

IN THE NAME OF MERCIFUL AND COMPASSIONATE GOD

LABOR CODE

CHAPTER ONE GENERAL PROVISIONS

Article 1:

This code has been enacted in accordance with Article 48 of the Constitution of the Republic of Afghanistan to explain and regulate the obligations, rights, privileges and social needs of workers.

Objective:

Article 2:

The code is enacted to meet the following objectives:

1. Identify, organize and consolidate the work relations of employees.
2. Provide equal job opportunity and support of the employees' rights.
3. Improve the work organization and output, work feedback, properly utilize the human resource and work source, consolidate the work order and product, complete the advanced payroll systems and secure social provisions to improve the level of the material, social and cultural life of the employees.
4. Determine responsibilities and rights for the employees and employers provide protection and technical safety for work; continuously improve relevant skills and capacities for the development and consolidation of the national economy.
5. Complete the labor legislation and equally apply the approved rules and regulations concerning the workers in all aspects of work and products.
6. Facilitate in providing employment services.

Terminologies

Article 3:

The terminologies used in this code bear the following meanings:

1. **Organization:** Ministries, government and non-government organizations, independent commissions, enterprises private sectors, joint ventures and the international organizations operating in the Islamic Republic of Afghanistan where the workers work.
2. **Employee:** government employees, workers and the contractors, inclusive of male and female.
3. **Official:** is the person that is recruited permanently in accordance with the rules and regulations of this code and other relevant rules by the civil services organization.
4. **Worker:** is the person that is recruited on a contractual basis.
5. **Service worker:** is the person that is recruited on a contractual basis as a support staff in an organization.
6. **Contract Employee:** are the workers, employees and the contractors that are hired for a fixed period of time for a particular job on a contractual basis.
7. **Employer:** is a particular person that; the employee is recruited based on his/her agreement or in consultation with him. The employees' salary and

other relevant allowances are fixed either by or through him. Employer executes the salary and other allowances of the employee.

8. **Wage:** is an amount paid to the employee against his performance.
9. **Allowances:** are the financial gainings that are regularly paid to the workers for his/her satisfactory performance based on the rules of the relevant law.
10. **Wage supplementary:** is an additional fund paid to the worker on specific occasions for the workers' particular performance on the basis of legislative documents.
11. **Social Protection:** is a fund deducted of the employees' monthly salary and Employers' contribution. Or it is a fund fully paid to the employee by the employer for his/her livelihood during the employee's service period or after his/her retirement.
12. **Attendance Record:** Is a document that determines the employees' existence in the organization during the official time. The Human Resource Department is responsible to prepare, monitor and keep records of this document for financial purposes. The employees' attendance record is assessed and certified by his/her immediate supervisor.

Prohibition of Compulsory Work

Article 4:

1. Compulsory work is prohibited. Work becomes compulsory when the worker is threatened to do it or when a job against the rules and regulations of the organization and against the will of the worker is to be performed by the worker, is called a compulsory piece of work.
2. A piece of work performed by the worker based on the rules of law is not considered a compulsory piece of work.

Organizing Work Relations

Article 5:

(1). This code coordinates the general work relations of all the employees including local and foreigners with their respective organizations. These employees include the following:

1. Ministries and governmental organization workers and employees, Independent Commissions and national and international Non-governmental Organization.
2. Administrative employees of elected organizations (The National Assembly, the Provincial, District and Village Councils,) and the Military organizations, Police and National Security.

(2). The specific work relations of employees working in the departments (Governmental, mixed, private, Non-governmental, Social and Foreign Organizations in Afghanistan) mentioned in clause (1) above of this Article are coordinated by separate legislative documents. While coordinating these work relations, the type and the nature of these organizations and the fact that coordinating their work relations is not against this code, are taken into consideration.

(3). In case there is no such rule of law to coordinate the work relations of the employees mentioned above, Ministry of Labor, Social Affairs, Martyrs and Disabled (MoLSAMD) will be responsible to coordinate these work relations unless it is against the country law and justice.

(4). However, cases like; selection procedures, appointments, ranking and promotions of the employees mentioned in clause (1) transfer, suspension, re-appointment, pension, extension of appointment, resignation, leave with and without

pay that have not been regulated by this code, would be organized by separate legislative documents.

Application of the Rule of Law on Foreign Citizens

Article 6:

- (1) Foreign Citizens who are working in government or non-government organizations or in private sector or joint ventures in Afghanistan based on the separate contracts that have been signed previously. Or are working in the country based on the license they have obtained or may obtain from the Islamic Republic of Afghanistan have to obey this code. Their recruitment procedure will be organized through a separate regulation.
- (2) The government has the right to impose restrictive regulations on the business of the citizens of the countries whose governments have imposed restrictions on the citizens of the Islamic Republic of Afghanistan in their respective countries.

Application of Law

Article 7:

People working in the diplomatic missions of Afghanistan abroad, or working in the international organizations inside the country will have to obey the rules of this law.

The Right to Work against Wage

Article 8:

- (1) The workers in the Islamic Republic of Afghanistan have the right to work equally against the wage they are supposed to earn. The right to work against a wage and defend the rights is regulated by legislative documents.
- (2) The members of the staff are entitled to receive wages and wage supplementaries on the basis of the quality and quantity of the work and with due regard to grades, ranks and the given post.

Non-discrimination on Recruitment

Article 9:

- (1) There should be no discrimination in recruiting a person, paying the salaries and the allowances to the staff, making a profession, the right to education and providing the social protection.
- (2) For women, during the period of pregnancy and after the birth of a child, and in other cases envisaged in this Code and legislative documents, certain benefits are given in the workplace.
- (3) In the Islamic Republic of Afghanistan every one has the right to select a profession, a job according to ones qualification, skills and interest on the basis of relevant legislative documents.

The Right to Go on Paid Leave

Article 10:

On the basis of law, employees are entitled for paid leave under the provision of this code.

Utilization of Other rights

Article 11:

In the economic and social areas workers have the right to be provided with health services, safely work and produce, receive vocational training, skills development, improve their professional knowledge and be provided with social protection.

Compliance with the International Conventions**Article 12:**

The Islamic Republic of Afghanistan observes international conventions of the International Labor Organization to which Afghanistan has ratified or plans to ratify; and respects other international conventions, recommendations and standards within the limits of the special conditions and situation of the country.

CHAPTER TWO RECRUITMENT AND Employment CONTRACT

Terms of Recruitment**Article 13:**

- (1) A person who can meet the following requirements, may be recruited as worker:
 1. Having the Afghan Nationality.
 2. The minimum age for work is 18; and for light type of business, the minimum age of work is 15. The minimum age for gaining training is completion of 14 years.
 3. Provide a vocational training document that has been certified by the Ministry of Labor, Social Affairs, Martyrs and Disabled (MoLSAMD). Support staff is exempted to provide such documents.
 4. Provide a health certificate issued by the relevant department of the Ministry of Public Health.
 5. Provide a secondary or higher education graduation document (for employees only).
2. Recruitment terms and procedures apply on the basis of the relevant law.
3. The age of the employee at the time of recruitment is determined according to dates mentioned in his/her National ID card taking the day and month of his birth into consideration. This information is recorded in his personal file. Changing age is not valid after this information is entered into his personal file.
4. Recruiting people less than 18 years of age for businesses that are injurious to their health and cause physical damage or disability, is prohibited.
5. The relevant legislative documents will regulate the recruitment, service contract terms and responsibilities for the foreign citizens in the local government and nongovernmental and international organizations operating in Afghanistan. However, the diplomatic missions and the international organizations are exceptional to this rule of law. They are subject to the bilateral contracts and other international laws.

- (6). the nationals and foreigners who are going to be newly recruited will have to obtain an introduction letter or a license from MoLSAMD up on their recruitment and present that to their employer.

