

Article 193:

The pay is received at the workplace, except in case of absolute necessity.

Under no circumstances, can it be made in a drinking establishment or in a shop, except for the employees who are normally assigned there, nor on the day when the employee has the right to rest.

Article 194:

The salary must be paid at regular intervals that should not exceed fifteen days for the employees hired the hour or by the day and a month for the employees hired the month.

However, the daily employee, hired the hour or the day is paid every day immediately after the end of his/her work.

The monthly payments must be done eight days at the latest after the end of the month of work that gives right to the salary. The two week's payments must be done four days at the latest after the end of the two weeks giving right to the salary. This time-limit is brought back to two days in case of weekly payment.

The minister in charge of labor statutorily determines the professions for which practices provide a different payment periodicity, upon advice of the consultative labour commission.

Article 195:

For all piece-work or by the output the execution of which must last more than about fifteen days, the dates of payment can be fixed by mutual agreement, but the employee must get about every fifteen days, some deposits corresponding at least to 90% of the minimum wage and be fully paid about fifteen days that after the end of the work.

The commissions acquired during one quarter must be paid in the three months following the end of this quarter.

The profit sharing achieved during a fiscal year must be paid in the nine months that follow the end of the fiscal year.

Article 196:

The salary and salary advantages, bonuses and indemnities of all kind due to the employee must be paid right at the end of the contract, in case of termination or breach of the labour contract.

However, in case of litigation, the employer can get the president of the labor court, to take a temporary immobilization from the labour court clerk of all or part of the distrainable fraction of the amounts due.

The employer requests the president of the labor court through a written or oral declaration submitted to the court clerk, at the latest on the service cessation day.

The request is immediately transmitted to the president of the labor court who fixes the nearest audience date, even hour by hour.

The parties are called in immediately as mentioned in articles 345 and 346 below.

They must be physically present on the day and at the hour fixed by the president of the court. They can be assisted or represented in accordance with the provisions of article 347 below.

The decision is immediately enforceable in spite of opposition or appeal.

Article 197:

Whatever the nature, the duration of the work, the amount of the remuneration acquired, all salary payment must, except derogation, be granted individually by the competent labor inspector, subject to the issuance of a relevant paper called pay slip filled and certified by the employer and given to the employee.

All the mentions carried on the pay slip are reproduced inevitably in a register called payroll or recorded in a file or computerized listing.

When the pay slip is removed from a counterfoil-book with fixed pages carrying a continuous numbering, this counterfoil-book is worth a payroll.

The payroll or any other material or computer medium serving as evidence are kept by the employer in the enterprise, in the same conditions as the bookkeeping vouchers and must be presented immediately to any requisition of the labour inspection, even in the absence of the company manager.

Article 198:

The texture of the pay slip and payroll is fixed statutorily by the minister in charge of labor, upon advice of the consultative labour commission.

Article 199:

It cannot be opposed to the employee, the mention for balance of all account or all equivalent mention subscribed by him/ her under execution or after the termination of his/her labour contract and by which the employee gives up all or part of the rights resulting from his/her labour contract.

Article 200:

The acceptance, without protest or reserve, by the employee, of a pay slip cannot be worth his/ her renunciation of the payment of all or part of the salary, of the salary

advantages, the bonuses and the indemnities of all kind that are due to him/ her in pursuance of the legislative, statutory and contractual provisions. It can neither be worth any account balance.

Article 201:

In case of contestation on the payment of the salary, the bonuses and the indemnities of all kind, the non payment is presumed of irrefragable manner, except in case of absolute necessity, if the employer is not able to produce the payroll dully signed by the employee.

Section 2: Privileges and guarantees of the salary debt

Article 202:

The salary is the benefit given to the employee by the employer in counterpart of his/her work in pursuance of the provisions of sections 2 and 3 of this chapter.

The salary consists of the basic pay, whatever its denomination and the fringe benefits to the salary, notably, the paid leave allowance, the bonuses, the indemnities and the benefits of all kind.

Article 203:

The salary debt and other debts of the employee that result from the labour contract benefit from a super privilege than all other general or specific privileges including those of the Public Treasury and the Social Security with regard to the elusive fraction of the aforesaid salary as it results from the provisions of article 214 below.

This super privilege applies on the debtor's personal property and buildings.

Article 204:

The amounts deducted by the Public Treasury after the suspension date of payments, on the mandates due to the employer are returned to the mass, in case of liquidation under court supervision of the enterprise.

Article 205:

The syndic or the liquidator pays the employees' claims in the ten days that follow the liquidation under court supervision and on simple order of the judge commissioner.

The judge commissioner has an eight-day deadline from the production of the employees' debts to issue his/her order.

In the event he/ she does not have the necessary funds, these debts must be paid from the first cash inflow before all other debts, as indicated in article 203 above.

Article 206:

In case the employees' debts are paid thanks to an advance made by the syndic, the liquidator or all other person, the lender is subrogated in the employee's rights.

The lender must be repaid as soon as there is inflow of the necessary funds, without another debt being able to stop it.

Article 207:

The employee accommodated by the employer before the liquidation under court supervision continues to be accommodated until the date of payment of his/her last debt or, possibly, until his/her departure date to get back to his/her usual residence.

Article 208:

The employee benefiting from a company property/object can exercise the retention right in the conditions provided by the law in force.

The furniture confided to an employee notably for shaping, repair or cleaning and that have not been withdrawn in a six-month delay can be sold in the conditions and forms determined by the law in force.

Article 209:

The employee benefits from a legal assistance for the seizure-attribution procedure before the common law jurisdictions.

Section 3: Limitation of the action for salary payment**Article 210:**

The employees' action for the payment of the salary, salary fringe benefits, bonuses and indemnities other than those indicated in article 75 above, of all amount due by the employer to the employee and for service delivery in kind and possibly for their reimbursement are limited to two years.

The limitation starts from the date the salary is claimable. It is suspended when there is settlement of account, schedule, obligation or summons under validity or in case of attempt at conciliation before the labour inspector.

Article 211:

The employee, whom the limitation is opposed to, can submit the oath to the employer or to his/her representative to know if the salary he/ she is claiming has been paid.

The oath can be submitted to the surviving spouses and heirs or to the latter's legal guardian if they are under age, so that they can declare whether they know or not that the claimed salary is due.

Article 212:

The action for salary payment is limited at the end of five years if the submitted oath is not taken or if it is recognized, even implicitly, that the claimed sums have not been paid.

Section 4: Deductions on wages and pensions**Article 213:**

It is prohibited for the employer to fine the employee for any reasons. This provision is of law and order.

Article 214:

No deduction on the remunerations can be made except by seizure-attribution or voluntary transfer, subscribed before the jurisdiction of the residence place or failing this, the labour inspection.

It is the same as for the reimbursement of advance money given to the employee by the employer, with the exception of the obligatory withdrawals and consignments provided in the collective convention.

However, when the jurisdiction or the labour inspection is located at more than twenty five kilometers, an agreement between the parties can be noted in writing before the chief of the nearest administrative circumscription.

There can be compensation between the remuneration and the amounts due by the employee only in the limit of the distrainable part and on the only sums tied up.

Article 215:

The portions of wages and pensions that are subject to progressive withdrawals for the refunding of debts as well as the pertaining rates are determined statutorily by the minister in charge of labour after advice from the consultative labour commission.

Deduction referred to in article 214 paragraph 1 above cannot, for every pay, exceed the rates statutorily fixed.

Article 216:

It is taken into account for the calculation of the deduction, the salary or the pension, all fringe benefits on the salary or the retirement pension.

The indemnities which cannot be sized, the sums allocated as reimbursement of expenses and the allowances or indemnities for dependents are excluded.

Article 217:

The terms of a labour convention or contract allowing all other withdrawals are by right null and void.

Article 218:

The sums deducted in violation of the provisions of article 214 above produce some interests to the employee's profit at the legal rate from the date when these should have been paid and can be claimed by him/ her until limitation.

Article 219:

The provisions of the present chapter don't exclude the application of the measures provided by the social security legal or statutory systems.

CHAPTER IV: GUARANTEE**Article 220:**

The guarantee is a contract by which an employee deposits a sum of money in his/her employer's hands at the signature of the labour contract.

Its purpose is to guarantee the restitution of funds that this employee can lose or dissipate when carrying out of his/her functions.

Article 221:

Any business manager who is given a guarantee in cash by an employee must deliver a receipt of it and must mention it in detail in the employer's register.

Article 222:

Any guarantee must be deposited within one month from its reception by the employer. Mention of the guarantee and its deposit is made in the employer's register and testified by a certificate of deposit kept available to the labour inspector.

