

01

~~YEMEN~~

CE DOCUMENT
APPARTIENT A
INF LBS / DOC NORMES

28 MAI 1998

TRADUCTION

-7 JUIL. 1998
YEM-1997-L-50059

Law No. 25 of 1997

amending certain provisions of the Presidential Order to promulgate the Labour Code No. 5 of 1995

In the name of the people,
The President of the Republic,
Noting the Constitution of the Republic of Yemen,
Noting the Presidential Order to promulgate the Labour Code No. 5 of 1995,

After the approval of the Parliament,

We issue the following Law:

Article 1

Articles 24, 31, 32, 33, 34, 36, 38, 45, 54, 95, 97, 98, 113, 124, 129, 135, 148, 149, 154 and 159 of the Presidential Order to promulgate the Labour Code No. 5 of 1995 shall be amended as follows:

Article 24

1. Upon registration, a non-Yemeni worker shall, against payment of a fee, receive a work permit indicating all the necessary information concerning his particulars, work, validity period of the permit, and place of residence in the Republic.
2. A non-Yemeni worker shall not be required to pay the fee for the issuance of his work permit in cases covered by a reciprocal arrangement.
3. The Council of Ministers shall make an order specifying the fees for the issuance and renewal of work permits for non-Yemeni workers, the issuance of a replacement for a lost permit or a copy of a permit and the cost of the applications to be filled out for these purposes.

Article 31

1. In the event of a change of employer for any reasons whatsoever before the expiry of the contract of employment, the persons succeeding the original employer shall be considered responsible for the performance of all obligations as may arise out of the contract of employment unless otherwise agreed upon in the contract.
2. Where a contract of employment is concluded by a subcontractor, the original employer shall be jointly liable for the performance of all obligations as may arise out of the contract of employment if circumstances prevent the subcontractor from performing them.

Article 32

1. A collective contract of employment shall be drawn up in writing in accordance with the model established by the Ministry and shall include the basic terms related to conditions of work, obligations concerning wages and the method for their payment, hours of work and rest, financial incentives, conditions regarding employment protection, specifications of the occupation covered by the contract and any other terms on which the employer and the trade union committee or workers' representatives agree in accordance with the legislation in force.

2. The union committee or workers' representatives shall collectively discuss, agree upon and sign the draft collective employment contract at a general meeting of the workers and on their behalf. Such contract shall be binding upon all workers. Any collective employment contract not collectively discussed with the workers shall be invalid.

3. The provisions of a collective employment contract shall apply to the workers joining the service of the employer after the entry into force of the contract.

4. (a) It shall be forbidden to conclude individual contracts of employment with terms at variance with those of a collective employment contract in respect of work covered by the said collective agreement.

(b) The provisions of this article shall be without effect on individual contracts of employment concluded while a collective one is in force provided that the terms of employment provided for in such individual contracts of employment shall not be less favourable than those provided for in the collective agreement and provided that their duration does not exceed that specified for the completion of work in respect of temporary jobs not covered by the collective employment contract.

5. The union committee or the workers' representatives shall submit to workers at a general meeting any amendments or additions proposed by the employer concerning a collective contract.

6. Any term of a collective agreement likely to disturb security or to jeopardize the economic interests of the country or which infringes the laws and regulations in force, the public order or public morals shall be invalid.

Article 33

1. Employers and union committees or the general union representing workers in more than one workplace may conclude a common collective employment contract.

2. Employers and union committees that are not parties to such contract may accede to it independently on the basis of a written agreement between the two parties requesting accession, without needing the consent of the original contracting parties. The application for accession shall be submitted to the competent office of the Ministry after signature by the two parties requesting accession.

Article 34

1. A collective employment contract shall be concluded in sufficient copies so as each of the contracting parties, the Ministry and the general union receive one. The workers may obtain a copy of such contract and of any documents concerning accession thereto.

2. A collective employment contract shall not be binding unless it is reviewed and registered by the Ministry or its competent office. In the event of an objection, the Ministry shall notify the parties concerned of the reasons for its objection within 30 days of the date of receipt of the contract. In the absence of any objection within this period, the contract shall be considered valid. Any of the parties to the contract may appeal against an objection before the competent Arbitration Committee within 30 days of the date of the objection.

3. The Ministry or its competent office shall record in the register of collective employment contracts, any amendment, supplement, renewal, termination or expiry concerning these contracts.

4. Any person shall have the right to obtain from the Ministry or its competent office an authentic copy of a collective employment contract and documents of accession thereto against payment of the prescribed fees.