Employment Contract

Article 14:

- (1) The Employment contract is a written agreement between the employee and the employer through which the employee shall be obliged to work for a definite or indefinite period of time in return to which he obtains salary and other privileges and rights;
- (2) The fixed period of the contract is one year and can be extended by the agreement of the two parties. However, after the expiration of the contract, if the parties do not decide to terminate or extend the contract in one month, the contract will be considered extended with the same terms and conditions.
- (3) Change or later amendment in a work contract may be allowed by the agreement of the both parties, if the worker is not paid less than the salary and other allowances determined in the contract by this code.

Terms of Employment Contract

Article 15:

Employment contract contains the following:

1. Legitimacy.
2. Determination of the subject matter of the contract.
3. No legal or judicial obstacles in the work.
4. The type of work or skills in which the worker will be involved.
5. Wage, rights and workers privileges.
6. Working time on the basis of this code.
7. Leave on the basis of this code.
8. Work site.
9. Signing date of the contract.
10. The validity duration of the contract.

Preparation of the Employment Contract

Article 16:

- (1) Based on the consent of the parties, work contract will be prepared in three copies. One copy will be given to the worker. The second copy will be given to MoLSAMD and the third one will be kept in the Human Resource Department of the Employer.
- (2) The work or tuition contract of the person who has not attained the age of 18 will be signed by his parent or legal representative.

Probationary Period

Article 17:

- (1) The both parties of the contract by their mutual agreement can fix a work probationary period. During this period of time that may not exceed three months, the parties may terminate the contract by notifying each one. If the Probationary contract is not terminated when it expires, the same contract may prolong with the same terms and conditions.
- (2) The training period of the employee will be added on the service period.
- (3) The probationary period for the civil service employees will be regulated by the relevant legislative document.

Legal Change of the Organization Identity

Article 18:

In case of the disposal of the employing organization, transfer of property, joining with other organizations, death of the employer, change of production loss of property or any other unexpected incidents that have not been described under this code, the rights and privileges of the workers will be regulated by the relevant legislative document.

Non-Performance of the Jobs that are against the Terms of the Contract

Article 19:

The Organization can not ask the other party, without the latter's agreement, to perform a piece of work not mentioned in the contract, except in those cases explicitly provided for in this code.

Temporary Assignment of Worker for a Job out of the Contract

Article 20:

The Organization can, irrespective of the provisions contained in the service contract, temporarily assign other tasks to the worker and personnel in the same organization, or in another organization in the same locality, in the cases mentioned hereunder:

- (1) in the same organization, according to specialty, skill, job, wage level and other benefits, and without great changes in the working conditions;
- (2) In order to prevent and remove the consequences of natural and unforeseen accidents, unpleasant production accident and to prevent the assets of the organization from being lost.
- (3) In the event of the temporary stoppage of work.

Contract Suspension:

Article 21:

(1) The work contract can be suspended in the event of the reasons mentioned hereunder, and will be in force when the suspension is lifted.

1. Performing Military Services.
2. Engagement in the Election task.
3. Temporary stoppage of work.
4. Impeachment or being under custody or investigation.
5. Unforeseen disasters.
6. Engagement in education.

(2.) The days that the worker during the suspension time of his contract, spends for military services, is under investigation and is engaged in education, can be added up on the total period of his service only if after completing them, he returns to the organization in one months' time.

(3) However, suspension situations for clause 1, 2 and 6 in the private sector; mutual agreement of the both sides is essential to add up on the total period of the service of the worker

Reappointment

Article 22:

It is not permitted to refuse the employee after the suspension.

Termination of the Contract

Article 23:

(1) The essential instances for the termination of the work contract are as follows:

- (1) Agreement of the both parties.
 - (2) Completing the particular employment contract by applying clause (2) of article 14 of this code.
 - (3) Retirement.
 - (4) Death.
 - (5) Disability and incapability that will hinder to perform the jobs.
 - (6) Long cessation of work, which will be more than six months.
 - (7) Dissolution of the organization or reduction in the number of the staff.
 - (8) Final conviction to prevent work continuation.
 - (9) Repeated breach of work after disciplinary warnings.
 - (10) If the worker refuses his assignment to his previous job.
 - (11) If the probationary period has not been satisfactory.
- (2) In case the employment contract is terminated, this is the organization's responsibility to pay rest of the worker salary and other allowances. If he/she passes away, it should be paid to his/her legal inheritor.
- (3) Abrogation of the work contract, by virtue of part (1) clause (1) of this article is permissible only when it is not feasible to transfer the person concerned, subject to his agreement, to a similar job.
- (4) However, in case the contract is to be abrogated on the basis of reason described in clause (1) of this article, this is the responsibility of the organization to inform the worker within a month.

Notification to Terminate a Contract

Article 24:

- (1) The worker can terminate the non fixed term employment contract within a one-month written notice to the employer.
- (2) Before the contract expires, the employee can annul the fixed term employment contract with or without notice in the following cases:
 1. Breach by the organization in fulfilling the obligations set forth in the work contract or breach in the rules of this code.
 2. In case the employee has a prolonged and incurable disease that will hinder to perform his/her jobs. Disability or other problems that are obstacles for him to perform his/her job.
 3. The employee or his/her legal representative based on the provisions of this article in clause(1) and (2) provides a written notice to MoLSAMD on the Abrogation of the employment contract to avoid any possible disagreement.

Employment assistance

Article 25:

- (1) The organization is duty bound to provide the list of those employees who have been dismissed on the basis of the provision of this article 23 of this code described in clause (1) taking account of their work experience, specialties, qualifications, working period and skills to MoLSAMD and its respective organizations in the provinces.
- (2) The organization is duty bound to pay as follow to those staff whose contracts have been terminated on the basis of the provisions of article 23 of this code described in parts (10, 8, 7, and 6) of clause (1). The following amounts should be paid to them as financial assistance till they find jobs with other employers:
 1. If the duration of work is one year, one month salary with other supplementary allowances.
 2. If the duration of work is one up to five years, two months salary with other supplementary allowances.
 3. If the duration of work is five up to ten years, four months salary with other supplementary allowances.
 4. If the work duration is more than ten years, six months salary with other supplementary allowances.

Protection of Pension Right

Article 26:

In the event of abrogation of the employment contract of the workers on the basis on the rules of this code, the pension and other rights of the worker concerned are reserved.

Reappointment of Employees

Article 27:

- (1) If the organization restarts activities after a period of suspension causing by unexpected events, it is duty bound to re-employ its previous staff in its respective units.
- (2) If these workers do not refer to the organization during the period of time when their posts are announced, the organization can recruit new staff instead of them.

Non-annulment of employment Contract

Article 28:

Transfer and abrogation of the employment contract and retirement of the worker is not permissible during the legal leave and secondment periods, unless the organization has been completely dissolved.

Contract on a Day or Part of a Week Basis

Article 29:

- (1) With pensioners, partially disabled persons and women engaged in household duties or in raising and educating their children, as well as with other persons, the organization reserves the right to sign contracts on the basis of a day or part of a week, or payment by results (piece work) or work done outside the organization.

- (2) The second employment contract of paragraph (1) can be carried out only if not corresponding with the worker's official working time.
- (3) The conditions for signing of employment contracts, working conditions and payment of wages for those cases mentioned in paragraph 1 of this article are drawn up in separate legislative documents.

CHAPTER THREE **Hours of work**

Work time

Article 30:

- (1) Hours of work in this code are the hours that employees put them and his/her energy under the service of the organization in order to fulfill a job.
- (2) The ordinary working period, on average, during the course of the year, can not be more than 40 hours per week.
- (3) Annual level (balance) of working period, general measure to utilization of working time, commencement and ending of the working period of the workers, shift schedule, chart and other problems related to the working regime will be determined by MoLSAMD of the Islamic Republic of Afghanistan.
- (4) After the agreement of the Ministry of Labor, Social Affairs Martyrs and Disabled, given the nature of the work, the organization may increase or decrease the number of the hours during the days of the week unless the number of the hours per week exceeds 40 hours.

