

National Labour Law Profile: Ghana

Contributed by Jane Hodges, DIALOGUE, ILO; and Dr. Anthony Baah, Head, Research and Policy Department, Ghana Trades Union Congress. Last Update 2006.

Constitution

The Constitution of Ghana, 1992, came into force on 7 January 1993 and was amended on 16 December 1996. Its Chapter 5 covers “Fundamental Human Rights and Freedoms”. Section 12(2) states that “Every person in Ghana, whatever their race, place of origin, political opinion, colour, religion, creed or gender shall be entitled to the fundamental human rights and freedoms of the individual contained in this Chapter but subject to respect for the rights and freedoms of others and for the public interest”. Section 14 covers protection of the right to personal liberty; s.16 protects against slavery and forced labour; s.17(2) ensures equality and freedom from discrimination on grounds of gender, race, colour, ethnic, origin, religion, creed or social or economic status, and (3) amplifies this to cover place of origin and occupation; (4) constitutionally protects affirmative action generally. Section 21 sets out general freedoms such as freedom of speech. Section 21(1)(e) guarantees the right to form or join a trade union; its subsection (4) allows limitations by order of a court in the interest of defence, public safety or public order, or movement or residence within Ghana as long as reasonably justifiable in terms of the spirit of the Constitution. Section 24 lays down economic rights, including the right to work under satisfactory, safe and healthy conditions and to receive equal pay for equal work; its subsection (3) states, among other things, that: “Every worker has the right to form or join a trade union of his choice for the promotion and protection of his economic rights and social interests”. Subsection (4) permits restrictions if reasonably necessary in the interest of national security or public order, or for the protection of the rights and freedoms of others. Section 27(1) promotes women’s rights, including paid leave during maternity; (2) requires the provision of child care facilities. Section 28 covers children’s rights, including the right to protection against exposure to physical and moral hazards. Section 29 covers the rights of persons with disabilities (PWD); its (7) promotes special incentives for PWD to engage in business and for businesses that employ PWD in significant numbers.

Chapter 6 is entitled “Directive principles of State policy”. Section 35 (6) requires the State to take appropriate measures to achieve reasonable regional and gender balance in recruitment and appointment to public offices. Section 36(6) lays down the economic objectives, including that the State afford equality of economic opportunity to all citizens, in particular taking all necessary steps to ensure full integration of women into the mainstream of Ghana’s economic development. Its subsection (10) safeguards the health, safety and welfare of all persons in employment; and its subsection (11) requires the State to “encourage the participation of workers in the decision-making process at the workplace”. Section 40 on international relations states: “In its dealings with other nations, Government shall...(d) adhere to the principles of...(v) any other international organisation of which Ghana is a member”. Ghana joined the ILO in 1957.

Legal regulation setting

The Labour Act No 651 of 2003 consolidates and updates the various pieces of former legislation, and introduces provisions to reflect ratified ILO Conventions. The Labour Act covers all employers and employees except those in strategic positions such as the Armed Forces, Police Service, Prisons Service and the Security Intelligence Agencies. Major provisions of the Labour Act include establishment of public and private employment centres, protection of the employment relationship, general conditions of employment, employment of persons with disabilities, employment of young persons, employment of women, fair and unfair termination of employment, protection of remuneration, temporary and casual employees, unions, employers' organisations and collective agreements, strikes, establishment of a National Tripartite Committee, forced labour, occupational health and safety, labour inspection and the establishment of the National Labour Commission.

There is also Children's Act, No. 560 of 1998, which defines a child is a person below the age of eighteen years. Sections 12 and 87 prohibit engaging a child in exploitative labour, defined to mean labour depriving the child of its health, education or development. Section 91 of that text defines hazardous work.