Article 36

Either party to a contract of employment may terminate the contract, provided that the party wishing to do so shall notify the other, in any of the following cases:

- (a) if one of the parties fails to observe the terms of the contract or labour legislation;
- (b) if work permanently ceases, either entirely or in part;
- (c) if there is reduction in the number of workers for proven technical or economic reasons;
- (d) if the worker absents himself without legitimate reason for more than 30 days within the same year or for 15 consecutive days, provided that termination of contract is preceded by a written warning from the employer after 15 days of absence in the former case and seven days in the latter;
- (e) if the worker reaches statutory retirement age;
- (f) if the worker is declared unfit to work by decision of the competent medical committee.

Article 38

1. If a contract is terminated by one of the parties thereto in accordance with article 36, the party wishing to terminate the contract shall give the other party prior notice of termination equivalent to the period prescribed for the payment of wages or pay the wage for such period in full in lieu of notice.

2. If either party refuses to receive notice of termination of the contract, the notice may be deposited with the Ministry or one of its offices by any of the two parties.

3. The period of notice provided for in paragraph 1 of this article shall be calculated as follows:

- (a) 30 days for workers with monthly wages;
- (b) 15 days for workers with half-monthly wages;
- (c) one week for workers working on the basis of production or piece or hourly, daily or weekly rates.

4. If the worker's wage is calculated on the basis of subparagraphs (b) and (c) of paragraph 3 and paid at the end of each month, the calculation of the period of notice and corresponding wages shall be on the basis of 30 days.

Article 45

1. A pregnant woman worker shall have the right to maternity leave with full pay for 60 days.

2. A pregnant woman worker shall not, under any circumstances, be employed during her maternity leave.

3. A pregnant woman worker shall be granted a further 20 days' leave, in addition to the days mentioned in paragraph 1, in the following cases:

- (a) if her labour was difficult as established by a medical report;
- (b) if she gives birth to twins.

Article 54

Wages types, categories and rates for jobs and occupations shall be determined according to the volume and type of work involved in accordance with the following principles:

- (1) nature of functions, duties and responsibilities;
- (2) qualifications and experience required to perform the job;
- (3) importance and role of the job in the development and quality of production;
- (4) yield of work;

- (5) working conditions and location of workplace;
- (6) efforts made by the worker.

Article 95

1. The imposition of the penalties provided for in items (a) and (b) of article 93 of this Code shall be null and void after one year from the date of their imposition. The employer shall be required to delete them from the worker's personal file if his conduct effectively improves during the same year.

2. The employer may mitigate or cancel either of the remaining penalties where the conduct of the worker concerned improves during the year.

Article 97

1. When investigating an offence, the employer shall:

- (a) conduct the investigation within a period not exceeding 15 days as from the date of discovering the offence;
- (b) hear ~~the~~ the worker, his self-defence and the testimony of any witnesses he may call for his defence;
- (c) commit the investigation to writing and have it signed by all the parties thereto;
- (d) hear the workers who are aware of the circumstances of the offence;
- (e) complete the investigation and where the worker's responsibility is established, apply the penalty within a period not exceeding one month.

2. The worker may appeal against the findings of the investigation or its consequences before the competent Arbitration Committee within a period not exceeding one month as from the date of his notification of the findings of the investigation.

Article 98

1. The employer may suspend the worker by verbal notice for a period not exceeding five days for the purposes of investigation, or by written notice for a period not exceeding 30 days if the investigation committee requires so for the interests of the work or of the investigation.

2. The employer shall, before deciding to suspend a worker, take into consideration the following:

- (a) a worker's suspension is not a penalty imposed on him, but a precautionary measure necessitated by the circumstances of work and the investigation;
- (b) the worker resumes his previous work after the expiry of the period of suspension if it is established that he is not guilty;
- (c) outstanding or withheld wages must be paid to the worker if he is acquitted.

3. Any period during which a worker is detained by the competent authorities in connection with a matter related to work or resulting therefrom shall be considered as a period of suspension from work during which the employer shall continue to pay the worker an amount equivalent to 50 per cent of wages until his case is decided.

4. Any period during which a worker is detained by the competent authorities for the purposes of an investigation of matters not related to work shall not be considered as period of suspension from work, in which case the worker shall not be entitled to his wage or any part of it except by approval of the employer, and it shall be forbidden to dismiss him from his service.

Article 113

When operating any enterprise, the employer shall ensure that it meets occupational safety and health requirements. The competent Ministry shall ensure compliance with appropriate occupational safety and health requirements and conditions.