Reduction of the Work time

Article 31:

- (1) The weekly working time of workers are reduced in the following cases:
 - (1) For youths between 15 and 18 year of age, 35 hours per week.
 - (2) For workers engaged in underground work and works under conditions that are injurious to their health, 30 hours per week.
 - (3) For pregnant women, 35 hours per week.
- (2) The list of jobs and occupations which are injurious to health and in which working time should be reduced will be prepared and identified by the Ministry of Public Health and MoLSAMD and the relevant organizations.
- (3) The working time of the teachers, professors, health officials and such like which, due to the special features of the work, need to be reduced, is determined by Legislative documents of the relevant organization with concurrence of MoLSAMD.
- (4) Reduction in the working time as described in clauses (1, 2, and 3) above will not cause any deduction in the salary or other allowances of the employees.
- (5) Taking into account the seasons of the year, the Holy month of Ramadan and weather change (severe cold or heat), MoLSAMD may either decrease or increase the number of the working time on a daily or weekly basis unless the total number of the working time in a week exceeds the determined number of working time in a year, as mentioned in Article 30.

- (6) If the organization that employees are working continuously and due to a big demand of production, its employees may not observe the fixed number of working time in a week, the employer in calculating the total number of working time on a monthly, quarterly and six month basis, may propose a decrease or increase in the working time for its staff to MoLSAMD unless the total number of working time exceeds the fixed number of hours regulated by this code in article 30.

Working time at Night

Article 32:

- (1) In the event of work during the night, the shift shall be one hour less than day. The work at night means: 11 consecutive hours starting from 8pm until 7am, arranged by MoLSAMD through internal rules of the organization.
- (2) The provisions of clause (1) of this article do not apply to the following cases:
- (1) When reduced hours of work is envisaged for workers and personnel in accordance with article (31) of this code.
 - (2) When it is not possible to reduce hours of work due to working and production conditions (uninterrupted production and in the work done in shifts according to work chart.)

Night working wage

Article 33:

- (1) During the work at night, the service and administrative employees will be paid (15) per cent and production workers will be paid (25) percent more than their normal wage.
- (2) Night work and its schedule will be permissible only if it has been proposed by the Ministry of Labor, Social Affairs Martyrs and Disabled to the Ministerial council and they have approved it.

Mixed Working time

Article 34:

- (1) Mixed working time is the hours that some of the working time will fall at day time and some of the hours will fall at night. The employee will be entitled to supplement wage on the basis of article 33 of this code.

Shift Work

Article 35:

- (1) Commencement and ending of shift works are fixed by the internal rules and procedures of the organization and in order of shifts.
- (2) In the event of there being many shifts, the workers are changed every week in rotation according to the work chart.
- (3) It is not permissible to require (ask) a worker to work during the successive shifts.
- (4) In the event that the working time of the worker will be at night or partially at night, the worker will be entitled to the supplement wage based on the article (33) of this code.

Change of the Working time of Shifts

Article 36:

The person in charge of the organization can alternate the working time of the (shifts), with due regard to the feature of the work, from (8) hours during the usual days to more or less hours on the days that more or less working time are required on the basis of clause (2) of article 30 of this code.

Temporary Stoppage of Work

Article 37:

- (1) Wasted time (during which the organization has paid all the allowances of the staff) arising from work stoppages due to unexpected factors can be compensated during one month maximum after the organization has become operational and has started its production.
- (2) The working time according to clause (1) of this article can not be more than ten hours per day and 50 hours per week. In case the worker works more than the hours mentioned, he/she will be entitled to additional wage.

Overtime Work

Article 38:

(1) Work done outside the ordinary hours of work is considered to be overtime, which is permitted in the following cases subject to the agreement of the employee and the employer:

- (1) For the performance of a piece of work involving essential services for the public welfare.
 - (2) In order to prevent unforeseen production and social accidents (natural ones and removal of their consequences);
 - (3) In order to repair and restore pieces of equipment which, when being idle, would lead to the stoppage of the work of a large number of workers.
 - (4) In order to remove unforeseen events and happenings which would cause stoppage for social services affairs such as water supply, heating, lighting, canalization, transport, telecommunications, health services and other social services.
 - (5) For performance of work which had started previously and which would cause material damage if discontinued.
 - (6) In order to continue a piece of work which could not be stopped and the employee in the succeeding shift should be present. In such a case the organization is obliged to take speedy measures to find out the replacement for the employees.
 - (7) In order to compensate and make up the work stoppage, described in clause (1) of the article 37 of this code.
 - (8) In order to perform other pieces of work required by the organization and approved by the person in charge.
- (2) Overtime hours can not be more than the working average hours during the day.
 - (3) Overtime is not permitted for the night workers, employees engaged in underground works and works under conditions that are injurious to the health and pregnant women or women with children of less than two years of age.
 - (4) The conditions, arrangement and the number of overtime hours will, with due regard to the special features of the work of the specified employees, be determined by the organization legislative document.

CHAPTER FOUR THE RIGHT TO REST AND LEAVE

Break and Paid Leave

Article 39:

The employees are entitled to recreational leave periods as detailed hereunder:

1. Breaks for performance of prayers and eating.
2. Public Leave (holidays), National and religious.
3. Annual leave (recreational, sick and necessary or urgent leave.)

Work Break

Article 40:

Prayer and lunch break is for one hour that is not included in the official working time. It is regulated by the internal rules of the organization.

Public holidays

Article 41:

Public paid holidays are as follow:

1. The last day of the week (Friday)
2. The first day of the year (Nawruz).
3. Twenty-eight of Assad (19 July) (the day of restoration of independence of the country.)
4. Eight of SAWR, Victory of the Islamic Revolution of Afghanistan.
5. First day of Ramadan
6. The three days of Eid-e-Feter.
7. Four days of Eid-e-Said-e-Adhah and Arafat (Three days of Eid and one day of Arafat).
8. Twelfth of Rabiul Awal, the Holy birth day of Hazrat-e-Mohammad Peace be Up on Him.
9. Tenth of Muharam (the day of Ashura)
10. 26th of month of Dalwe return of former Soviet Union forces
11. Other days that is approved and announced by the Islamic Republic of Afghanistan as Public Holidays.

Annual Leave

Article 42:

- (1) Annual leave (recreational, sick and necessary and urgent) is not included in the general and public leave day (holidays and is executed by the necessity and request of both parties).

Work Shift Table

Article 43:

- (1) This is the responsibility of the organization to prepare the recreational leave schedule for the employees on a turn basis. If the person in charge of the organization will not agree with the employee to take annual recreational leave due to huge work load, the worker would be entitled to the wage and other allowances pertaining to the employee.

- (2) In the event of the death of the employee, the organization is duty bound to pay the wages and other allowances of the employee, described in clause (1) of this article to his/her inheritors.
- (3) The allowances and wages of the recreational leave are not time-bound and can be paid on the basis of the agreement by the employee and the organization.

Work during the Public Holidays

Article 44:

- (1) Work during the public and general holidays are allowed by the agreement of the employee and approval of the employer in the following cases:
 1. Work in an organization where staff keeps on working around the clock, where delay in work may cause backwardness and create problem in providing public services.
 2. Performance of work related to public services.
 3. performance of work that can not be delayed, urgent repairs, loading and unloading of consignments, work related to the prevention of unforeseen accidents, removal of consequences of natural accidents and other exceptional cases.
 4. Performance of other urgent pieces of works based on the approval of the person in charge.
- (2) In cases described in clause (1) of this Article, the organization is duty bound to grant, in addition to the normal overtime wage, 50 percent of the salary of the worker as incentive.

Organization with Non-Stop Works

Article 45:

- (1) In organizations where works can not be stopped, this is the responsibility of the person in charge to grant leave to the employee on a turn basis on normal days so they could meet their public requirements.
- (2) In organizations where work can not be stopped on holidays, (leave days) because of his need to meet the public requirements, the person in charge of the organization can grant leave to the employee on any other day of the week or pay the equivalent to the employee.