The Human Trafficking Act, 2005, covers the recruitment, transportation, transfer, harbouring, trading or receipt of persons, within and across borders, by the use of threat, fraud and exploitation of vulnerability or by paying to gain consent as well as induced prostitution and other forms of sexual exploitation, forced labour, slavery or the removal of organs. Complaints can be filed with the police not only by the victim but by any person having information about the trafficking. Sections 14 to 33 cover rescue, rehabilitation and reintegration of trafficked persons, including the creation of a Fund whose money shall be applied towards the basic support of victims of trafficking, tracing their families and providing skills and training, as well as training for the persons connected with rescue operations. Sanctions for persons convicted of trafficking include imprisonment for not less than 5 years. The Ghana AIDS Commission Act, No. 613 of 2002, establishes a Commission, of tripartite-plus composition, to formulate a national HIV/AIDS policy.

The Commission on Human Rights and Administrative Justice Act, No. 456 of 1993, establishes a Commission on Human Rights and Administrative Justice to investigate complaints of violations of fundamental human rights and freedoms, injustice and corruption, abuse of power and unfair treatment of persons by public officers in the exercise of their duties, with power to seek remedy in respect of such acts or omissions.

The National Vocational Training Act, No. 351 of 1970 and the National Vocational Training Regulations (Executive Instrument 15) enjoin companies to introduce apprenticeship schemes when there is a technical business attached to the establishment. Employers are therefore obliged to provide training for their employees for the attainment of the level of competence required for the performance of their jobs and to enhance their career.

The Free Zone Act, 1995, section 25, permits the entry into any free zone by any office authorized by the Minister for Trade and Industry, and declares that any

obstruction of such entry amounts to an offence punishable by fines or imprisonment. Section 34 covers employment in free zones, clarifying that there is freedom to negotiate matters “as shall be consistent with the ILO Conventions on workers’ rights and conditions of service.”

The Shipping Act, No. 645 of 2003, regulates the engagement and welfare of seafarers, in particular with respect to crew agreements, wages, occupational safety and health, required provisions and water on board, protection of seafarers from imposition and relief and repatriation. Part VII regulates safety of life at sea. The Act applies to Ghanaian ships wherever they may be and other ships while in a port or place in or within the territorial and other waters of Ghana (section 480).

ILO Conventions ratified by Ghana

Ghana joined the International Labour Organisation in 1957 and immediately the Convention Peoples Party (CPP) Government ratified many of the ILO Conventions including the ‘core’ Conventions that guarantee workers the right and freedom to form or join unions (Convention No. 87), the right to collective bargaining (Convention No. 98), abolition of forced labour (Conventions Nos. 29 and 105), and equal treatment (Conventions Nos. 100 and 111). Many other ILO Conventions that sought to promote industrial harmony and welfare of workers were also ratified. These included Conventions on hours of work in industry, weekly rest, minimum wage fixing, labour inspection, underground work by women, employment service, night work by women, social policy, working environment, child labour, labour administration, and many others. Ghana has so far ratified [46 ILO Conventions](#).

Tripartism

Ghana has enjoyed a rich history of social dialogue institutions. An initial attempt commenced in 1972, with the formation of the National Tripartite Committee (NTC) by the National Redemption Council (NRC). It was charged with responsibility for fixing the national minimum wage. However, tripartite consultations became more effective during the Third Republic under the People’s National Party (PNP) Government led by Hilla Limann. The Committee was made up of five representatives of labour, employers and Government. Government was represented by the Minister responsible for labour (who convened and chaired its meetings), the Ministry of Finance and Economic Planning, Ghana Statistical Service, Labour Department and Internal Revenue Service. Labour was represented by the Secretary-General and other officials of the Ghana Trades Union Congress (TUC) as well as officials from Ghana National Association of Teachers (GNAT), Ghana Registered Nurses Association (GRNA), Civil Servants Association (CSA) and Judicial Services Staff Association of Ghana (JUSSAG) while private sector employers were represented by the Ghana Employers’ Association (GEA). The Labour Act of 2003 (s.112) now gives the NTC statutory backing (16-members) and broadens its scope of responsibilities (s.113) to include advising the Minister responsible for employment on all labour market issues, and on broader “matters of social and economic importance”. The NTC may set up regional and district subcommittees, which must also be tripartite (s.115). The Act makes it clear that the main tripartite committee and any sub-committees must have secretarial services for the effective performance of their functions.