Article 223:

The terms and conditions of this deposit as well as the list of the public funds and banks authorized to receive it are statutorily fixed by the minister in charge of labour, upon advice of the minister in charge of justice.

The savings institutions and the banks must accept this deposit and must deliver a special booklet, different from the one the employee possesses or acquires subsequently.

Article 224:

The employer can operate, in the limit of the transferable and seizable quota, deductions on the employee's salary and fringe benefits in order to establish the guarantee, upon advice of the labour court, notwithstanding the provisions of article 214 above.

Article 225:

The withdrawal of all or part of the deposit can only be done under the double consent of the employer and the employee or by one of them dully entitled by a decision of the relevant jurisdiction.

Article 226:

The employer benefits from a privilege on the employee's guarantee in the event of appropriating the booklet or the deposit of the guarantee to third parties who would claim for seizure-attribution.

Article 227:

Any seizure-attribution claimed by the administration of the saving institutions or the bank is null and void.

CHAPTER V: COMPANY BENEFIT SCHEME**Section 1: Staff store****Article 228:**

Staff store is the mechanism through which the employer directly practices sale or the transfer of goods to the employees of the enterprise for their personal needs.

Article 229:

Staff store is allowed under the following conditions:

- 1) the employees must not be forced to take in supplies there;
- 2) the sale of the goods is made there exclusively cash and without any profit;
- 3) the accounting of the company staff store is entirely autonomous and subject to the control of an inspection committee elected by the employees;
- 4) the prices of the goods must be clearly displayed.

Article 230:

The opening of a staff store, in the conditions provided in article 229 above, is subject to the authorization of the minister in charge of labour, delivered upon advice of the accountable labour inspector.

The opening of a staff store can be refused in an enterprise by the minister in charge of labor, on the suggestion of the accountable labour inspector.

Article 231:

Any trading place installed inside the enterprise is subject to the preceding provisions, except the working-class cooperatives.

Article 232:

The sale of alcohol and alcoholic drinks is prohibited in the staff store as well as at the workplace except derogation granted by the labour inspection of the area.

Article 233:

The staff store operation is controlled by the labour inspector who can prescribe the temporary closing for a maximum period of one month in the event of violation of the prescriptions.

The definitive closing of the staff stores can be ordered by the minister in charge of labour after a report from the labour inspector.

Section 2: Other company benefit schemes**Article 234:**

Company benefit scheme, such as canteens, nurseries, cafeterias, leisure places, can be established in the conditions defined by a joint statutory act of the ministers in charge of labour and of the social action, upon advice of the consultative labour commission.

TITRE V: LABOUR SECURITY AND HEALTH, COMPANY BENEFIT SCHEMES**Article 235:**

The employer is responsible for implementing the measures prescribed by the provisions of the present title and for the regulations taken for their implementation.

CHAPTER I: LABOUR SECURITY AND HEALTH**Section 1: General provisions****Article 236:**

The head of the institution takes all necessary measures to ensure security and protect the physical and mental health of the employees of the institution including the temporary workers, the apprentices and the trainees.

He/ she must take the necessary measures notably so that the workplaces, the machinery, the materials, the substances and work processes under his/her responsibility do not present any risks to the employees' health and security.

To this effect, to ensure prevention, the employer must take:

- 1) technical measures applied to the new facilities or the new methods at the time of their design or their setting up or technical modifications brought to existing facilities or processes ;
- 2) measures for the organization of the security at work ;
- 3) measures for the organization of health at work;
- 4) measures for the organization of the work;
- 5) measures for the employees' training and information.

In addition, he/ she must work out and implement an annual program to improve the work conditions and place.

Article 237:

When the employees of several enterprises are present at the same workplace, their employers must cooperate for the implementation of the instructions related to labour security and health.

They must inform each other and inform their respective employees about the professional risks and measures taken to prevent them.

Article 238:

When the measures taken according to article 236 above are not sufficient to guarantee the employees' security or health, individual protective measures against professional risks must be implemented.

When these protective measures require the use by the employee of suitable equipment, this one as well as the necessary instructions for its use and its optimal maintenance are provided by the employer.

In this case, no employee must be admitted to his/her work place without wearing his/her individual protective equipment.

Article 239:

The use of procedures, substances, machinery or material specified by the regulation and causing the employees' exposure to professional risks at the workplace, must be written and reported to the labour inspector.

This must be the rule each time new machinery or new facilities are put in service, if they had been significantly modified, or when new procedures are introduced.

The labour inspection, in collaboration with the services of the medical labour inspection or any other competent body, can subordinate this use to the respect of some convenient provisions or prohibit it when for him/her, the employee's protection does not seem to be guaranteed.

Article 240:

Any machine, material or equipment the faultiness of which is likely to cause an accident, must be checked at least once in the quarter.

The result of the check is written in a register called security register opened by the employer and constantly made available to the labour inspector.

The list of the facilities submitted to the periodic checks is statutorily fixed by the minister in charge of labour upon advice of the consultative labour commission.

Article 241:

The workplaces must be submitted to regular inspections in the terms and conditions fixed notably by the authority concerned in order, to verify the security of the facilities, of facilities and to supervise the risks for health at the workplace.

Article 242:

The employees must be informed and educated in a complete and comprehensible way on the professional risks existing at the workplace and receive appropriate instructions on the available means and the suitable behavior to have to prevent them.

For this reason, the employer must organize for them a minimal general training concerning labour security and health.

Article 243:

Any employer must organize a convenient and suitable training on labour security and health for the newly hired employee, for those who go to another workplace or change the work technique and those who resume their activity after a more than six month work interruption.

This training must be up-dated for the whole staff in case of modification of the labour legislation, regulation or processes.

Particular actions of security training are also conducted in some institutions according to the risks noted.

Article 244:

In the workrooms or building sites where more than twenty-five people work permanently, two or three people must get the necessary training to manage the first aid care.

Article 245:

The labour safety and health measures as well as the training or information actions provided in articles 242 and 243 are supported by the employer.

Article 246:

The employer must report to the social security institution and the competent labour inspection, within two workdays, any occurrence of work injury or professional illness noted in the enterprise.

The terms and conditions of this report are fixed by the legislation applicable to the work injuries and professional illnesses.

Article 247:

The employees must:

- 1) strictly abide by the hygiene and security regulations at the workplace;
- 2) immediately inform their direct hierarchical supervisor or the labour security and health committee and the competent labour inspector, of any situation presenting a serious and imminent threat to their life or health. In this case, the employer must immediately take any useful measure to solve this problem.

The employer cannot ask the worker to resume his/her job at the workplace as long as that risk persists;

- 3) submit to the medical examinations and exams prescribed by the regulation ;
- 4) contribute to the respect of the obligations falling to the employer on labour security and health.

Article 248:

Statutory acts taken upon advice of the national technical consultative committee in charge of labour security and health define:

- 1) the specific and general protection, prevention and salubrity measures, applicable to all enterprises;
- 2) the measures related to the organization and the functioning of the institutions whose mission is to help comply with hygiene and security recommendations and contribute to the improvement of the working conditions and the protection of the employee's health;
- 3) the measures related to the exhibition, sale or transfer of the machinery, devices and various facilities presenting some threat to the employees;

- 4) the measures related to the distribution and use of substances or industrial preparations presenting some threat for the employees;
- 5) the particular recommendations for some professions or some types of materials, dangerous substances, work methods or installation or some categories of employees.

Section 2: Labour security and health committees

Article 249:

The employers must create a labour security and health committee in the institution hiring at least thirty workers.

However, the labour inspector can order the creation of a labour security and health committee in an institution hiring less than thirty workers, when this measure is necessary, notably because of the nature of the works, the arrangement or the equipment of the premises.

Article 250:

The security and health committee at work assist and counsel the employer and if the need arises, the employees or their representatives in the development and implementation of the yearly security and health program at work.

Article 251:

The staff's representatives in the labour security and health committee benefit from a training necessary to carry out their missions, supported by the employer.

This training is renewed whether they exercised their mandate for six consecutive years or not.

Article 252:

The employer annually submits to the labour security and health committee and the employees' representatives, a report on the labour security and health in the enterprise, in particular on the adopted and executed provisions for the previous year.

Article 253:

The composition, organization and functioning of the security and health committee are fixed by joint statutory act of the ministers in charge of labor and health upon advice of the national technical consultative committee for security and health.

Article 254:

The employer must establish a security service at the workplace in the industrial enterprises hiring at least fifty employees.

This service is placed as much as possible, under the responsibility and supervision of a staff member having got an adequate training in the field of labour security and health. He/she assists the labour security and health committee in the execution of its tasks.