Recreational Leave

Article 46:

- (1) The employees are entitled to 20 days of paid recreational leave per year.
- (2) The employees or personnel who are entitled to more than 20 days of recreational leave are as follow:
 1. Employees below 18 years of age are entitled to 25 days of recreational leave.
 2. Employees who are engaged in underground works or injurious works are entitled to 30 days of recreational leave.

Leave for Teachers

Article 47:

- (1) Professors and teachers who benefit from public holidays of the educational and scholastic establishments are not entitled to recreational leave.

- (2) In case the teachers and kindergarten trainers do not benefit the holidays, mentioned above (in clauses 1) are entitled to recreational leave.

Utilization of Recreational Leave

Article 48:

- (1) Employees are entitled to 20 successive days of recreational leave per year. This is transfereable to the following year on the basis of the urgent requirement of the organization subject to the agreement of the Employee.
- (2) The Employee may utilize the annual recreational leave in turn based on a schedule prepared by the organization in consultation with the Employee.
- (3) The Employee may utilize the total of ten days of his/her recreational leave based on urgent requirement every six month in a year.

Recreational Leave for a newly recruited employee

Article 49:

- (1) During his/her first year of service, a newly recruited Employee would be entitled to recreational leave when he/she has served in the organization for eleven consecutive months.
- (2) In accordance to clause 1 of article 46; The seasonal Employees whose service contract periods are not less than three months, equivalent to the period of their service, they may be entitled to recreational leave.

Wage and Other Allowances during the Recreational Leave

Article 50:

- (1) The organization is duty bound to pay the wage and other allowances of the Employees in advance for their recreational leave period.
- (2) If the Employee has not utilized the whole or a part of the recreational leave and is separated or transferred from the relevant organization, he would be entitled to the wage pertaining to the unused leave in proportion to the period of work done during the year.

Essential Leave

Article 51:

- (1) Employee is entitled to ten days' essential leave with pay every year.
- (2) Urgent leave in spread-about form, not exceeding three days, can be utilised through sending a notice and beyond that period through a written request.
- (3) Workers are entitled to (10) days of urgent leave in the following cases:
 - 1- Marriage,
 - 2- Death of Father, Mother, brother, Sister, spouse, son, father in law, mother in law, uncle, unt and birt of a new baby.

Sick Leave

Article 52

- (1) employee is entilted to 20 days of sick leave with pay and other allowancs per year.
- (2) Employee's sick leave for up to three days can be granted on the basis of a written notice.
- (3) If the employee's sickness lasts for more than three consecutive days, then a certificate of the medical doctor of the health institute and, in places without physicians, the certificate of the village headman or Province, will be

considered as valid certificates. In case the employee is covered under the medical insurance plan, the certificate from the doctor of the medical insurance company is valid.

- (4) In case the employee requires more than 20 days of sick leave as indicated in clause (1) of this article, he/she may utilize of his other leaves as well.

Additional Sick Leave

Article 53:

- (1) If the employee's sickness lasts for longer than the period mentioned in article (52) of this Code, additional paid leave can be granted to him/her if a certificate of the competent governmental and or non-governmental health centre is produced.
- (2) The conditions and the method of granting additional sick leave contained in the first paragraph of this article are drawn up by the relevant legislative documents.

Maternity Leave

Article 54:

- (1) A female employee is entitled to 90 days of paid maternity leave. Thirty days of this leave is granted to her before delivery and the rest (sixty days) is granted to her after delivery.
- (2) In case she is going to have an abnormal type of delivery; gives birth to a twin or more than a twin, 15 day more paid leave will be granted to her. Salary and other supplementary allowances of the staff as explained in clause (1) above will be executed to her on the basis of the valid certificates issued by the relevant hospitals.
- (3) After the completion of the maternity leave, explained in clause (1) above, the staff has to report to duty within five days. If she fails to do so, she will not be entitled to the privileges explained in clause (2) of this article.

Leave for Hajj Pilgrimage

Article 55:

- (1) The employee is entitled to 45 days' paid leave only once during his entire service period in order to perform Haj (Mecca) rites or to make pilgrimages to the sacred places.
- (2) The days in excess of 45 days earmarked for Haj and pilgrimage of sacred places can be considered as part of the employee's recreational and urgent leave.
- (3) In case the employee has used the Hajj pilgrimage paid leave, he/she must present valid certificate issued by the Department of Hajj and Religious Affairs for the release of salary and other supplementary allowances during such a period.

Sick Leave for a Newly Recruited Employee

Article 56:

The annual, sick and essential leaves of the employees on the basis of the number of their service days, are regulated as follows:

- (1) If the employee is employed in the first half of the calendar year, he/she would be able to make use of the annual leave fully;
- (2) If the worker is employed during the second half of the calendar year, then he/she can make use of 50 per cent of the annual leave.

Calculation of Paid Leave

Article 57:

- (1) The staff's paid leave is calculated on the basis of his/her, steps, promotions and retirements.

Paid Leave in Non-Governmental Organizations

Article 58:

The conditions and method of granting leaves described in chapter four of this code for the staff of NGOs, private sectors, joint ventures and international organizations resident in Afghanistan are in accordance with the agreement of the employer and employee and the contents of their contracts.

CHAPTER FIVE WAGE

Payment of Wage

Article 59:

The wage is paid to the employee according to the quantity and quality of work, with due regard to the rank, grade, post or profession, work period (apprenticeship for the work) as well as other conditions, taking account of the relevant legislative documents.

If an employee, by the reasons of his/her talent, qualification and experience, is assigned in a higher position, his/her pay will be regulated according to the pay-scale of the position.

If an employee rank is higher and, by the exigencies of the organization, he/she is appointed in a lower rank, his/her wage will be paid on the basis of the wage-scale of his rank.

It is not permissible to discriminate in the payment of wages.

The minimum wage cannot be less than the amount fixed by the Government.

The Monetary Allowance of Education

Article 60:

- (1) The monetary privilege of the educational certificates/documents is considered as a part of wages.

Food Allowance

Article 61:

- (1) employee are entitled to food allowance based on the market rate. They get this allowance at the end of every month unless it is agreed other way in the contract.

Determinaton of Wage

Article 62:

- (1) The amount and conditions of payment of wages for different categories of employees are determined as follows, taking account of the provisions of article (59) of this Code:

1. By the Ministries of Labor, Social Affairs, martyrs and Disabled and Finance and Civil Service Commission For the personnel of the government and those of the mixed enterprises, in which the Government's capital share is more than 50 per cent.
 2. In case of the employees of the social organisations, by their respective constitutions.
 3. Through mutual agreements for the workers of non-governement organisations, private and joint enterprises and the staff of the international organizations resident in Afghansitan.
- (2) The wage level of the employees mentioned in parts (2 and 3) of clause (1) of this article, with the difference in their respective ranks, can not be less than the minimum amount fixed by the government for its employees.

Payment of Wage

Article 63:

- (1) The employees are entitled to receive their wages effective from the signing date of their contracts and/or after their appointment has been approved; as the case may be, unless it is envisaged other way in particular legislative documents.

Time to Pay the Wage

- (1) The employee 's wage is paid either on the basis of the time of work, i.e. monthly, 15 days, and weekly (hourly based), or on the basis of the work done or goods produced (payment by result, piece-work).
- (2) The wage and other benefits on the last day of the week (Friday) will be calculated as the wage on the normal days of the week.

Incentive

Article 65:

- (1) The organization may regulate the payment of special incentives to the employees to imporve the work quality and feedback as required.
- (2) The rules and regulations, in respect to payment of incentives will be drawn up by MoLSAMD in collobraton with the employers and approval of the Ministry of Finance.

Condition of increasing of wage Suplementry and Allowances

Article 66:

- (1) Some supplements are added to the basic wage in the following cases:
 1. In those cases where the work is done in regions with adverse natural and climatic conditions, and under economic and social hardships.
 2. In those cases where the work is done in underground sites or under arduous situations, and conditions harmful to health.
 3. In those cases where performance of the work involves the expertise of scientific personnel, or the technical skills.
 4. In other cases provided for in the legislative documents.
- (2) The conditions and the amount of wage supplements mentioned in paragraph 1 of this article and the manner of inclusion of the supplements in overtime wages will be drawn up in relevant legislative documents.