In addition, sections 135 to 152 of the Labour Act establish the National Labour Commission (NLC). Comprised of a Chairperson nominated jointly by employers and organised labour and six members (likewise coming from the tripartite social partners), it is to be an independent body with allowances paid as determined by the Minister in consultation with the Minister for Finance (ss. 138(2) and 142), holding regular meetings (at least every two months-s. 140), with its own secretarial services and staff (s.147). Its functions are, among others, to facilitate the settlement of industrial disputes, settle industrial disputes, investigate unfair labour practices, prevent labour disputes and promote cooperation between workers and management. Its annual reports are submitted to the Minister for Labour who must table them in Parliament (s.151).

The Ministry of Manpower Development, Youth and Employment (MMDYE) is the Executive body responsible for the formulation and implementation of labour laws, policies, regulations and conventions of industrial relations as well as the monitoring and evaluation of such policies and programmes. It is also responsible for the implementation of labour market programmes in collaboration with other stakeholders in the sector. It convenes meetings of the NLC and the NTC (on salaries and wages) and advises Government on the decisions taken by these institutions. The Ministry used to facilitate mediation and conciliation between employees and employers in conflict situations; this role is now vested in the NLC under the new Labour Act. The Medium-Term Expenditure Framework, 2004-2006 of the Ministry of Finance and Economic Planning indicate that discretionary expenditure ceiling for the Ministry amounts to about 75.8 billion cedis. This is about 0.41 % of total Government programmed discretionary expenditure. Out of this amount more than 70% goes to the payment of personnel costs and administration. The staffing capacity of the Ministry is about 67, of whom 27 are technical staff. During 2005, the Ministry was streamlining its activities by adopting a Sector-Wide Approach Program to fund institutional capacity development. The Ministry is structured around four Departments having separate labour administration responsibilities (Labour, Social Welfare, Cooperatives and the Factories Inspectorate). The Labour Department has 62 public employment centres throughout the country, and an Employment Information Bureau, which collates statistics on the employed and unemployed through registration, including monthly data sent in from the employment centres.

Sections 122 to 126 of the Labour Act outline the powers and duties of labour inspection, in particular to ensure the application of the Act itself (bringing violations to the notice of the Labour Department or the National Labour Commission) and providing technical assistance and advice to employers and workers in effectively complying with the Act's provisions. Under the Part of the Labour Act relating to occupational safety and health, section 119 entitles workers to remove themselves from exposure to imminent hazards, without risk of termination. Section 120 requires employers to report not later than 7 days from the occurrence occupational accidents or diseases occurring in the workplace. Section 124(6) lays down penalties on employers for non-compliance with a decision or order of the Minister for Labour or one of the inspectors, in the form of a fine and compensation to any person who proves that he or she suffered loss, damage or injury as a result of the non-compliance.

Contract of employment (including termination of employment)

Section 12 of the Labour Act requires a written contract of employment for work done for a period of 6 months or for a number of working days equivalent to 6 months or more within a year. The contract shall express in clear terms the rights and duties of the parties. Particulars are listed in Schedule 1 to the Act, namely names of parties, date of first appointment, job title, pay (including overtime rates), hours of work, holidays, sickness and work-related injury entitlements, social security or pension scheme, termination notice and disciplinary rules/grievances. The contract must be signed by both parties and dated.

Special provisions relate to temporary and casual workers (Part X of the Labour Act). A contract of employment for a casual worker need not be in writing; but casuals have rights to minimum remuneration for each day worked, overtime and medical facilities. Temporary workers are entitled to the Act's minima in respect of minimum wage, hours of work, rest periods, paid public holidays, night work and sick leave, irrespective of whatever terms agreed by the parties.