Article 124

1. Inspection of workplaces shall be conducted by officials of the Ministry and its offices. They shall be vested with judicial authority to apply the provisions of this Code and the regulations and orders issued thereunder. They may, if necessary, call upon the services of experienced doctors, engineers and technicians.

2. Inspectors shall perform their duties individually or in a group. They shall not disclose enterprise secrets which come to their knowledge on account of their work. This obligation shall continue after termination of their service.

3. Occupational safety and health inspectors shall control the level of application of the rules and measures relating to occupational health. They shall submit periodic reports to the Ministry and other competent authorities.

4. Labour inspectors and occupational safety and health inspectors shall be provided with cards establishing their identity and duties. They shall carry such cards during the performance of their duties and shall show them to the parties concerned whenever necessary.

5. Inspection regulations shall determine the forms and contents of notifications relating to violations and how to draw up reports on violations.

Article 129

1. Both parties to a dispute or their representatives shall hold a meeting to settle the dispute amicably through negotiation within a maximum period of one month. A record of the meeting to be kept secret shall be drawn up and signed by both parties.

2. Where no amicable settlement can be reached between the two parties to the dispute, the matter shall be referred to the Ministry or its competent office which shall summon the parties with a view to settling the dispute within a period not exceeding two weeks as from the date of referral.

3. Any organization or union committee which is party to a collective employment contract, may submit any cases arising out of a breach of that contract, on behalf of any of its members without a procuracy for that aim. The member concerned may intervene in the case presented in his interest. He may also submit the case independently of his organization or workers' committee; the same shall apply if his trade union fails to submit the case.

Article 135

1. Without prejudice to the arbitration law, the awards of the Arbitration Committees shall be final and shall not be subject to appeal in the following cases concerning:

- (a) amounts not exceeding 60,000 riyals;
- (b) the suspension of orders for dismissal;
- (c) the imposition of fines on workers.

2. The Arbitration Committees shall not be empowered to impose any penalty depriving a person of his liberty.

Article 148

1. Employment relationships between the employer and the workers or their representatives shall continue during the period of a strike.

2. It shall be prohibited to impose sanctions, including dismissal, on all or some workers as a result of their participation in a strike or because of a call to strike, provided that such strike is conducted in accordance with the provisions of this Code.

Article 149

With prejudice to any stronger penalty provided for in another law, impairment of freedom to work shall be considered a serious and punishable professional misconduct. Such impairment shall include any act by striking workers which is intended to prevent any other workers or the employer or his representative from reaching the workplace or from carrying on their usual activity, whether through actions, threats, violence, aggression, occupation of the workplace or damage to property.

Article 154

Without prejudice to any stronger penalty provided for in another law, any person who violates any of the provisions of Chapters II, III, IV, V, VI, VII, VIII, IX, X and XI of this Code shall be punished with prison for a period not exceeding three months or a fine the amount of which is not less than 5,000 (five thousand) riyals, but not exceeding 20,000 (twenty thousand) riyals.

Article 156

1. Without prejudice to any stronger penalty provided for in another law, either party to a dispute who, without an acceptable reason, fails to attend the first and second mediation sessions convened by the Ministry or its competent office or the first and second sessions of Arbitration Committees or appellate court's labour divisions shall be punishable with a fine of not less than 500 (five hundred) riyals and not more than 2,000 (two thousand) riyals. In case of failure to attend the third session, the fine is increased by an amount of 5,000 (five thousand) to 10,000 (ten thousand) riyals for each session not attended.

2. Any person who provides an Arbitration Committee or the Ministry or its competent office with incorrect information or false documents on the subject of a dispute or who disrupts dispute settlement or mediation proceedings by having recourse to violence or by threatening to use violence shall be punishable with a fine of not less than 1,000 (one thousand) riyals and not more than 10,000 (ten thousand) riyals.

3. Any person who causes a strike to be called or undertaken in disregard of the conditions and rules provided for in this Code or who has recourse to threats or violence to hinder work shall be punishable with a fine of not less than 5,000 (five thousand) riyals and not more than 15,000 (fifteen thousand) riyals.

4. Any employer or employer's representative who hires new workers to replace workers on lawful strike in accordance with the conditions and rules provided for in this Code shall be punishable with a fine of not more than 15,000 (fifteen thousand) riyals, without prejudice to his obligation to reinstate the striking workers in their jobs.

Article 2

Articles 48 and 155 of the Presidential Order to promulgate the Labour Code No. 5 of 1995 shall be deleted.

Article 3

This law shall enter into force as of the date of its promulgation and shall be published in the *Official Gazette*.

Made at the Presidency of the Republic on 6 April 1997

Lieutenant General Ali Abdulla Saleh,
President of the Republic.