Overtime**Article 67:**

An hourly wage for overtime is paid 25% more than the official working hour rate on ordinary days and 50% more than the hourly rate on off days (weekend or holidays).

Wage for Operation of Several Machines**Article 68:**

- (1) An employee who operates several machines or performs several tasks in the same organization would be entitled to earn a higher wage.
- (2) Conditions and the manner of execution of the part (1) of this article are determined in separated legislative documents.

Work Compensation**Article 69:**

- (1) The wage for the work done during public holidays would be double, provided that, at the employee's request, it were not compensated in form of a day's leave within two weeks.

Terms and Time of Work**Article 70:**

- (1) Terms and time of work for daily and incomplete day, weekly and incomplete week waged employees and product based employees are regulated by the relevant legislative documents.

Payment of Wage during the Work Stoppage Time**Article 71:**

- (1) If a cessation of production occurs as the consequence of unpleasant or unforeseen accidents, or due to technical factors of production or to adverse climatic conditions, then the wage of the employee, with the exception of seasonal and daily paid workers, will be paid in the manner detailed hereunder:
 1. Full wage in the event of stoppage of organization work for two months,
 2. Fifty per cent of the full wage in the event of stoppage from two to four months,
 3. After the expiry of four months, the organization, can transfer the employee to another task in the same organization or to another organization, and if it is not found possible, can introduce the employee to the the Ministry of Labour, Social Affairs, Martyrs and Disabled or its departments in the provinces.
- (2) If the employee is transferred due to the stoppage of work, as is stated in part (3) of paragraph 1 of this article, then in such a case the average basic wage cannot be less than 75% of the monthly wage the employee used to receive before the stoppage of the work. In case the employee is committed to corruption that has been declared by a court, the provision of clause (1) of this article is not applicable. If the organization is re-activated the privileges of clause (1) of this article should be paid.

Suspension with Pay**Article 72:**

- (1) The organization has to pay to the employee, on paid suspension (waiting), when the number of the staff decreases or the organization work stops for a long period of time.

- (2) On paid suspensions, the officials on the basis of the periods of their services are entitled to six up to twelve months wage with the supplement allowances and the service contractors are entitled to receive three up to six months wage with the supplement allowances.
- (3) At the end of the period set in the paragraph (2) of this article, the employee will be on unpaid suspension (waiting) and will be introduced to MoLSAMD.
- (4) The terms and other conditions of paid or unpaid suspension will be regulated by other relevant legislative documents.

Payment of Wage to the employee

Article 73:

- (1) The wage is paid by the organization to the employee or to the person nominated by him/her in writing.
- (2) The wage payment is made during the month, and will not be delayed to the following months without the agreement of the employee.

Deductions

Article 74:

- (1) It is not permitted to deduct (withhold) from the wage of employee, unless it is provided for in the Code.
- (2) Not more than 20 per cent can be deducted from the employee's monthly wage to compensate for damages, except when it is other way in the Code (law).

Travel Allowances

Article 75:

- (1) When the employee is sent on missions, transferred, summoned from, or sent to another place, he/she would be entitled to fares and travel and out of pocket expenses.
- (2) Conditions and procedures of the execution of the fare and travel allowances are regulated by relevant legislative documents.

CHAPTER SIX

vocational training and skill development of in service employees

In-service Training

Article 76:

- (1) The organization will conduct in-service professional short and long term training courses individually and in group to improve the professional levels of the employees, get them experienced and develop their work related skills.
- (2) MoLSAMD in collaboration with the respective organizations, will take necessary measures to establish and develop professional training centers at the capital and in the provinces.
- (3) Training centers of MoLSAMD will cover the areas mentioned hereunder:

- 1- Training centers for the promotion of vocational knowledge and specialisation of the employees;

- 2- Training centers for promotion of professional teachers and instructors;
- 3- Training centers for young and youth who have been deprived from education and need for employment;
- 4- Training centers rehabilitation for people with disability.

Training conditions

Article 77:

- (1) In case the organization wants to have some employees trained, it will have to bear all its relevant costs.
- (2) MoLSAMD and other organizations with in-service training centers, will have to facilitate in holding on job training programs for their employees in the capital and provinces.

Duration of Training

Article 78:

- (1) The training period may not be more than two years.
- (2) The duration of the training, hours of practical and theoretical training to the trainees, as well as conducting of workshops, conferences and seminars both inside and outside of the worksite will, with due regard to the profession or occupation, be determined by the relevant organizations of MoLSAMD.
- (3) The trainee who has completed the training duration in a given profession or occupation and who has acquired the ability to perform the work independently, will be employed as skilled (professional) worker.

Wage during the Training Period

Article 79:

- (1) Practical and theoretical lessons are taught during working periods and exact wage and other allowances for the hours of work is paid.
- (2) In-service training programmes and promotion of the level of specialisation and skill of the personnel are drawn up by separate legislative documents.
- (3) With regard to the nature of their work, the organizations will have to introduce separate procedures, on the basis of the provision of clause 2 of this article.

Education conditions

Article 80:

- (1) The organization will introduce outstanding employees to the institutes of higher education, to the vocational, technical and professional secondary institutions in or outside the country in order to continue their education.
- (2) The employee who has been introduced by the organization to the institutes of higher education, according to clause (1) of this article, will be entitled to actual wage and other allowances according to his rank or grade.
- (3) The period during which the employee is learning for higher education, as described in clause (1) of this article, will be added up to the service period of the worker, only if he/she successfully graduates from the relevant course and presents the certificate to the organization.
- (4) The employee who has been introduced by the organization to the institutes of higher education will be obliged to work with the same organization after

the completion of his/her studies based on a contract; or for the duration of time, when he/she was studying. However, in case the employee denies to work for the same organization after the completion of studies, he/she will have to pay more than the amount spent for his/her education by the organization.

Establishing Training Centers at Industrial organizations

Article 81:

- (1) After the approval by MoLSAMD; organizations or industrial, production and service centers, may take necessary measures in establishing and equipping training centers for their employees.
- (2) Organizations with similar training programs can, in collaboration with MoLSAMD, for the purpose of raising the vocational skills of the employees, conduct joint training programs for their employees.

Legislative Documents of the Training Centers

Article 82:

- (1) The rules and procedures for the training centers of the government and non-government organizations and the method of supervision by MoLSAMD on these centers will be drawn up by the relevant legislative document.

Characteristics of Trainee

Article 83:

- (1) The following people are called trainees:
 - 1- Man or woman engaged in government or non-government professional training centers for the purpose of upgrading their skills for a determined period.
 - 2- Man or woman who, in addition to their works, is engaged in learning a specific skill based on a determined contract.
 - 3- employees that, based on the request of the organization, are introduced to the training centers.
- (2) Conditions and sample contracts of the trainees set forth in paragraph 1 of this article will be drawn up and regulated by MoLSAMD.

Legislative Document of Professional and Skilled employees

Article 84:

- (1) Rights and obligations of the skilled employees who have successfully completed the professional and vocational training centers will be drawn up in separate legislative documents.

Introduction of the Graduates of the Training centers

Article 85:

- (1) The government and non-government training centers will introduce their graduate students to the employment service centers for the purpose of employment searching.

Practical Work of Training Centers

Article 86:

- (1) Industrial and production institutions and organizations are obliged to provide practical work facilities for the students of the institutes of higher education, as well as the technical, vocational and professional secondary schools.

- (2) programmes of practical works for students set forth in paragraph (1) of this article will be regulated by the relevant institution.