Section 3: Labour Health Services**Article 255:**

Any employer established in Burkina Faso must ensure the sanitary cover of his/her workers, in accordance with the conditions defined by the regulations on the organization and functioning of labour security and health.

To this effect, he/ she must become affiliated notably to the office of workers' health or to any other labour health structure certified by the minister of health.

Article 256:

The labour health service is in charge of the risk prevention at the workplace.

It is in charge of counseling the employer, the employees and their representatives on the requirements necessary to establish and maintain a sure and healthy work environment on the one hand and the adaptation of work to the employees' capacities on the other hand.

Article 257:

The missions of the labour health service are, notably:

- 1) to ensure the employees' protection against any health risk that can result from their work or conditions in which it takes place ;
- 2) to contribute to the establishment and maintenance of a sure and clean work environment, appropriate to encourage an optimal physical and mental health in relation with work;
- 3) to contribute to the adaptation of the workplaces, the techniques and the rhythms of work to the human physiology;
- 4) to supervise health employees' health in relation with their workplace;

5) to contribute to the employees' sanitary education for a behavior in line with the labour security and health standards and regulations, and also the prevention against HIV;

6) to assure the first aid and emergency cares.

Article 258:

The health service at work must be situated at the workplaces or close by. It can be organized, either for only one enterprise, or a service for several enterprises.

Article 259:

The expenses pertaining to the labour health service are supported by the employer.

In the case of service common to several enterprises, these expenses are shared in proportion to the number of employees.

Article 260:

The employer has the responsibility to inform the labour health service on the characteristics of the machinery and tools, the methods and manufacturing processes, the products used or handled, the characteristics of the people working here and the working conditions.

Article 261:

The employer must bring his/her employees to medical checks and exams prescribed by the national legislation and the regulation, notably the medical checks required in hiring, the regular checks, checks for special surveillance, work resumption, or contract end.

The time spent for the medical checks and additional exams are considered as actual working time.

The HIV detection test must by no means be required during these different medical checks and prescribed exams. However, the voluntary and anonymous test is encouraged.

The expenses of the medical examinations mentioned above and the additional checks considered useful to decide on the employee's medical faculty at his/ her workplace are supported by the employer.

Article 262:

The terms and conditions of realization of these checks and exams are determined by a joint statutory act from the ministers in charge of labour and health upon advice of the national technical consultative committee in charge of labour security and health.

Article 263:

When an employee's maintenance at a place is advised against for medical reasons, everything must be done by the employer to assign him/ her to another place compatible with his/her health state.

If impossible, the employee is dismissed with payment of the rights after advice from the competent labour inspector.

Article 264:

The organization, functioning and the means of operation of the labour health services are fixed by joint statutory act of the ministers in charge of labour and health after advice from the labour security and health national technical consultative committee.

Section 4: Inspection**Article 265:**

The labour inspector controls the respect by the employer of the provisions related to labour security and health.

Article 266:

The labour inspector who notices a violation of the standards or instructions defined, orders the employer to conform to them.

In addition, when dangerous working conditions exist for the employees' security and health as provided in article 248 above, the employer is ordered by the labour inspector to remedy it in the terms and conditions provided in article 267 below.

The labour inspector's formal notice is immediately enforceable.

However, the labour inspector's decision can be subject to an appeal according to the rules provided in with regard the administrative issues.

Article 267:

The formal notice must be made in writing, either in the employer's register, or by registered letter with notice of delivery or by any other useful way.

It is dated and signed and states the violations or threats noted and fixes the deadlines in which they must disappear. These deadlines cannot be less than four clear days, except in case of extreme emergency.

Article 268:

A medical labour inspection is created whose competence covers the whole national territory. It is placed under the responsibility of the ministry in charge of labour.

Article 269:

The missions of the medical labour inspection are mainly to:

- 1) participate in the development of regulations related to labour security and health;
- 2) control at the technical level in close collaboration with the competent services of the ministries in charge of labour and health and any other competent public or private institution, the implementation of the legislation and the regulation related to labour security and health ;
- 3) control and counsel the labour health services;
- 4) note any violation of the national labour security and health laws.

Article 270:

Any violation or infringement to the regulations that is noted by the medical labour inspection gives ground to a formal notice notified and settled according to the procedure provided in article 267 above.

Article 271:

The organization and functioning of the medical labour inspection are determined by decree taken in Cabinet meeting, upon advice of the labour security and health national technical consultative committee.

CHAPITRE II: COMPANY WELFARE DEPARTMENTS

Article 272:

A welfare department is created in the enterprises hiring more than two hundred employees.

Article 273:

The enterprise welfare department is a service organized within an enterprise, a private or public company for the employees and their families.

Its mission is to contribute to the improvement of the working conditions and the employees' well-being in the enterprise.

Article 274:

The assignments, organization, functioning as well as the means of operation of the welfare department are fixed by joint statutory act of the ministers in charge of labour and social action, upon advice of the consultative labour commission.

TITLE VI: PROFESSIONAL INSTITUTIONS

CHAPTER I: TRADE UNIONS

Section 1: Objective and establishment of trade unions

Article 275:

The purpose of trade unions is the promotion and defence of their members' material, moral and professional interests.

Article 276:

Employees and employers can freely constitute trade unions including people practicing the same occupation, similar professions or related occupations contributing to the establishment of determined products, without prejudging the arrangements of Article 299.

Article 277:

Any employee or employer can freely join any chosen trade union in the framework of his/her occupation.

Article 278:

The founders of any trade union must submit their statutes and the names of those who, at any title, are in charge of its administration or its management.

This submission is done at the headquarters of the administrative district where the association is established when the association has a local jurisdiction.

It is done at the Ministry in charge of public freedoms, when the association has a national or international jurisdiction.

A copy of the statutes is addressed to the labour inspector of the jurisdiction, to the general director of Labour and to the Prosecutor of Faso.

Article 279:

The amendments to the statutes and the changes that occur in the constitution of the association management or administration must be brought in the same conditions, to the knowledge of the same authorities.

Article 280:

Any declaration shall be accompanied with the following documents:

- 1) A written application signed by two founders at least;
- 2) three signed and legalised copies of the statutes, the constitution and the minutes of the constituting meeting ;
- 3) Three signed and legalised copies of the nominal list specifying the quality of the people in charge of leading the association.

Article 281:

The members in charge of the management and the administration of an association must be citizens of Burkina Faso or from a State with which reciprocity agreements are passed in the domain of association right.

All members shall enjoy their legal and civic rights.

Non national workers can be union leaders after staying for at least five years continuously in Burkina Faso.

Article 282:

The members in charge of the union's administration or management benefit from the protection granted to staff delegates against arbitrary dismissals and transfers.

Article 283:

Children of at least sixteen can join unions, unless opposition of their father, mother or tutor.

Article 284:

Employees or employers, who stopped working at their position or their occupation, subject to of having fulfilled it for at least one year, can still be members of a trade union.

Article 285:

Any trade union member can give up at any time, notwithstanding any opposite provision.

He however keeps the membership right of relief and retirement insurance companies for which he contributed by dues and funds payment.

Article 286:

It is prohibited to any employer to consider the membership or not to a union, the exercise of a union activity for namely, recruitment, work fluffing and distribution, professional training, promotion, remuneration and the allocation of social advantages, disciplinary and dismissal measures of a worker.

Article 287:

The entrepreneur or his representatives must be neutral vis-à-vis the union organisations present in the company.

Article 288:

Any measure taken by the employer in violation of the provisions of articles 276 and 286 is abusive and can lead to damages.

Article 289:

A union delegate can be appointed within the company or the establishment by any union organisation regularly constituted and representing workers in accordance with the provisions of the above article 276.

Article 290:

Union delegates are assigned the following missions:

- 1) Representing the union towards the entrepreneur ;
- 2) Participating in collective negotiations within the company.

Article 291:

Provisions of articles 313 and 314 of this Act apply to union delegates.

Article 292:

The mandate of the union delegate terminates in one of the following cases:

- When the representativeness condition is no more fulfilled or when the union decides to terminate the functions of the delegate ;
- When there is breach of contract, resignation from the mandate or loss of the required conditions for the appointment.

Article 293:

The provisions of articles 276, 286 and 287 are public.

Article 294:

The property of the union are cleared according to the statutes or following the rules determined by the general assembly in case of voluntary, statutory dissolution or under decision of the court.

In no case, they can be distributed to members.

Article 295:

The management can adjudicate neither on the suspension nor on the dissolution of workers and employers' union. Their dissolution can occur only by legal means.