Subject to more favourable provisions for workers, negotiated in a collective agreement (s.19), grounds for termination (s.15) include:

- by mutual consent of the parties;
- by the worker on grounds of ill-treatment or sexual harassment;
- by the employer if the worker dies before the end of the employment period;
- by the employer if the worker is medically certified to be unfit for the job;
- by the employer if the worker is unable to do the job because of misconduct; and
- by redundancy (s. 65).

Notice must be in writing. Notice for termination follows a scale: when contracts are for more than 3 years, one month's notice; when the contract is for less than 3 years, two weeks' notice or two weeks' pay in lieu of notice; or when contracts are on a week to week basis, 7 day's notice. However, where the parties have signed an "at will" clause in the contract, that contract may be ended at the close of any day at will. Notwithstanding the notice provision, either party can buy out by paying a sum equal to the amount of remuneration which would have accrued to the worker during the period of notice.

Where an employee who is warned in writing commits a similar offence within six months the employer can terminate without notice.

Section 57(8) forbids an employer from dismissing a woman because of her absence from work on maternity leave. Section 50 protects the employment of a person who suffers a disability if the residual capacity for work is such that the worker can be found employment in the same or some other corresponding job in the same undertaking, but if no such job can be found, the employer may terminate the employment by notice.

Hours of work

Sections 33 to 39 of the Labour Act cover hours of work. A maximum is set at 8 hours a day or 40 hours a week, except in cases expressly noted in the Act. Provision is made for paid overtime, and the Act permits unpaid overtime in certain exceptional circumstances “including an accident threatening human lives or the very existence of the undertaking”. Under section 40, workers in continuous workdays are entitled to a rest period of at least 30 minutes counted as normal hours of work, but where the normal hours of work are split into two, the break should not be less than one hour duration and is not counted as part of the normal work hours. Workers have the right to a continuous daily rest period of at least 12 hours between 2 consecutive work days, and a weekly rest period of 48 consecutive hours in every 7 days of normal working hours. Section 44 excludes task workers and domestic workers from the 8 hours a day or 40 hours a week maximum.

Leaves

Sections 20 to 32 cover annual leave with pay (15 working days in every calendar year of continuous service, deemed to mean not less than 200 days in the particular year).

Equality

The Constitution of Ghana and the labour laws prohibit discrimination on the basis of race, sex, ethnic origin, creed, colour, religion, social, or economic status.

Part VI of the Labour Act ensures protection of working women and Part V protects workers with disabilities. Section 68 specifies that every worker shall receive equal pay for equal work without distinction of any kind. Section 46 offers special incentives for the employment of persons with disabilities, and section 53 places special emphasis in training and retraining to enable the worker to cope with any aspect of the job.

The Labour Act introduces the offence of sexual harassment. Section 175 defines it as “any unwelcome, offensive or inopportune sexual advances or request made by an employer or superior officer or a co-worker to a worker, whether the worker is a man or a woman”.

Labour market information shows signs of gender discrimination. In the latest Ghana Living Standard Survey (GLSS IV), only 0.1 percent of women were found to be in the managerial/administrative category while 2.7 percent were in the professional/technical category. In the trade union movement as well, there not a single woman is among the 17 General Secretaries and 17 Deputy General Secretaries of the unions affiliated to the Ghana TUC.

The situation is worse in rural areas where women are mostly illiterate. Traditionally, women in Ghana are engaged in the production of food crops but not cash crops such as cocoa where returns are high. Women in the agricultural sector have, therefore, been seriously disadvantaged and have not benefited proportionally from the recent increases in cocoa prices, for instance. The result of the discrimination is the lower

average earnings for women (particularly in the informal sector) and the lack of opportunity for career advancement for women in the formal sector. Widespread illiteracy (or low level of education) among women is cited as one important explanatory factor for the discrimination. But this may even be a better indication for discrimination against females, generally, at the household and community levels.

Some form of discrimination against women has also been detected in many collective bargaining agreements especially concerning medical insurance and other benefits. Until recently, in most of the collective agreements between unions and firms, wives of male employees could benefit from medical insurance offered by the employer but husbands of female employee were not covered.