CHAPTER SEVEN LABOR RULES AND STANDARDS

Labor Rules and Standards

Article 87

1. The methodic labor standards and guidance are set and regulated by MoLSAMD, with cooperation of the relevant agencies.
2. People in charge of organizations shall define and enforce labor rules and standards for the employees in their respective functions, in accordance with sample as well as principle rules and standards of MoLSAMD and Internationally acceptable standards.
3. MoLSAMD in cooperation with relevant agencies shall evaluate and coordinate scientific and technological achievements using international standards aiming at improved labor quality and staff skills.
4. Measurement of wage and work performance or optimal planning of production functions and the increase of work efficiency will be carried out on the basis of the labour standards contained in paragraph 1 of this article.
5. Unified and sample standards can be set for similar or homogeneous works considering international standards as well as the context of the country.

Evaluation of Labor Rules and Standards

Article 88:

- (1) The person in charge of the organization, with the agreement of the relevant trade union, shall revise and assess the existing standards, as the case may be, according to sample standards to be set by MoLSAMD, with the agreement of the organization.
- (2) The organization has to inform the staff at least two months prior to the application of new rules and standards.

Sources of work standard related Dispute Settlements

Article 89:

If any dispute arises between the organization and the Council of Representatives as regards the setting of standards, then the issue will be settled by the following authorities:

1. In the ministries, state institutions, SOEs and private and joint ventures in which the government shares is more than 50%, the authorized authorities in cooperation with MoLSAMD.
2. In social and cooperative organizations and private and joint sector that government shares are less than 50%, by involved parties under supervision of MoLSAMD.

CHAPTER EIGHT

Labor Norms and Discipline

Labor Discipline Implementation Methods

Article 90:

The employees are required to pursue discipline in the institution. The labor discipline is ensured through the following ways:

1. Labor discipline in the organization is maintained and safeguarded through establishing conscious relations and attitudes among employees toward their work.
2. Observation and complete application of methods for understanding and satisfaction among employees.
3. Encouraging the employees to work honestly.
4. Application of disciplinary actions in case of violations.

Responsibilities of the organization

Article 91:

Sound management of work is the organizations' responsibility in the following areas:

1. Create favorable conditions to improve the level of work feedback and employees' livelihoods.
2. Ensure the application of labor and production discipline.
3. Ensure labor security and safety at work.
4. Interact responsibly to the needs and demands of the employees.
5. Application of legislative documents regarding labor.

Obligations of the Employee

Article 92:

The employee is bound to pursue the following:

1. Job Description.
2. Productive and honest work.
3. Job discipline.
4. Timely execution of legal orders and instructions of supervising authorities.
5. Improve work output.
6. Improve output quality.
7. Production and Technology discipline.
8. Safety rules and working environment hygiene.
9. Protection of fixed and non-fixed assets of the organization, and their efficient and rational utilization.
10. Improve professional skills and using standards defined by responsible authorities.
11. Protect job and profession secrets.
12. Sound attitude with other employees and clients.
13. Avoid disturbing other employees in performing duties and production lines.

Job Descriptions

Article 93:

1. The work method is regulated through Job Descriptions prepared and approved by the management.
2. Job Descriptions of joint and private ventures are prepared based on sample JD's provided by MoLSAMD and employers.
3. The institution is required to familiarize the employees with JDs of the institution, and ensure their implementation.

Staff Rewards

Article 94:

(1) In return for performing work in the best possible way, raising work output, of improving the quality of products, of saving materials, using initiative and innovation in work performance and of winning competitions at work, the employees will be encouraged and rewarded in the following ways:

1. Reward in cash or material;
2. granting a letter of acclamation;
3. granting a letter of appreciation;
4. granting a medal or a titel;
5. granting other rewards as described in the relevant legislative documents;

(2) The conditions and way of rewarding the staff shall be regulated by respective legislative documents.

Punishment of Staff

Article 95:

(1) The person in charge of the organization will take recourse to the following punitive measures, as the case may be, when the employees violate labour discipline rules:

1. advice or suggestion.
2. warning;
3. deduction of subsistence expenses (wage);
4. transform of position
5. abrogation of labour contract.

Implementation of Disciplinary Action

Article 96:

When the organization applies and imposes the punitive measures, it shall bear in mind the circumstances, under which violations have been committed, the situation of the person when resorting to violation as well as the worker's service record, conduct and behavior.

Explanation of the violation

Article 97:

1. Disciplinary action against the employee shall be implemented after explanation of his/her violation in accordance with law.
2. Only one punitive measure can be applied in each case of violation against labor discipline; the measure will be issued in writing, and after being registered, it will be formally brought to the notice of the offender.

Complaint of the staff to the Commission

Article 98:

Should the worker consider the punitive measure to be unjustified, he could lodge a complaint to the Dispute Settlement Commission presenting reasons and evidence for its irrelevance.

If the Dispute Settlement Commission will not take measures to the worker's complaint, the worker can take up the complaint, with documentations, to the Central Commission of the Dispute Settlement. In case of dispute between the involved parties, the issue is presented to the court of law.

Recording reward and punishment of the employee in his/her personal file

Article 99:

Reward and punishment mentioned in this Code, except Suggestions, are recorded in Employee Record File.

Absence of the Employee

Article 100:

1. If the employee failed to inform the relevant organization in writing of his excuses for any absence without a good cause within three days after the date of such an absence, then he would be regarded as being absent without leave, and one day wage would be deducted from his wages.
2. If the worker mentioned in paragraph 1 of this article presents his excuses to the organization concerned within 20 days, and, if the competent authority of the organization is satisfied that the employee's failure to inform within three days was due to a good cause, then the employee will no longer be regarded as being absent without leave, and his days of absence without leave will be considered as a part of his legal leave.
3. If the employee's absence without leave lasts for more than ten days, then the matter will be registered in his file and will not be considered as a part of his service period.
4. If the employee reports for duty but leaves his duty without giving any written notice, then one day's wage will be deducted therefrom in lieu of each day of absence from duty provided that his/her absence and leave does not exceed twenty days during the year. Otherwise, the absent days shall not be calculated in promotion and pension of the employee.
5. The cases of the paragraph (3) of the article will not hinder the promotion of employee.
6. The absence after the employee's legal leave would be covered by the provisions of paragraph 1 of this article.

Contract Termination Provisions

Article 101:

It is permissible to abrogate an employee's service contract as set in the part (5) of article (95) of this Code, in the following cases:

- (1) absence for 20 consecutive days from work without good cause;
- (2) in the event that violation (infringement) described in paragraphs (2,3,4) of article 95, is repeated after notices have been given for two times through the course of the year.

Suspension of employee's rights

Article 102:

1. If an employee is accused of committing any crime, his/her rights and benefits will be suspended while he/she is under arrest, prosecution or trial.
2. When, during arrest, the prosecutor issues non-prosecution resolution after inquiry, or finds him/her deserving punishment, or is cleared by the court, his/her salary and other additional benefits will be paid for his/her suspension period, unless described otherwise in the contract.
3. If the employee is sentenced to applied imprisonment, the employee is not entitled to salary and other benefits during arrest, observation and trial.
4. If the employee is sentenced to suspended imprisonment, he/she is entitled to salary and other benefits. Promotion of the employee who is sentenced to suspended imprisonment shall be delayed until the end of suspension period.
5. If the employee is sentenced to both suspended and applied imprisonment, the paragraph 3 of this article is applicable for applied imprisonment, and the paragraph 4 of this article is applicable for suspended imprisonment.

CHAPTER NINE Financial Responsibility of Employees

Prevention from Financial Loss

Article 103:

1. The employee is obliged to assume a responsible attitude toward the properties and assets of the organization and to take measures to prevent damages from being inflicted.
2. The person in charge of the organization is obliged to bring about ordinary working conditions for employees and to ensure full protection of assets used by employees.

Responsibility of the employee against a financial loss

Article 104:

- (1) The employee will be held responsible for the damage sustained by the organization during the work period only when the damage inflicted has been the result of his offence.
- (2) The employee will not be held responsible for the probable damages arising from the ordinary progress of work.