Section 2: Civil capacity of trade unions**Article 296:**

Trade unions, constituted according to the provisions of this Act, are legal entities.

They can:

- 1) Enjoy all the rights recognised to a private party associating in a court action with public prosecutor before any courts ;
- 2) allocate part of their resources to the creation of workers' lodgings and the acquisition of real estate assets ;
- 3) create, administer or subsidise such activities as :
 - social welfare institutions;
 - social security funds ;
 - laboratories ;
 - experiment fields ;
 - scientific, agricultural or social education activities, courses and publications interesting the profession ;

- 4) subsidise production or consumption cooperative societies as well as all public or private institutions presenting some interest to workers ;
- 5) sign contracts or conventions with any other unions, societies, company or people. Collective labour conventions are entered in the conditions specified in chapter X of title 3 of this Act.

The buildings and furniture necessary to unions for their meetings, their libraries and their professional instruction courses are creditor-proof.

Article 297:

Trade unions must be consulted on all disputes and issues related to their profession or the branch of activity.

Article 298:

In contentious cases, the opinions of trade union are made available to the parties which can get them in the forms of communication and hard copies.

Section 3: Unions of trade unions

Article 299:

Trade unions regularly constituted can freely consult for the study and the defence of their professional interests.

They can constitute themselves into unions at the national or local level.

The entitlements and obligations of trade unions set by this Act are recognised to unions of trade unions.

Article 300:

The provisions of articles 275 to 296 of this chapter are applicable to unions of trade unions which must communicate the name and the headquarters of the member trade unions.

The statutes define the rules of membership and representativeness in the leading bodies of the union.

Article 301:

The competent authorities can put premises at the disposal of unions of trade unions for carrying out their activities.

Section 4: Union Representativeness

Article 302:

The minister in charge of Labour produces the list of the most representative trade unions every four years.

The elements for appreciation of the representativeness of the trade union organisation are the results of professional elections.

The organisation modalities of these elections are set statutorily by the minister in charge of Labour.

A decree passed by the Council of ministers further to the notice of the consultative labour commission defines the forms of trade union organisations and the criteria of representativeness.

Article 303:

The decision of the minister in charge of Labour defining the most representative trade unions can be appealed before the competent administrative court, within a timeframe of fifteen days after the publication of the list.

In case of appeal, the file provided by the minister in charge of Labour includes all the elements of appreciation collected and the advice of the ministry's technical services.

The appeal is not suspensive of the decision made by the minister in charge of Labour I.

Section 5: Copyrights of Trade union

Article 304:

Trade unions can register the copyright or label and claim their exclusive ownership in the conditions determined by the laws in force.

These copyrights or labels can be put on any commercial product or object to certify the origin and conditions of manufacturing.

They can be used by any person or any company selling these products.

Article 305:

The use of trade union copyrights or labels cannot be a violation of the provisions of Article 276 of this chapter.

Article 306:

Any provision of collective labour contract, agreement or arrangement subordinating the use of the trade union copyright by an employer to the obligation by the said employer to keep or to hire only members of the trade union owning the copyright is null and void.

CHAPTER II: UNION REPRESENTATIVES

Article 307:

The union representatives are representatives of workers within a company in charge of transmitting the claims of workers to the employer and to make the work conditions be observed.

Article 308:

The union representatives are elected for a two-year term. They can be re-elected.

Article 309:

The minister in charge of Labour, further to the advice of the consultative labour commission, sets statutorily:

- 1) the number of workers from which the institution of union representatives is obligatory ;
- 2) the number of and their distribution on the professional plan;
- 3) the modalities of the election ;
- 4) the duration and the remuneration of the work time which the union representatives have for fulfilling their missions ;
- 5) the means put at the disposal of delegates ;
- 6) the conditions in which they are received by the employer or his representative ;
- 7) The dismissal conditions of the delegates by the workers who elected them.

Article 310:

The protests related to the election, the eligibility of union representatives as well as the regularity of electoral operations depend on the President of the Labour Court who decides on emergencies and in last recourse.

Article 311:

The decision of the President of the Labour Court can be referred to the supreme Court of Appeal.

The appeal is introduced and judged in the forms and conditions provided by the Incorporating Act regulating the said Court.

Article 312:

Every delegate has one substitute elected in the same conditions and who replaces him in case of motivated absence, death, resignation, dismissal, termination of the labour contract, loss of the conditions required for the eligibility.

Article 313:

The function of union representative shall not be a hindrance to the improvement of his regular promotion.

The union representative cannot be transferred against his will when his mandate is going on, unless appreciation of the labour inspector of the jurisdiction.

The work schedule of the union representative is the normal schedule of the institution.

Article 314:

Any dismissal of a union representative incumbent or substitute planned by the employer or his representative must be submitted to the approval of the labour inspector.

Yet, in case of severe fault, the employer can sentence the provisional temporary layoff of the concerned person while waiting for this opinion.

The answer of the labour inspector shall intervene within a timeframe of fifteen days, except act of God. After this term, the authorisation is deemed given.

If the authorisation is not granted, the union representative is reintegrated with the payment of the salaries related to the period of suspension.

The decision of the labour inspector can be subject to a hierarchic appeal before the minister in charge of Labour.

The decision of the minister can be appealed for nullification before the administrative court.

Article 315:

Provisions of the above Article 314 are applicable to:

- 1) applicants to the positions of delegate during the period between the date of presentation of the lists to the entrepreneur and that of the vote ;
- 2) delegates during the period between the end of their term and the expiration of the three months following the new vote.

Article 316:

The union representatives are entitled with the following missions:

- 1) to present to the employers all individual or collective claims related to the work conditions and the protection of workers, the enforcement of collective labour conventions, the professional classifications and the salary rates ;
- 2) to seize the labour inspection for any complaint or claim related to the enforcement of the legal and statutory prescriptions;
- 3) to see to the enforcement of the prescriptions related to workers' hygiene, safety, social security and to propose any useful related measures ;
- 4) To communicate to the employer any useful suggestions to improve the organisation and the output of the company.

Union representatives can be assisted by a union delegate of the company in fulfilling their missions.

Article 317:

Notwithstanding the provisions of the above Article 316, workers can present themselves their claims and suggestions to the employer.

TITRE VII : LABOUR DISPUTES**Article 318 :**

Labour disputes are submitted to the procedure instituted by this title.

CHAPTER I: INDIVIDUAL DISPUTES**Article 319:**

The individual dispute is the conflict opposing one or many workers to their employers in the framework of the implementation of the labour contract for the recognition on one individual right.

Section 1: Conciliation Procedure**Article 320:**

Any employer or worker shall ask the labour inspector, his delegate or his legal substitute, to settle out of court the dispute that opposes him to the other party.

The labour inspector seized about an individual labour dispute, calls the parties in view of a settlement out of court by indicating the full names, occupation, address of the claimant as well as the subject of the claim, the location, the time and the day of the appearance.

The convocation is done to the person or at his residence by mean of an administrative agent or by any other mean.

The parties can be assisted at the conciliation sessions by an employer or a worker from the same branch of activities or by any other person of their choice.

Article 321:

In case of conciliation, a conciliation report is drafted and notices the settlement of the dispute out of court.

The conciliation report contains, in addition to the ordinary mentions necessary to its validity:

- 1) the statement of the various counts of claim ;
- 2) the items on which the conciliation intervened and the monies agreed on for every element of claim ;
- 3) The counts of claim abandoned by the claimant.

The conciliation report must be drafted and signed on the spot by the labour inspector, his delegate or his legal substitute and by the parties in dispute.

Article 322:

In case of failure, a non conciliation report is drafted and signed by the labour inspector, his delegate or his legal substitute and the parties in dispute.

Express reference is made about the refusal to sign the report by one of the parties.

Article 323:

In case of partial conciliation, two reports are drafted:

- 1) a partial conciliation report signed by the labour inspector, his delegate or his legal substitute and by the parties on the points of agreement ;
- 2) A report of non conciliation signed by the labour inspector, his delegate or his legal substitute and the parties for the surplus of the request.

Express reference is made about the refusal to sign the report by one of the parties, if need be.

In all case, a certified copy of the reports is addressed to the president of the labour court and to the parties by the labour inspector.

Article 324:

When one of the parties in dispute does not appear before the court after two summons, one report of non conciliation by default is drafted and signed by the labour inspector, his delegate or his legal substitute and by the party present.

Article 325:

The labour inspector can issue enforceable proceedings when the elements of dispute are not contested and are related to conventional or contractual legal salaries, to paid leaves and seniority bonuses, notwithstanding the above – mentioned cases of conciliation.