Maternity

Section 57 covers maternity (at least 12 weeks, with extensions in certain circumstances) and nursing pauses of one hour during the working hours for women to nurse her baby up to the baby's first year of age.

Minimum age and protection of young workers

The minimum legal age of entering the labour market is 16 years. Sections 58 to 61 of the labour Act prohibit the employment of young persons in hazardous work, which is defined to include work likely to expose the person to physical or moral hazard. The Minister for Labour may determine the exact types of work meant here. Section 58(3) specifies that an employer must not employ a young person in underground mine work. Registers of young persons employed in undertakings must be maintained. Young person is defined as of or above 18 years of age but below 21 years.

Pay issues

Sections 67 to 72 of the [Labour Act](#) protect remuneration. Salaries, wages and allowances shall be paid in legal tender in addition to any non-cash remuneration and may not make deductions unless permitted under section 70, namely for amounts due by the worker for provident, pension or other agreed funds, for trade union dues and the like.

Trade unions and employer' organisations

Sections 79 to 95 of the Labour Act cover the formation, registration and free internal administration of these occupational organisations. Two or more workers employed in the same undertaking may form a union, and two or more employers in the same industry or trade, each of whom employs not less than 15 workers, may form or join an employers' organisation. Section 79(2) prohibits certain types of workers from the right to form trade unions (policy-making managerial etc.). These organisations shall be independent of political parties. They must keep books and abide by simple financial rules. To enjoy the benefits of the Act, they must satisfy simple rules for registration with the Chief labour Officer, who shall maintain a register of trade unions and employers' organisations. Change of name and amalgamation must also be registered with the Chief Labour Officer. Section 93 states that federations of these organisations are subject to all these provisions of the Act too.

A person who engages in anti-union discrimination is guilty of an unfair labour practice (section 127); similarly interference by employers in the formation of a union or in union affairs of prohibited (section 128). Reasonable facilities and time must be afforded to officers of a trade union, but trade union officers may not engage in union activities during working hours without the consent of the employer.

At the national level, the TUC represents organized labour and civil society in key national bodies, institution, commissions, boards and committees such as SSNIT Board, NTC, Media Commission, NACL, National Population Council, Divestiture Implementation Committee, Ghana Free Zones Board, NVTI, Public Utilities Regulatory Commission, National Health Endowment Fund, Ghana Committee on Human and Peoples Rights and have always been concerned with the development of the legal framework that regulates industrial relations practice. It also plays a significant role in the ILO, the International Confederation of Free Trade Unions (ICFTU), the Commonwealth Trade Union Council and the Organization of African Trade Union Unity.

In addition to the TUC and its affiliated national unions¹ other workers organisations have evolved into strong labour organisations. These include Ghana National Association of Teachers (GNAT), Ghana Registered Nurses Association (GRNA), Civil Servants Association (CSA), Textile, Garments and Leather Workers' Union (TEGLEU) and Judicial Services Association of Ghana (JUSSAG).

The informal sector has virtually no formally recognized unions and developing potentials to extend unions to the sector will help them have some form of representation and protection. The Ghana Private Road Transport Union operates fully in the informal sector whilst the General Agricultural Workers Union through its Rural Workers Organizations Division has been organizing workers in the informal sector since 1970. Some efforts are being made by the TUC to bring employees in the informal sector on board. The TUC in its medium term policies for 2004-2008 has recognized the importance of organizing workers as well as the difficulty involved in organizing the informal sector and have developed strategies to deal with the situation. Currently, almost all the 17 national unions have desk officers responsible for the informal sector. Already, the Timber and Woodworkers Workers Union, Public Service Workers Union, Local Government Union and the Construction and Building Materials Workers Union have made some steps to organize workers in the informal sector. Other informal sector workers such as the Makola Market Traders Association, Association of the Physically Challenged and the Madina Shoe Sellers Association are also making efforts to join the TUC as associate members.