Financial Compensation

Article 105:

If the damage sustained by the organization is due to the offence of several employees, then the amount of compensation therefor will be determined separately for each worker and in proportion to the type and degree of his responsibility.

Legislative Document on Financial Responsibility

Article 106:

The kinds and degree of financial responsibility for the damage sustained by the organization, the method of measuring and assessing the damage sustained and the arrangement of compensation therefor, will be determined by separate legislative documents.

CHAPTER TEN

Provision of Health and Occupational Safety Conditions

Provision of Health and Occupational Safety Conditions

Article 107:

The organization has the responsibility to ensure hygienic and safe working conditions, utilization of safety measures in order to prevent any accident related to work and production, and ensure hygiene in order to prevent occupational diseases.

Observing safety technique methods in construction work

Article 108:

- (1) The person in charge of the organization is duty bound to provide for occupational health and safety conditions, to use the safety technique equipment in order to prevent accidents due to work and production, and to bring about health conditions as a means of protection against occupational diseases.
- (2) The institution must build and equip working rooms, and working and settlement buildings and areas for employees according to safety rules and standards and environmental hygiene conditions.

Ensuring Safety in Renovated buildings

Article 109:

New production institutions and those organizations that have been restored or reconstructed are allowed to be put in operation only after the agreement of the relevant Departments in charge of technical and health supervision.

Enforcing legislative document

Article 110:

1. The principle standards for maintenance and safety techniques are regulated by respective legislative document.
2. Principle standards and rules for maintenance and safety in National Economy are proposed, approved and implemented by the institutions in accordance with sample standards and rules provided by MoLSAMD in cooperation with employers.
3. Hygiene and production hygiene standards in National Economy divisions and professions are designed and regulated by Ministry of Public Health and MoLSAMD in cooperation with the employers.

Safety technique Training

Article 111:

1. The person in charge of the organization is obliged to give continuous training to employees about safety, health, first-aid service and firefighting rules and techniques, as well as other employees protection rules.
2. The employees are obliged to observe the rules and standards of work protection and the safety techniques, rules for utilisation of equipment as well as protection instructions, and to use individual protective devices while working.

Provision of safety equipment

Article 112:

1. In those types of work which are carried out under conditions harmful to health or where there is a special temperature or refrigeration or where there is the likelihood of contamination of employees, special clothes and footwear, masks, eye glaces, gloves and other protective devices as well as preventive and curative food materials will be put at the disposal of employees, free of charge, in accordance with set standards.
2. The person in charge of the organization is responsible for supplying, maintenance, cleaning, sterilisation, drying and repair of special working clothes and other protective devices.

Medical Examinations of Employees

Article 113:

1. Those employees who are engaged in arduous work, in types of work carried out under conditions that are harmful to health and also the work connected with driving vehicles, must undergo periodic health and medical examinations during the service period in order to see that they are fit for work and to prevent occupational diseases.
2. The employees and personnel of food material industries, public catering establishments, transaction of food materials, as well as the workers and personnel of water supply installations, preventive and curative institutes, institutes concerned with children, other organizations and organizations concerned with public works, must undergo the medical examinations provided for in paragraph 1 of this article in order to safeguard public health and hygiene.
3. The conditions and the manner of the medical examinations of employees of the paragraph 1 and 2 of this article will be drawn up and set by the Ministries of Public Health and MoLSAMD.

Provision of Medical Primary Services

Article 114:

- (1) In the event that untoward accidents and unexpected diseases occur at the worksite, the organization would be obliged, as the case may be, to :
 1. provide first aid services and conditions;
 2. transfer the employee concerned to medical centres and provide for treatment conditions ;
 3. when the employees is cured, transfer him to his/her place of residence;
- (2) If the treatment of the employee will not be possible in the country, the organization will be duty bound to send the employee, on its own expenses, to overseas medical centers.
- (3) The organization is duty bound to ensure the financial expenses of the employee and his escorting person during the trip.

Establishment of fixed and mobile medical centers

Article 115:

In order to carry out medical examination and to provide first aid for employees and, to the extent possible, for the members of their families, a room(s) for first medical aid, mobile pharmacy shop, and health unit or center shall be established in the organization with due regard to the number of employees and personnel and in accordance with the standards set by the Ministry of Public Health in conurance of MoLSAMD.

Assigning the employees according to their health status

Article 116:

1. If the employee's state of health requires that he should be engaged in lighter work, then, after the medical certificate has been presented, the organization, subject to the employee's concurrence, will, temporarily, assign lighter work to him. If the medical condition of the employee dictates that he/she should be assigned to a light job, the employee, after approval of the medical doctor, shall be assigned to a light job with his/her agreement.
2. Wage and other rights of the employee mentioned in paragraph 1 of this article shall be paid according to their last rank or grade and other rights of his/her previous job.

Provision of jobs for the disabled

Article 117:

1. The organization has the responsibility to provide jobs for the employees who have become disabled while performing their jobs. It has to determine whether the staff has become disabled. After their disability is confirmed, according to their capabilities, they have to be provided with the job opportunities.
2. The wage and other rights of the work-related disabled employee can not be less than the wage that he earned previously.

Identifying Unpleasant Work Incidents

Article 118:

1. The person in charge of the organization is duty bound to investigate and assess statistically the unforeseen incidents in work and production, and analyse and evaluate the factors. He/she has to prepare a report about it within three days and present one copy to MoLSAMD and one copy to the employee.
2. Should the organization refuse to make arrangements to provide documents or should the injured party disagree to record the circumstances of the unforeseen accident, then the injured party can lodge a complaint with MoLSAMD.
3. MoLSAMD shall take proper measures regarding the complaint according to provisions of law.
4. The management will have to compensate the medical loss related to work.

List of Occupational Diseases

Article 119:

1. List of occupational diseases shall be prepared and determined by the MoPH in cooperation with MoLSAMD and the relevant institutions.
2. The amount of, and the arrangement for, the damage to be paid for disability (invalidity) and health injuries arising from work as well as measure to violations (infringements) to the occupational health and safety conditions, are made and fixed by separate legislative documents.

CHAPTER ELEVEN Women and Youth Work

Provisions for not Recruiting Women and Youths

Article 120:

It is not permissible for women and youths to be engaged in types of work that are physically arduous, or harmful to health or carried out in underground sites.

List of these jobs shall be prepared and approved by MoPH, MoLSAMD and the respective organizations.

Not Assigning Women and youth on Night Duties

Article 121:

The management is not authorized to assign women and youths on night duties.

Assigning women and breast-feeding mothers based on their agreements in hospitals, health clinics and for duties that would require physical hard work under a proper schedule is exempted.

No Overtime for Women and Youths

Article 122:

1. Pregnant women, women with children under 2 years of age and youth cannot be assigned to do overtime work, work during public holidays as well as travel in order to do official work.
2. Women with children under 2 years of age cannot, without their prior consent, be required to do overtime work or to travel in order to do official work.

Assigning pregnant women

Article 123:

During the period of pregnancy and on the basis of a doctor's certificate, women will be assigned to lighter work, while receiving the wage applicable to their main jobs.

Additional time for breast-feeding mothers

Article 124:

1. In addition to their rest and food breaks, nursing mothers should be provided with not less than 30 minutes break every three hours in order to breast feed their babies in the children's room at the worksite. These breaks are included in the working time
2. The breaks in the organization set forth in paragraph 1 of this article will be drawn up and decided by the internal rules and procedures

Not Rejecting the Pregnant Women to work

Article 125:

It is forbidden to refuse to employ women or to reduce their wages because of pregnancy or nursing (feeding) their children.

Establishment of kindergartens

Article 126:

1. The organization is duty bound to establish and equip kindergartens and nurseries for the children in the worksite.
2. The rules and procedures of the kindergartens in the worksite will be regulated and prepared by the relevant legislative document.

Young employee characteristic

Article 127:

- (1) The youth (young employee) is the person who is of from (14-18) years of age.
- (2) Prior to the employment of the youth, the organization is duty bound to, send him/her to the medical center and will file his medical check-up in the employee record book.
Medical check-up of the youth (young employee), at least, once a year is under the responsibility of the organization.