Article 326:

The reports of total conciliation and partial conciliation, the enforceable proceedings issued by the labour inspector, according to Articles 321, 323 and 325 above are deemed enforceable titles.

Article 327:

In the absence or in case of failure of the out-of-court settlement, the legal proceedings are introduced via written or verbal declaration made in the register of the labour court territorially competent.

The claimant shall produce a certified copy of the report of non conciliation.

Section 2: Composition of the labour court

Article 328:

The labour court includes:

- one presiding judge and judges, all members of the judiciary order, appointed by decree taken in Cabinet meeting under proposal of the minister in charge of justice after advice of the High Council of Magistracy ;
- assessor employers and assessor workers on a list set according to Article 332 below ;
- A court head clerk appointed by decree taken in Cabinet meeting, of court clerks and court secretaries appointed by statutorily by the minister in charge of justice.

Article 329:

The labour court includes training in provisional order including the president of the court or any judge appointed by him and a court clerk.

Article 330:

The labour court includes at the hearing:

- a presiding judge, magistrate ;
- two assessors including one employer and one worker ;
- one court clerk.

Article 331:

For every hearing, the presiding judge appoints the employer and worker assessors on the list prescribed by Article 332 below.

The incumbent assessors are replaced, in case of impediment, by the substitute assessors.

In case one or both assessors duly called do not appear, the presiding judge sends them a second summons.

In case of absence again of one or both assessors, the presiding judge decides alone.

Article 332:

The assessors are appointed of a term of four years renewable by the ministers in charge of justice and labour further to the advice of the consultative labour commission.

They are chosen on the list presented by the most representative trade union organisations of employers and workers or, in the absence of the latter, by the labour inspection of the jurisdiction.

The list of assessors includes an equal number of incumbents and substitutes. They can be completed, if necessary, during the period of the term.

Article 333:

The assessors must meet the following conditions;

- 1) be citizen of Burkina Faso or one State on the list set by the decree taken by Cabinet meeting under proposal of the minister in charge of justice ;
- 2) be at least twenty-five years old ;
- 3) be able to read and write in French ;
- 4) have at least three years of professional activity in the jurisdiction of the labour court ;

- 5) not sentenced to a condemnation leading to the loss of the civil and civic rights.

Article 334:

Assessors take the following oath before the labour court of the jurisdiction: « I swear, I will fulfil my duties with consciousness, assiduity and integrity and always keep the secret of the deliberations ».

Article 335:

The functions of assessors give right to indemnities the amount and conditions of which are set statutorily by the ministers in charge of justice and finance.

Article 336:

Any assessor who severely made mistakes related to his duties in fulfilling his duties is called before the court for the facts for which he appears before the court.

The initiative of this procedure is the responsibility of the judge presiding over the labour court.

The judge presiding over the labour court addresses to the minister in charge of Labour the report of the appearance session within the forty days following the date of the summons.

Article 337:

The following sanctions can be taken against the assessor accused by the minister in charge of justice, under proposal of the minister in charge of Labour:

- 1) suspension for a duration which shall not exceed six months ;
- 2) forfeiture.

Any assessor against which the forfeiture has been pronounced cannot be appointed again to the same positions.

Section 3: Competence of the labour court

Article 338:

The labour court is competent to deal with individual disputes that can rise between workers, trainers and their employers, the apprentices and their masters, during the execution of contracts.

He is also competent to deal with:

- 1) litigations born from the application of the social security regime;

- 2) individual disputes related to the application of the labour collective conventions and related orders;
- 3) disputes born between the workers on the labour contract as well as direct actions of workers against the contractor provided by Article 80 of this Act ;
- 4) disputes born between workers and employers at the occasion of the work ;
- 5) disputes born between the social security institutions and their liable people ;
- 6) challengeable actions of contractors against the sub-contractors.

Article 339:

The staffs of public services, when they are employed in the conditions of private right, depend on the competence of labour jurisdictions.

Article 340:

The labour jurisdictions remain competent when a local government or a public company is being questioned in term of labour conflict.

Article 341:

The competent court is that of the place of work.

For the litigations born from the dismissal, the worker has the choice between the court of the usual place of residence in Burkina Faso and that of the place of work, notwithstanding any conventional court allocation.

The worker recruited on the national territory has, in addition, the power of seizing the court of the place of conclusion of the labour contract.

Article 342:

The Act sets, for every court, its headquarters and its land competence.

Article 343:

The labour court is under the responsibility of the ministry in charge of justice.

Section 4: Litigation Procedure

Article 344:

The procedure in term of social matters is free before both the labour court and the jurisdiction of appeal.

Workers additionally receive some legal assistance for the enforcement of the judgements made at their profit.

Article 345:

The president of the court, within the month that follows the reception of a claim, calls the parties to appear within a timeframe that cannot exceed two months, increased if necessary, by road timeframes.

Article 346:

The summons to appear shall include the full name, occupation of the claimant, the indication of the subject of the claim, the place, the hour and the day of appearance.

The summons is made to the person or at the residence by mean of an administrative agent specially committed to that. It can be valuably made by registered letter with acknowledgment of receipt or by any other useful mean.

Article 347:

The parties shall get to the place, day and hour set by the presiding judge of the labour court.

They can be assisted or represented by one of the following persons:

- 1) one worker or one employer belonging to the same branch of activities ;
- 2) one lawyer regularly inscribed at a bar ;
- 3) One representative of the trade union organisations to which they are affiliates.

The employers can also be represented by one director or one employee of the company or institution.

Except the lawyers, any mandatory of the parties must have received written mandate of the principal and agreed on by the presiding judge of the labour court or the social chamber.

Article 348:

If the claimant does not appear at the day set, and if is proven that he received the summons and does not justify by a case of act of God, the cause is removed from the role.

It is the same when after return, the claimant does not appear.

In that case, the cause can be taken again only once and according to the forms prescribed for the initial claim, if not, there will be forfeiture.

If the defendant does not appear and does not justify with a case of major act of God, default is given against him and the court adjudicates on the merit of the claim.

The defendant who appeared can no more make default.

In that case, the decision is deemed contradictory and, after notification in the forms provided for in the Article 354 below; only the way of the appeal is open.

Article 349:

The hearing is public. The presiding judge leads the debates and ensures the police of the hearing.

He questions and confronts the parties, makes the key witnesses appear under request of the parties or himself, in the forms indicated in Articles 345 and 346 above.

He proceeds to the audition of any person whose statement of oath he judges useful to the settlement of the litigation. He can conduct any analysis or make proceed with investigation, request the intervention of the police.

Article 350:

The court proceeds with the examination of the case.

No return can be pronounced without the agreement of the parties.

The court can however, by motivated judgement, prescribe any investigations, inspections on the places and any useful information measures.

The charges occasioned by the investigation measures ordered are supported by the Exchequer.

Article 351:

The court deliberates in secret since the closing of the debates.

The judgements rendered shall be motivated and their hearing, be public.

The minutes of the judgement are signed by the president and the court clerk.

Article 352:

The assessors of the court can be challenged in the following cases:

- 1) when they have a personal interest in the litigation ;
- 2) when they are relatives or allied of one of the parties ;
- 3) if, within the year that precedes the challenge, there has been a legal or penal action between them and one of the parties, his spouse or allied in direct line ;

4) if they have given advice over the dispute on the interpretation of the law ;

5) If they are employers or workers of one of the parties accused.

The challenge is formed prior to the fundamental debate. The president adjudicates immediately.

If the claim is rejected, the debate is allowed. If it is accepted, the case is returned to the next hearing of the court with a new composition.

Article 353:

The judgement can order the immediate enforcement, notwithstanding the opposition or the appeal and by reserve with exemption of security, up to the amount of CFA Francs two millions (2,000,000).

For the surplus, the provisional enforcement can be ordered subject to a security deposit.

The judgements rendered and ordering the provisional execution against one failing party can be executed only after the notification in the forms provided by Articles 345 and 346 above.

Article 354:

In case of default judgement, notification is made in the forms of Articles 345 and 346 above free of charge, to the failing party, by the court clerk or by an administrative agent specially committed to that by the president.

If, within a timeframe of ten days after the notification, in addition to the trip times, the defaulter does not oppose the judgement in the forms prescribed in the above Article 348, the judgement is enforceable.

In case of opposition, the presiding judge calls again the parties in conformity with the provisions of the above Articles 345 and 346.

The new judgement is enforceable notwithstanding any default or appeal.

Article 355:

The judgements of the labour court are definitive and without appeal, except that of the chief of the competence, when the amount of the claim does not exceed CFA Francs two hundred thousand (200,000). Above this amount, the judgements can be appealed before the Court of appeal of the jurisdiction.