Workers in Ghana have exercised the right to form or join a trade union since the enactment of the Trade Union Ordinance in 1941. The Ghana Trade Union Congress was formed in 1945. Trade unionism has since grown to cover the majority of workers in the formal sector of the economy. Union density of the formal sector is estimated at 68 percent (i.e., workers covered by collective agreements). However, estimates of union density based on the Ghana Living Standard Survey indicate that the union density of the formal sector was 54 percent in 1992 and 50 percent in 1999

¹ See Appendix for the list of the 17 affiliates affiliated to the Trades Union Congress.

reflecting the dwindling membership of unions in the 1990s due to the mass retrenchment of public sector workers (see Table 1 below).

Table 1: Union Density by Industry

Industry	Percent of Formal Sector Workers in the Unionised sector (%)	Percent of Formal Sector Workers in the Unionised Sector (%)
	1992	1999
Agriculture	51	27
Mining	83	78
Manufacturing	45	34
Utility	91	62
Construction	41	20
Trade	24	20
Transport	60	54
Finance	73	55
Community and Social Services	51	62
Overall	54	50

Source: Calculation from the Ghana Living Standard Surveys (III & IV).

On employers' side, the Ghana Employers' Association (GEA) has emerged as the main employers' association to protect the interest of employers at the national level. There are strong employers associations at the sector level as well. These include the Association of Ghana Industries (AGI), Ghana Chamber of Commerce and Industry, Ghana Chamber of Mines, and the Ghana Timber Millers Organisations. There are other associations such as the Association for Small Scale Businesses and the Centre for Indigenous Business Associations. However, their activities and membership are quite limited.

The GEA was established in 1959 to provide a collective approach to matters relating to industrial relations, to represent and promote the interest of its members in their dealings with social partners and to promote good industrial relations in Ghana. Under its Constitution, the GEA must collect from its members statistical and other data as may be necessary for the study of wage structures and conditions of employment in Ghana and bring to the notice of its members labour laws, policies and regulations affecting them. The GEA also aims at promoting the interest of its members in organizations and in government. As the main employers' association in Ghana, it represents employers in all national committees and boards where employer participation is required such as the NTC, Private Enterprise Foundation, University of Ghana Counselling and Training Centre, National Accreditation Board, NACL, NVTI, SSNIT Board, Ghana Education Trust Fund, Board of the Institute of Professional Studies, National Technical Examination Committee, Ghana AIDS Commission, IPEC Steering Committee, GSS, National Institutional Renewal Programme, Board of MDPI, Advisory Board of the School Of Administration, Legon, National Board for Professional and Technical Examination, National Trade Testing Committee. It also represents employers in international organizations such as the ILO and the International Organization of Employers.

The GEA provides a variety of service to its membership, which spans across all sectors of the economy, such as industrial relations services, human resource development, executive selection, disputes resolution, advocacy, among others and has over the years performed its functions with considerable expertise and commitment. It has played a major role on behalf of its member in the negotiation and signing of CBAs and provided a reasonable degree of coordination in the decentralised process. At 31 December 2003, the GEA had 328 members categorised into four types; dues are based on the turnover of the individual firms. The four categories of membership are “A1”, A2”, “B”, and “C” with annual dues of 7.9, 6.1, 3.3 and 1.6 million cedis respectively. A 40-member Council governs the Association with representation on the Council somehow proportional to the number of companies in each sector.

In spite of the relatively strong legal and institutional frameworks for the right to freedom of association in Ghana, there have been some allegations of violations of this fundamental right of workers both at the national and the enterprise levels. At the enterprise level, for instance, a large number of union officials have lost their job for trying to form or join unions. Some employers have, over the years, allegedly used various forms of union-busting tactics (including termination of appointments of local union leaders or transfer of local union leaders) to frustrate workers’ efforts to exercise their right to form or join unions of their choice. In practice, the unionisation of senior, managerial or professional staff has proven difficult in Ghana. Some categories of workers in the public sector are excluded from the right to form or join a trade union of their choice (police, workers in the customs, excise and preventive service and the fire services).