Medical Examination of the Young employee

Article 128:

The organization through the medical center will diagnose the physical capacity of the youth (young employee) and the organization will be obliged to determine the tasks and responsibilities of the youth worker according to the advice of the medical centre.

Young employee Wage

Article 129:

1. The wage of the youth (young employee) would be paid in an amount equal to the wage of the employees of 18 years of age and more, with due regard to rank and grade, but regardless of the reduced working time contained in article (31) of this Code.
2. Wage of each working unit of the employee who is less than eighteen years of age is equal to that of an employee who is eighteen years old or over.
3. The wage difference due to reduced hours of work paid to piece-worker who is younger than 18 years of age is based on his main grade.

Production standard of young employee

Article 130:

1. Production standards of young employee is regulated according to production standards of eighteen -year-old employee taking into consideration the time alleviation mentioned in article (31) of this Code.
2. The management can determine production standard of newly employed youth who is employed just after completion of training, temporarily less than original standards.

CHAPTER TWELVE

Work related disputes

Resolution of work related disputes

Article 131:

1. Any kinds of disputes arising from work, between organization and employee or trainee, can be settled by the direct understanding of the organization and the employee or trainee, on basis of the provisions of this Code and the supplement regulatinos and orders in relation to work.
2. In the event that the disput arising from work will not be resolved on the basis of understanding of the organization or employee and or trainee, then it shall be investigated and resolved by the intervention of the relevant trades union and in 2nd step by the High Commission for resolving disputes. Or by the authorized court.

Illegal dismissal of the employee

Article 132:

If the employee is dismissed illegally from job, and re-employed to the previous job after decision of the Dispute Settlement Commissions or court decision, his/her wages and other benefits of dismissal period is paid as per average wage and other benefit of the last six months prior to dismissal.

Enforcing legislative document for Dispute Settlement

Article 133:

The issues of establishment and composition of work related Dispute Settlement Commissions and addressing work related differences are regulated by the respective legislative document.

CHAPTER THIRTEEN

Social protection

Types of Social protection

Article 134:

- (1) Employees and in some cases their family members can benefit from the following social protections:
 1. Food allowance
 2. Transportation means
 3. Aid in finding shelter
 4. Medical services
 5. Financial aid at the old age retirement equal to 10 months of wage along with its benefits as per the last salary
 6. Aid for child birth
 7. Financial aid for the deceased employee's family for burial ceremony equal to 10 months wage along with its benefits as per the last salary.
 8. Pension for old-age, completion of service duration, illness, disability and other conditions is foreseen in legislative documents.

- (2) Financial assistance mentioned in parts 1-7 of this article is paid from institution budget and the amount of pension mentioned in part 8 of this article is paid from pension fund.
- (3) Medical services or their equivalent shall be provided to the employee and his/her family members according to financial capacity of the institution.

Securing Social protection

Article 135:

1. Social protection will be put into effect through financial participation of the organization and employees.
2. The level of social protection is improved in equivalence with development and growth of national economy.

Social Protection Centers

Article 136:

The manner of establishment, insurance, equipment of the foundations of the social protection and insurance will be drawn up by separate legislative documents .

Financial assistance to employees unable to work

Article 137:

Assistance to the employee on account of his inability to work is rendered temporarily, and until the time when he regains capacity to work or becomes entitled to retirement, will be paid by the organization, the assistance will be equivalent to the wage and other rights that he used to be paid.

Retirement Conditions

Article 138:

1. The employee is retired after the age of sixty five. If necessary, the institution can extend his/her working period for another 5 years. The extended period bears the same rights and responsibilities of the employee.
2. The management asks and approves extension for the working period of the employee mentioned in paragraph 1 of this article each year before retirement.
3. The default working period of employee is forty years, and entitled to the wages of the last position, rank or grade.
4. Age of the employee at the time of retirement is recorded according to employee's record file.
5. Retirement and extension of working periods of scientists of government institutions, scientific research agencies, and religious workers is regulated by special legislative document.

Heavy work retirement standard

Article 139:

1. Working period of the employee assigned for heavy work is calculated one year less for every five years, and two years for every five years of working in

underground or hazardous conditions as per standards mentioned in paragraph 3 of article one hundred and thirty eight of this code.

2. Standards and rules of heavy and injurious work to health is defined by MoPH and MoLSAMD in cooperation with respective institutions and employers.

Request for Retirement

Article 140:

The employee is entitled to request his/her retirement before reaching compulsory retirement age.

Pension of disability or death

Article 141:

Pension of work related disability or death and occupational disease or its related death shall be paid as hundred percent of the wage of the last rank or degree before retirement according to medical committee on disability certification without accounting the service period.

Retirement as per court decision

Article 142:

1. When an employee is sentenced to less than 2 years of imprisonment, he/she can request his/her retirement.
2. The employee who was sentenced to 2 or more years of imprisonment, he/she shall be retired.
3. Re-employment of the employee mentioned in paragraphs 1 and 2 of this article after release from jail can be done by approval of the organization.

Selection of Pension

Article 143:

1. If the employee is entitled to various kinds of pensions from various sources, then the pension payments can be done only from one source selected by him/her.
2. Those who were under guardianship of the retired person entitled to pension from many sources, they can benefit from all those rights.

Increment in pension

Article 144:

1. Pension of the retired employees and those who were under guardianship of the deceased person is increased according to general increment of the salary.
2. General increment in wage is applicable to retired employees of the respective function.

CHAPTER FOURTEEN

Miscellaneous Provisions

Labor High Council

Article 145:

1. Labor High council is the highest decision making body regarding labor issues which is established in MoLSAMD.
2. Organizational Structure, functions and authorities of the Labor High Council are regulated by respective legislative documents.

Monitoring and guidance of labor

Article 146:

1. Continued monitoring and guidance of observing labor related laws, safety measures, heavy and hazardous jobs, working times, wages and other benefits, employees' conditions are done by Monitoring and Guidance Authority of MoLSAMD.
2. Issues related to labor monitoring and guidance in the institutions is regulated by respective legislative documents.

Participation of the employees in labor unions

Article 147:

1. employees unions and employers unions are social organizations that are established through voluntary participation of respective classes in accordance with provisions of social organizations law.
2. Unions mentioned in paragraph 1 of this article cannot be financed or subsidized by the government or political organizations.
3. The employees have the right to participate in these unions.

Participation of the employees in production and development

Article 148:

1. The employee is entitled to participate in production development, social services, cultural and livelihood discussions and give their suggestions for improvement.
2. The organization has the responsibility to provide conditions for participation of the employee in leadership and development of work and production, and address his/her suggestions and inform him/her regarding decisions taken.
3. The management has the responsibility to facilitate in providing suitable conditions for cultural and sports activities to the employees.

Group dismissal of employees

Article 149:

1. Government, non-government, joint ventures and private entities are not authorized to dismiss all or a group of their employees without approval of MoLSAMD, unless by provision of Law.
2. In case of long work stoppage that results in closing down the institution, the organization must inform the issue to MoLSAMD three months before.

Sending laborers overseas

Article 150:

MoLSAMD can send Afghan workers overseas in accordance to the relevant legislation, in order to prevent unemployment and achieving better income.

Establishment of Private employment organization/private recruitment agency

Article 151:

1. Establishment of private employment organization/private recruitment agency is authorized after approval of MoLSAMD.
2. Authorities of private employment organizations/private recruitment agencies have the responsibility to regulate all of their activities as per their agreement with MoLSAMD.

The source to draft labor related legislative documents

Article 152:

MoLSAMD, for better implementation of this law, shall process relevant regulations of this code, in cooperation with respective institutions.

Enforcement

Article 153:

This law shall be enforced from the date, signed by the president and published in the Official Gazette, after it is enforced, the labor code published in Official Gazette No. 790 dated 22, Rajab 1420 Islamic lunar year (01/11/1999) is abrogated.