Article 356:

The labour court deals with all counter claims or claims in for compensation which, by their nature, are of its competence.

When each of the main counter-claim or claims in compensation is within the limits of its competence in last jurisdiction, it adjudicates in last jurisdiction.

If one of these claims is only likely to be judged only in appeal, the labour court adjudicates on all only in appeal. Yet, it adjudicates in last jurisdiction if only the counter-claim in damages, is based exclusively on the main claim, overpasses its competence in last jurisdiction.

It also adjudicates without appeal, in case of default of the defendant, if only the counter-claims formed by the latter overpass its level of competence in last jurisdiction, regardless the nature and the amount of this claim.

Article 357:

Within the fifteen days following the decision of the contradictory judgement or of the notification, the appeal can be lodged in the forms provided in Articles 345 and 346 above.

The act of appeal and the entire related file are transmitted within the timeframe of one month following the declaration of appeal to the court of appeal.

The appeal is examined according to the rules set in the following Articles 345, 346 and 347.

Article 358:

The execution of the judgements is implemented by the diligent party.

Article 359:

The judgements and decrees rendered at the profit of workers indicate the name of the bailiff who must take an oath from his ministry for their execution.

The appeal to the Supreme Court against the decisions rendered in last jurisdiction is introduced and judged as a civil case.

Section 5: Provisional Order

Article 360:

The formation in provisional order including the president of the court and the court clerk can, in the limit of the competence vested to labour courts:

- 1) order all the measures which do not go against any serious contestation or which justify the existence of a dispute ;
- 2) grant security to the debtor in the event the obligation is not seriously contestable.

Article 361:

The president of the labour court can however, even in the presence of a serious contestation, prescribe the conservatory or restoration measures which are necessary, either to prevent imminent damage, or to stop a trouble that is manifestly illicit.

Article 362:

The president of the labour court adjudicates in the form of provisional orders on the difficulties to enforce conciliation proceedings, a judgement or of any other enforceable order in term of social matters.

Article 363:

The claim in provisional order is introduced by a simple written request addressed to the president of the labour court of the jurisdiction.

The latter immediately decides by order on the day and place of the hearing on which the claim is examined.

The president can summon hour after hour, either in his office, or at the hearing, or at his residence.

Article 364:

The provisional order cannot be harmful to the content and has a provisional character. It has not the authority of the case judged.

It is enforceable on minute and by provision, without security unless the president orders that one should be provided.

It can be reported or modified in provisional order only in case of new elements.

The provisional order is signed by the president and the court clerk.

Article 365:

The provisional order cannot be subject to an opposition.

It can also be appealed. The timeframe for appeal is six days from the decision or notification of the order when one of the parties did not appear before the court.

The act of appeal is transmitted to the clerk's office of the Court of Appeal together with the impugned order or an extract of its mechanism delivered by the labour court clerk's office.

Article 366:

The president of the Court of Appeal or any magistrate appointed by him is competent for dealing with appeals against the orders in provisional order rendered by the labour courts presidents.

CHAPTER II: COLLECTIVE DISPUTES**Article 367:**

The collective dispute is a disagreement born in the course of the execution of a labour contract and which opposes one or more employers to an organized or non organized group of workers for the defense of a collective interest.

Article 368:

The provisions of this chapter are applicable to the collective dispute concerning the workers defined in article 2 of this law.

They apply to paid workers of the services, publicly-owned companies and institutions only in the absence of specific legislative or statutory provisions.

Section 1: Conciliation**Article 369:**

Any collective dispute must immediately be notified by the parties:

- 1) to the labour inspector, when the conflict is limited to the territorial jurisdiction of the labour inspectorate;
- 2) to the labour director, when the conflict extends over the territorial jurisdictions of several labour inspectorates.

Article 370:

The labour inspector or the labour director convenes the parties and attempts conciliation without delay.

When one of the parties does not appear, the conciliator again summons him to appear within a time period which should not exceed seven days, without prejudice to condemnation to the payment of a fine by the relevant jurisdiction upon report drawn up by the inspector or the director of labour.

Within fifteen days following the date that the relevant labour inspector or the labour director has been seized of the matter, he should write a report, noting the total or partial agreement, or the disagreements of the parties, that will countersign the official report.

The conciliation agreement is immediately enforceable. It is deposited at the clerk's office of the labour court of the place of the dispute and an exemplification is addressed to the parties.

Article 371:

In the absence of agreement, the conciliator writes a situation report on the dispute supported by the documents and information collected by his care which he addresses to the minister in charge of labour. A copy of the report is given without delay to each party mentioning the date of the transmission to the minister in charge of labour.

Section 2: Arbitration

Article 372:

Within a maximum of ten days following the reception of the official report of non conciliation transmitted by the labour inspector or the labour director, the minister in charge of labour refers the dispute to a council of arbitration made up of the president of the Court of appeal and of two members designated on the list of arbitrators provided in article 373 hereafter.

Article 373:

The arbitrators are designated every four years on a list drawn up by normal channel by the minister in charge of labour upon advice of the advisory labour commission.

The arbitrators are selected according to their moral authority and their competence in economic and social issues with however the exclusion of operating civil servants, people who took part in the conciliation attempt and of those who have a direct interest in the conflict.

The mandate of the arbitrators is renewable.

Article 374:

The council of arbitration cannot make a decision on matters other than those determined by the non conciliation official report or of those who are the direct consequence of the dispute.

It has the most extended powers to carry out investigations. It can for this purpose:

- 1) engage all the investigations in the companies and trade unions and to require from parties, the production of any document or information of economic, financial, statistical or administrative nature likely to serve for the achievement of its mission;
- 2) resort to the offices of experts, in particular to public accountants and generally to any qualified person likely to throw light on the issue.

Article 375:

The sentence of the council of arbitration is notified without delay by the president of the council of arbitration to the parties as well as to the labour inspector or the labour director.

The sentence is immediately enforceable and takes effect as of the day of the notification of the dispute to the relevant authority when it is not rejected by the parties or by one of them.

The enforceable sentence is communicated by the labour inspector or the labour director to the relevant clerk' office of the labour court pursuant to the provisions of subparagraph 4 of article 370 above.

The sentence which acquired enforceability can be extended under the same conditions to the provisions of articles 120 and following this law.

Article 376:

The enforcement of the sentence can be rejected by the parties or by either of them.

The refusal to apply the sentence is notified by written declaration given within forty eight clear hours which follow the communication of the sentence to the minister in charge of labour who delivers acknowledgement notice.

Article 377:

The sentence of the council of arbitration can be the subject of recourse before the social Chamber of the Supreme Court of appeal .

Article 378:

When an agreement of conciliation or a sentence of the council of arbitration relates to the interpretation of the clauses of a collective agreement, on the wages or the working conditions, this agreement or this sentence produces the effects of a collective agreement and can be subjected to the same procedure of extension.

Article 379:

The conciliation agreements, the sentences of the council of arbitration are inserted in the gazette and posted in the offices of the labour directorate and labour inspectorate as well as the work place where the dispute was born.

Article 380:

The arbitration and conciliation procedure is free of charge.

The rate of the reimbursement of the expenses caused by the procedure, in particular the travelling expenses of the arbitrators and the assessors, the losses of wages or treatment, the consultancy fees, are fixed by the ministers in charge of labour and finance, upon advice of the advisory labour commission.

Article 381:

The arbitrators who are members of the council of arbitration are bound to the professional secrecy.

Section 3: Strike and lockout**Article 382:**

The strike is a concerted and collective suspension of work in order to support professional claims and to ensure the defense of the material or moral interests of the workers.

The right to strike does not authorize the worker to carry out his work under conditions other than those envisaged with their contract of employment or practiced in the profession and does not include disposing arbitrarily of the premises of the company.

Article 383:

The strike does not terminate the contract of employment, except for a serious offense ascribable to the worker.

The fact for the striker to oppose the work of others and/or to his task being carried out by other workers, even by those which are not usually assigned there represents in particular a serious fault.

Any firing decided in violation of the first subparagraph of this article is null and void and the worker laid off in this case is reinstated in his employment.

Article 384:

In order to ensure a minimum service, the relevant administrative authority can, at any moment, proceed to the requisition of workers of private companies and of state-owned companies who occupy employment that are essential to the security of

the people and properties, to the maintenance of law and order, to the continuity of the public utility or to the satisfaction of the essential needs of the community.

Article 385:

The list of the employment thus defined, the conditions and procedures of requisition of the workers, the notification and the ways of publication are laid down statutorily by the minister in charge of labour, upon advice of the advisory labour commission.

