Secretary, acting in accordance with the directions of the Chairman, and may be adjourned from time to time and from place to place.

Meetings and  
proceedings of  
Tribunal

(2) At any meeting of the Tribunal, the Chairman and one other member shall form a quorum.

(3) The Chairman shall preside at the meeting of the Tribunal.

(4) At a meeting of the Tribunal decisions shall be taken by a majority of votes of the members present and voting and, in the event of an equality of votes, the Chairman shall have a second or casting vote, in addition to a deliberative vote.

(5) Proceedings of every meeting of the Tribunal shall be recorded and

a copy of the record shall be furnished to the Minister.

(6) Subject to the provisions of these Regulations, the Tribunal may regulate its meetings and procedure in any manner it considers fit.

**9.** (1) Where any application for the approval of any matter under these Regulations is refused by the proper officer, the applicant may, not later than fourteen days after his being notified of the refusal, apply to the Tribunal for a review of the decision of the proper officer. Application for review

(2) An application for review under sub-regulation (1) shall be made in writing addressed to the Secretary to the Tribunal and shall specify the grounds upon which review is sought.

(3) On receiving an application for review, the Secretary shall inform the applicant and the employee concerned of the place, date and time at which the application will be heard by the Tribunal.

**10.** (1) The Tribunal shall consider every application for review made under regulation 9 and may, after due inquiry- Hearing and determination of review

- (a) dismiss the application, and confirm the decision of the proper officer; or
- (b) allow the application in whole or in part, and declare the dismissal of the employee or termination of his employment to be lawful; or
- (c) remit the matter to the proper officer for the further inquiry and consideration.

(2) For the purposes of any inquiry held by the Tribunal, it may hear and receive such oral and written evidence as it thinks fit, and the Chairman may administer on oath to a witness.

(3) At any inquiry held by the Tribunal, the applicant and the employee to whom the application related shall be entitled to be heard in person or

by a representative and to submit representations in writing:

Provided that, except with the leave of the Tribunal, no person shall be entitled to be represented at any such inquiry by a legal practitioner.

(4) The decision of the Tribunal on any application reviewed under these regulations shall be binding and final.

**11.** A person guilty of any offence under any provision of these Regulations is liable on conviction, to a fine not exceeding ninety thousand penalty units. Penalty

*(As amended by Act No. 13 of 1994)*

## **CHAPTER 271 THE WORKERS' COMPENSATION ACT(REPEALED AND REPLACED BY ACT NO. 10 OF 1999)**

### **ARRANGEMENT OF SECTIONS**

#### **PART I**

#### **PRELIMINARY**

##### Section

1. Short title
2. Interpretation
3. Meaning of "worker"
4. Meaning of "dependant"
5. Meaning of "employer"

#### **PART II**

#### **APPLICATION OF ACT**

6. General application
7. Application of section 17
8. Civil liability of employer
9. Concurrent remedies