Collective bargaining

Sections 96 to 111 of the Labour Act cover collective agreements. Commencing with the duty to bargain in good faith (section 97), these provisions regulate registration as appropriate representative units for entering into bargaining with the Chief Labour Officer. Once issues with the relevant certificate, the trade union and the employer must nominate their negotiating committees (s. 101) and without prejudice to this process, a duly appointed officer or member of a union may likewise conduct negotiations with the employer. Failure to enter into negotiations - within 14 days after service of notice to commence from one party to the other - leads to a direction from the National Labour Commission to do so (s.104). The provisions of agreed collective agreement take precedence over the terms of any contract unless the latter are more favourable to the worker and it is immaterial whether the contract was concluded before the collective bargaining agreement (s. 105(4)). Under section 107(1), collective bargaining agreements shall be for a term of at least one year, and they must contain a provision for a final and conclusive settlement of any disputes between persons to whom the agreement applies, using the provision of the Labour Act for such settlement. Section 111 permits the collection of union dues.

Since the ratification of Convention No. 98 in 1959 and the subsequent passage of the Industrial Relations Act of 1965 and now the Labour Act, Ghanaians, at least those in the formal sector, have exercised this right and have, in fact, used collective bargaining as the main instrument to improve working conditions particularly at the enterprise level. A typical collective agreement covers issues such as hours of work,

wages and salaries, rest periods, overtime work and payments, dispute settlement procedures, promotion and training, holidays, discipline, dismissal and termination procedures and many other issues relating to employment and non-employment of a class of workers covered by the collective agreement. It is noteworthy, however, that out of the over 10 million strong Ghanaian workforce, only about 10 percent is in the formal economy.

Employers or their organisations and workers or groups of workers who seek to threaten or intimidate the other party during negotiations of a collective agreement are guilty of an unfair labour practice (s.129).

According to an ILO paper collecting practical information², most collective bargaining agreements (CBAs) in fact have a duration of 2 to 3 years. Some provide for indexation and other mechanisms that automatically adjust wage levels as general economic conditions such as inflation changes. A 2001 survey of 96 enterprises in Ghana showed that over 37% of CBAs had wage indexation clauses which requires wage to be adjusted upward when inflation rises above a certain level while CBAs with long duration usually had a wage re-opener clause that allows the parties to review wages at least once every two years.

In general, the provisions in CBAs are adhered to in the formal sector especially where there is unionised labour. The problem lies with the informal sectors where many of the employees do not belong to unions or employees associations. It is estimated that 88.3% employees working in the informal sector are not covered by CBAs. In their case, employment conditions are determined either exclusively by the employer and the employees through informal bargaining. The situation could be worse in the agricultural sector. The General Agricultural Workers Union estimate that only about 8% of agricultural labour is in the formal sector mostly in commercial agricultural farms. A review of some of the CBAs in the formal agricultural sector indicates that they contain the basic provisions required by law in addition to other benefits such as health, vehicles, housing, provident fund and end of service benefits. However, such benefits are absent in the informal sector where the majority of agriculture labour is found.

The structure of bargaining in the formal sector is largely decentralized and formal, although centralized bargaining often sets the tone for wage negotiations. As noted above, the NTC centrally fixes the national minimum wage, which provides the basis for decentralized bargaining and adjustment in formal sector wages through CBAs. The TUC coordinates and provides guidance to the national unions in their bargaining. Local unions sometimes involve regional or national union officials in collective bargaining while both local unions and employers sometimes use industry-wide trends and practices to determine their own settlements, especially in the building and construction industry.

The nature of bargaining in the labour market has implications on flexibility as well as employment and wage settlements. Empirical observations suggest that highly centralized bargaining increases the leverage of the local union at the national level

² De Gobbi, S. (Ed.): Labour Market Flexibility and employment and income security in Ghana, Background paper for the National Employment Summit, 28-30 Nov. 2005, published as Employment Strategy Department working paper, ILO (Geneva), 2006.

and lower frequency of strikes while decentralized bargaining leads to greater flexibility and leverage and helps employers to respond to changing market conditions. However, it is costly to small firms.