Article 386:

The exercise of the right to strike should in no way be accompanied by the occupation of the place of work or of its immediate surrounding, under the penalty of penal sanctions provided by the legislation in force.

Article 387:

The lockout is a decision by which an employer prohibits an employee the access of the company at the time of a collective work conflict.

Article 388:

Any lockout or any strike before the exhaustion of the arbitration and conciliation procedures set by the present law is prohibited.

These procedures do not however apply to the strikes at national scale started by the labour unions

Article 389:

The lockout or the strike practiced in violation of the provisions of article 388 above results in:

- 1) for the workers, the loss of the compensation right to the notice and damages for termination of contract;
- 2) for the employers, the payment of the workers for the lost days due to this fact;
- 3) for the employers, by decision of the labour court upon request of the Department of Public Prosecutor seized by the minister in charge of labour, for a period of two years:
 - ineligibility to the position of members of the Chamber of Commerce;
 - prohibition to belong to an Economic and Social Council, to the advisory labour commission and to a council of arbitration;
 - Non-participation in procurement on behalf of the State or of its sub-divisions.

Article 390:

The strike and/or the lockout started after notification of the refusal of the sentence of the council of arbitration are considered legal and do not result in the above stated consequences.

CONTAIN VIII: BODIES AND MEANS OF EXECUTION**CHAPTER I: EXECUTING BODIES****Article 391:**

The labour inspectorate, placed under the authority of the minister in charge of labour, is in charge of all the issues relating to the conditions of the workers and the professional relationships.

The labour inspector:

- 1) takes part in the development of the regulations within his sphere of competence;
- 2) sees to the enforcement of the provisions enacted in the area of labour and of the protection of the workers;
- 3) enlightens by his advice and recommendations the employers and the workers;
- 4) refers to the relevant authority the violations and abuses which are not specifically covered by the existing legal provisions;
- 5) takes part in the coordination and the control of the services and organizations contributing to the application of the social legislation;
- 6) engages any studies and investigations related to the various social problems, other than those which concern the technical departments with which the labour inspectorate collaborates.

Article 392:

The State must make available to the labour inspectorate, human and material resources needed to ensure its good operation.

The services in kind of the labour inspectors are set by the law.

Article 393:

The labour inspectors, before their entry into office, swear the following oath in front of the Court of appeal sitting in solemn audience: "I swear to faithfully and correctly fulfill my mission and not to reveal, even after having left office, the trade secrets and in general the processes of exploitation that I could come to know in the performance of my duties".

Any violation of this oath is punished in accordance with the legislation in force.

Article 394:

The labour inspectors must, subject to the exceptions provided by the legal or statutory provisions, keep the confidentiality of their source of information indicating a defect in the installation or a violation of the legal and statutory provisions.

They cannot, subject to the exceptions provided in the legal or statutory provisions, have any direct or indirect interest in the companies placed under their control.

Article 395:

The labour inspectors can:

- 1) note though proceedings, infringements to the provisions of the legislation and the labour regulations. These proceedings have probative force until plea of forgery;
- 2) order or have order given that immediately enforceable measures, that can go as far as work stoppage, be taken in cases of imminent danger to the health and safety of the workers.

Article 396:

The relevant labour inspector, in accordance with the present law, decides the fines which must be paid by the contraveners and be remitted to the Public Treasury. This provision is applicable to simple petty violations.

In the event of refusal to pay, the report is drawn up in four specimens of which the first is given to the contravener or his representatives, the second is deposited to the public prosecutor's department, the third is sent to the labour directorate, the fourth is classified in the archives of the labour inspectorate.

Article 397:

The labour inspectors, provided with supporting documents proving their functions, have the power to:

- 1) penetrate freely for purposes of inspection, without preliminary warning, at any hour of the day or the night, in any establishment subjected to the control of the inspection;

- 2) penetrate during the day in premises where they can have a reason to assume that workers are occupied there;
- 3) require if need be, opinions and consultations of doctors and technicians, in particular with regard to the regulations of hygiene and safety. The doctors and technicians are bound to the professional secrecy under the same conditions and subjected to the same sanctions as the labour inspectors;
- 4) engage all the examinations, controls or investigations deemed necessary to make sure that the applicable provisions are actually observed and in particular:
 - examine, with or without witnesses, the employer or the personnel of the company, control their identity, ask information to any other person whose testimony can be necessary;
 - require the production of any register or document which use is prescribed by the present Law and by the acts enacted for its enforcement;
 - take samples or have samples taken and take away for analysis of matters or substances used or handled, provided that the employer or his representative is informed by it.

The expenses resulting from these expertise and investigations are supported by the Public Treasury.

The procedures and the conditions of this support are set by the law upon advice of the advisory labour commission.

Article 398:

The labour inspectors can enter a private residence of the owner of an agricultural establishment only if the owner agrees or if he is provided with a special authorization delivered by the relevant authority, except in case when this residence merges with the establishment.

Article 399:

The labour inspector, at the time of a control of inspection, must inform the employer or his representative of his coming, unless he estimates that such information can affect the effectiveness of the control.

Article 400:

Labour controllers assist the labour inspectors in the operation of the services. They are entitled to note the infringements by official report in accordance with the provisions of article 395 above.

The labour controllers swear, in front of the relevant labour court the oath discussed in article 393 above.

Any violation of this oath is punished in accordance with the legislation in force.

Article 401:

In the mines and quarries as in the establishments and building sites where work is subjected to the control of an engineering department, the civil servants in charge of this control take care that the installations related to their technical inspection are arranged in order to guarantee the safety of the workers.

They ensure the application of the special rules which can be defined in this field and have for this purpose and within this limit, the powers of the labour inspectors. They inform the relevant labour inspector of measures prescribed and, if applicable, the putting in default that has been notified.

The labour inspector can, at any moment, carry out jointly with the civil servant cited in the preceding paragraph, the visit of the mines, quarries, establishments and building sites subjected to a technical inspection.

Article 402:

In parts of establishments, or in military establishments employing civil labour and in which the interest of national defense is opposed to the introduction of foreign inspection agents to the service, the inspection of the applicable provisions related to labour social security is ensured by the civil servant or officers appointed for this purpose by the law by the minister in charge of defense.

The nomenclature of these parties of establishments or military establishments is jointly drawn up by the ministers in charge of labour and defense upon advice of the advisory labour commission.

Article 403:

In the event of absence or inability of the labour inspector or of the labour controller, the head of the administrative unit is their legal substitute.

He is entitled to note the violation in reports which the labour inspector will base upon to draw up an official report in the forms provided in article 395 above.

Article 404:

The provisions of articles 393, 394 and 395 to 398 above do not interfere with the prerogatives of judiciary police in area of facts findings and lawsuit against violation of the law.

CHAPTER II: ADVISORY ORGANIZATIONS

Section 1: Advisory Labour commission

Article 405:

An advisory labour commission is established at the level of the ministry in charge of labour.

The commission, chaired by the minister in charge of labour or his representative, is made up of employers and employees on the basis of equal representation.

The latter are designated by the organizations most representative of the employers and of the workers or by the minister in charge of labour in the event of absence of representative organizations, pursuant to the above article 302 subparagraph 3.

Article 406:

A decree taken by Cabinet meeting sets:

1. the operating procedures of the commission;
2. the number and conditions of appointment of the representatives of the employers and the workers;
3. the term of their mandate and the amount of the session allowances which are allocated to them.

Article 407:

The chairman of the advisory labour commission can on his own initiative or at the majority of its members consult with any qualified person, in particular in the area of economic, medical and social matters.

Article 408:

The advisory labour commission can be consulted on all matters relating to labour, workforce and social security, except for the cases for which its opinion is obligatorily necessary under the present law.

It can, on the request of the minister in charge of labour:

- 1) examine any difficulty born at the time of the negotiation of the collective agreements;
- 2) deliberate on all the issues relating to the conclusion and to the application of the collective agreements and in particular on their economic impact.

The advisory labour commission is also charged to study the criteria that could serve as basis for the determination and the readjustment of the minimum wage.

Article 409:

When the advisory labour commission is seized of one of the matters discussed in the preceding article, it associates:

- 1) a representative of the minister in charge of finance;
- 2) a representative of the minister in charge of justice;
- 3) a labour inspector.

It can also call on any other person whose skills are required, in accordance with the above article 407.

Section 2: *Advisory national technical committee on safety and health at work***Article 410:**

It is instituted at the level of the ministry in charge of labour, a national advisory technical committee on safety and health at the work place responsible for the study of the areas of safety and health of workers.

Article 411:

The national advisory technical committee of safety and health at work is responsible for making any suggestion and opinion on the regulations as regards safety and health at work place.

It can also deliberate on the orientation and the implementation of the national policy for the prevention of occupational hazards.

A decree enacted by Cabinet meeting sets the composition and the operation of this committee.

CHAPTER III: MEANS OF INSPECTION

Article 412:

Any person who proposes to open a company of whatever nature must first declare it at the relevant labour inspectorate or at the territorially relevant Center of Procedures of Companies.

Must be declared under the same conditions, closing, the transfer, the change of destination, the change and, more generally, any change affecting an establishment.

The declarations referred to above in the preceding subparagraphs are carried out at the organization entitled to this effect which will transfer all necessary information to the organization of social welfare.

Article 413:

The employer must constantly have at the place of business a register of employer the model of which is fixed by the law by the minister in charge of labour, upon advice of the advisory labour commission.

Article 414:

The register of employer must be made available to the labour inspector or to his delegate and kept for ten years following the last mention made in it.

Article 415:

The minister in charge of labour, upon advice of the advisory labour commission, can exempt certain companies or categories of companies of the obligation to hold this register because of their situation, their importance or of the nature of their activity.

Article 416:

Any engaged worker, including the daily worker, must be declared within the eight following days, by the employer at the National Social Security Board. He is entitled to the retirement pension.

The declaration mentions the name and address of the employer, the nature of the company or of the establishment, all the information useful on the civil status and the identity of the worker, his profession, employment previously occupied, possibly his place of residence, the date of entry in Burkina Faso and if applicable, the hiring date and the name of the former employer.

A copy of the birth certificate must be annexed to the declaration.

Any worker leaving an establishment must be subject to a declaration under the same conditions with specification of the departure date from the establishment.

Article 417:

The minister in charge of labour, upon advice of the advisory labour commission, determines the methods of these declarations, the modifications in the situation of the worker which must be subject to an additional declaration and the professional categories for which the employer is temporarily exempted of declaration.

In this latter case, a file must be opened upon request of the worker.

Article 418:

The service in charge of employment delivers a labour card to any worker for whom a file was made.

This card, established in accordance with the indications contained in the file, must mention the civil status and the occupation of the worker.

The photography of the person or, failing that, any other element of identification must, if possible, be reproduced on the card provided in this article.

Article 419:

The conditions of delivery of the labour card are set by law by the ministers in charge of labour and employment upon advice of the advisory labour commission.

TITLE IX: PENALTIES**CHAPTER I: CIVIL FINES****Article 420:**

Any assessor of the labour court who does not appear at the audience of the labour court on the summons which was notified to him is punished of a civil fine of CFA Francs five thousand (5,000).

In the event of repetition, during the term of office of the assessor, the fine is carried to the double.

The court can, moreover, declare him unable in the future to occupy the function of assessor of the labour court. The judgment is published at his own expenses.

The fines are decided by the relevant labour court.

CHAPTER II: INFRACTION OF SIMPLE POLICE

Article 421:

Are punished of a fine of CFA Francs five thousand (5,000) to fifty thousand (50,000) and in the event of repetition of a fine of CFA Francs fifty thousand (50,000) to one hundred thousand (100,000):

- 1) the authors of the violations to the provisions of articles 16, 21, 29, 52, 54, 56, 57, 59, 60, 63, 79 subparagraph 2, 81, 82, 91, 106 subparagraph 1, 134, 144 to 148, 155, 156, 159, 166, 167, 169, 172, 177, 188, 191, 194, 196, 197, 214, 221, 222, 229, 230 subparagraph 1, 235, 238, 240, 241, 247, 249 subparagraph 1, 261, 281 subparagraph 2, 286, 287, 293, 314, 414, 416 and 428 of this law;
- 2) the authors of the violations to the provisions of the statutory acts in articles 14, 35, 137, 138, 139, 142, 164, 187 and 255 of this law;
- 3) any person who, by making use of a fictitious contract or a labour card containing inaccurate indications, had himself engaged or replaced voluntarily another worker;
- 4) any employer who omitted to make the declaration provided in article 246 above.

The fine is as many times as there are registrations omitted or erroneous on the violations to the provisions of the statutory act provided in articles 413 and 415 above.

The penalties are not incurred if the violations occurred during the establishment of the labour card in the case of the violation of the above article 149 results from an error on the age of the children and of the teenagers.

CHAPTER III: OFFENCES

Article 422:

Without damage of the penal provisions, are punished of a one month to three years prison term, of a fine of CFA Francs fifty thousand (50, 000) to three hundred thousand (300, 000) and/or of one of these two penalties only and, in the event of repetition, of a fine from CFA Francs three hundred thousand (300,000) to six hundred thousand (600,000) and two months to five years of imprisonment or of one of these two penalties only:

- 1) authors of violations to the provisions of articles 4, 5, 22, 36, 37, 38, 152, 182, 213, 231 and 232;
- 2) any person who, by whatever means or maneuver has obliged or tried to force a worker to be engaged, or who has prevented him or tried to prevent him from being engaged or to carry out his obligations imposed by his contract;
- 3) any employer, designated representative or appointed, who knowingly mentioned false testimonies on the card of the worker, the register of employer or any other document due to the worker or any worker who knowingly made use of these forgeries;
- 4) Any person who required of or accepted from the worker any remuneration as an intermediary in the settlement or payment of the wages, allowances and expenses of any nature;
- 5) any person who knowingly made false statements of occupational accident or disease;
- 6) any person who interfered with or tried to interfere, either with the free designation of a delegate of the personnel, or to the regular exercise their functions;
- 7) the party or the parties who refused to go to the summons envisaged under the conditions provided in article 370 of this law relating to the obligatory conciliation attempt as regards collective disputes;
- 8) Any employer or any worker who refused to subject himself to the procedure of amicable settlement of individual disputes provided in articles 320 and 321 of this law;
- 9) the party who, after having signed an official report of conciliation provided in article 321 above, would not carry out whole or part of the commitments stipulated in the aforementioned official report;

- 10) any person who opposed or tried to oppose the execution of the obligations or the exercise of the powers entitled to the labour inspectors, controllers and to the administrative unit managers acting as substitutes for the labour inspector.

Article 423:

Is punished of an imprisonment of two months to two years, of a fine of CFA Francs three hundred and sixty thousand (360,000) to three million six hundred thousand (3,600,000) and / or of one of these two penalties only, any employer who embezzled sums or titles given in guarantee.

Article 424:

The authors of violations to the provisions of article 153 of this law are punished of penalties provided in the law on the definition and prevention of child trafficking.

CHAPTER IV: COMMON PROVISIONS RELATED TO INFRACTIONS AND OFFENCES

Article 425:

The provisions relating to the extenuating circumstances and the deferment of the penal code are applicable to all violations envisaged and repressed with the present title.

Article 426:

When a fine is decided under the terms of the present title, it is incurred as many times as there were violations, without, however, the total amount of the inflicted fines exceeding fifty times the minima rates provided above.

This rule applies in particular if several workers were employed in conditions contrary to the present law.

Article 427:

For all the violations envisaged with the present law, the repetition is noted in accordance with the provisions of the legislation in force.

Article 428:

The company managers are civilly accountable for the judgments in payment of the damages pronounced against their designated representatives

TITLE X: TRANSITIONAL AND FINAL PROVISIONS

Article 429:

Any clause of an ongoing labour contract which is not in conformity with the provisions of this law or a statutory note taken for its application must be modified within six months, as from the publication of this law or the said statutory act.

In the event of refusal of one of the parties to abide by the law, the court of jurisdiction can order to proceed, under penalty of obligation, with the modifications which are deemed necessary.

Article 430:

The collective conventions concluded before the present laws remain in force in those of their provisions which are not contrary to laws hereby.

These collective conventions are likely to be extended by statutory channel under the conditions provided in this law.

If they were the subject of extension before the present law, these rules remain in force in all that are not contrary to the provisions of this law.

Article 431:

The regulations decided pursuant to law n°033-2004/AN of September 14, 2004 related to the Labour Act in Burkina Faso remain in force in all that is not contrary to this law.

Article 432:

All contrary provisions prior this law are repealed, in particular law n°033-2004/AN of September 14, 2004 related to the Labour Act in Burkina Faso.

Article 433:

The present law will be carried out as law of the State.

Thus made and deliberated in open sitting
in Ouagadougou on May 13, 2008.

For the chair of the National Parliament,
the Second Vice-Chairman

Maria Goretti B. DICKO/AGALEOUE ADOUA

The Secretary of the meeting

Sidiki BELEM