There are indications that decentralized bargaining is deepening. This is evidenced by the widening diversity of employees' interests, which has forced employees to become less willing to pursue common aspirations at the expense of personal goals, changing work organization resulting from flexible technologies and the reduction in the power of local unions relative to local employers who prefer decentralized to centralized bargaining.

Disputes settlement, strikes and lockouts

The Labour Act allows for the apprehension of industrial disputes and sets out procedures for resolution of such disputes including arbitration. Section 153 encourages the parties to negotiate in good faith to reach a settlement using their own procedures agreed upon in CBAs or contracts of employment.

If the parties cannot settle within 7 days, either or both parties may refer the dispute to the new 7-person National Labour Commission, whose prime function is to facilitate settlement of industrial disputes. It has drawn up internal rules and procedures for the settlement of labour disputes, and is working on the development and passage of the Legislative Instrument for this. The Commission has recruited arbitrators/mediators and judges and is in the process of training them. At the end of July 2005, the Commission had received a total of 169 complaints from employees, trade unions and employers for settlement. The majority of the complaints (61%) concern dismissals and unfair termination while the others allege non-payment of severance pay, national minimum daily wage and social security contributions among others.

Under section 154, the Commission can encourage the parties to try to settle again, using the services of a Commission-appointed mediator. If at the end of mediation (maximum 3 days) there is no settlement, the mediator declares the dispute unresolved and refers it to the Commission. At that stage, with the consent of the parties, the Commission may refer it to an arbitrator or arbitration panel, which has 7 days to settle it after notification of the hearing to the parties. The decision must be communicated to the parties in writing within 72 hours of being made. Where the dispute remain unsettled at the end of arbitration or the parties refuse to refer to voluntary arbitration, either party may give 7 days notice of intension to strike or lockout (s. 159). Special procedures for compulsory arbitration apply to essential services (s.162) and industrial action there is prohibited (s. 163). Section 175 defines essential services as "areas in an establishment where an action could result in a particular or total loss of life or pose a danger to public health and safety and such other services as the Minister [for Labour] may by Legislative Instrument determine." The Commission's awards in compulsory arbitration cases must be immediately published in the Gazette; they are final and binding, unless challenged, within 7 days, in the Court of Appeal on a point of law (s. 167).

Section 168 protects legal sympathy strikes, subject to certain conditions. It declares no work, no pay for illegal strikers for the period that the worker is engaged in the illegal action, and permits termination (subsection (4)). Section 170 protects against

the hiring of replacement labour during a lawful strike, unless for minimum maintenance services at the undertaking. The Commission is authorised to hear disputes over what work amounts to minimum maintenance services. Section 171 protects peaceful picketing.

References and hyperlinks to relevant websites

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[ILO Decent Work Pilot Programme Ghana](#)

[Labour Legislation of Ghana \(ILO national labour law database\)](#)

APPENDIX : AFFILIATED UNIONS OF THE GHANA TRADES UNION CONGRESS

1	General Agricultural Workers' Union (GAWU)
2	Ghana Mines Workers' Union (GMWU)
3	Public Services Workers' (PSWU)
4	Maritime and Dock-Workers' Union (MDU)
5	Construction and Building Workers' Union (CBWU)
6	Timber and Wood-Workers' Union (TWU)
7	Railway Workers Union (RWU)
8	Public Utility Workers UNION (PUWU)
9	General Transport, Petroleum and Chemical Workers' Union (GTPCWU)
10	Teachers and Educational Workers' Union (TEWU)
11	Railway Engine-Men's Union (REU)
12	Communications Workers' Union (CWU)
13	Local Government Workers Union (LGWU)
14	National Union of Seamen (NUS)
15	Health Services Workers' Union (HSWU)
16	Ghana Private Road Transport Union (GPRTU)
17	Union of Commerce, Industry and Finance (UNICOF)